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AN COIMISIÚN PLEANÁLA
LDG- 086004-25
ACP-
19 DEC 2025
Fee: € 22- Type: Cash
Time: 12:55 By: Hand

Submitted by hand

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

19 December 2025

Dear Sir/Madam,

Third Party planning appeal in respect of the decision of Louth County Council to issue Notification of Intention to Grant Planning Permission for a Large-Scale Residential Development, planning application, reg. ref. LRD 2560319. The proposal comprises of: '7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising: 40 no. 1 bed maisonettes, 147 no. 2 bed mid-terrace 2 storey houses, 276 no. 3 bed end of terrace and semi-detached 2 storey houses, 1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses, 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking. New access off Blackrock Road … and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol. Infrastructure and services … a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172) and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network … excavation, cut and fill, reprofiling of existing ground levels and removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded" at lands at Haggardstown, Blackrock, Dundalk, County Louth.

BPS Planning & Development Consultants LTD, a firm of Irish Planning Institute accredited town planning consultants, has been instructed by Aoife & John Henry of Mountain View, Haggardstown, Blackrock, Dundalk, County Louth [hereafter "client"] to prepare and to lodge to An Coimisiún Pleanála [hereafter "ACP"] a planning appeal containing 'Grounds for Appeal against the decision of Louth County Council [hereafter "LCC"] to issue Notification of Intention to Grant Planning Permission Subject to Conditions under LRD planning application, reg. ref. LRD 2560319. The proposal, located at Haggardstown, Blackrock, Dundalk, County Louth comprises of a:

> *7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising: 40 no. 1 bed maisonettes, 147 no. 2 bed mid-terrace 2 storey houses, 276 no. 3 bed end of terrace and semi-detached 2 storey houses, 1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses, 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking. New access off Blackrock Road … and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol. Infrastructure and services … a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172) and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network … excavation, cut and fill, reprofiling of existing ground levels and removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded.*

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1.0 Background

Our client submitted a substantive objection, prepared by BPS, to LCC regarding this proposal which adjoins their property (please refer to the attached Planning Objection Report). They also lodged a response to Further Information submitted by the applicant (a copy of this is also attached). These submissions establish our client's standing, and their content should be considered by ACP to form part of this appeal.

The position our client finds themselves in is unexpected. The previous planning application – which was for much the same development at precisely the same location – was refused by LCC under case reference: 2360476 and this decision was upheld on appeal by ACP under appeal case reference: LH15.319077.

BPS notes how the planning application was refused by LCC without a request for Further Information arising, as, clearly, the Planning Department did not consider the refusal reasons could be addressed by way of Further Information.

Following the decisions of LCC and ACP made primarily on prematurity grounds pertaining to foul waste water infrastructure, the site was downzoned so as to ensure it would not be developed during the lifetime of the current Development Plan.

In a context where our client, a lay couple seeking to protect the environment and their property, understood the planning process – both development management and forward planning – had found against this proposal, it is extremely difficult for them to understand the about-face which has just been performed by LCC so as to overturn the previous ACP decision and to ignore the amended Development Plan so as to find a way to permit this proposal. How is it that under the previous

LRD planning application, LCC did not request Further Information as the proposals were wholly unacceptable, yet, under the current LRD planning application, Further Information was requested with the applicant essentially given instructions on how to find a way around the ACP decision.

Some explanation above and beyond the LCC Planner's Report is required. Section 4.0 of this letter asks ACP to address a *de facto* list of questions which arise from the LCC decision. Our client is perplexed and confused by the twists and turns which have arisen in this case.

It is the informed opinion of our client that the LCC is irrational and inconsistent. It does not stand up to scrutiny.

The Development Management Guidelines (2007) require planning authorities to be consistent in their decision making. We refer ACP to:

- Section 1.5 'Best practice in development management': "Best practice in development management is made up of various elements, such as: ... **Rational and consistent decisions"** [emphasis added].

- Section 1.5.2 'Statutory requirements and fair procedures' refers to 'Consistency' and states:

  > ***Consistency in the interpretation of development plan policies is essential if public confidence in the planning system is to be maintained,*** *although of course decisions on individual applications will vary in light of the land use considerations that apply to them. Achievement of consistency requires that suitable management structures be in place in planning authorities; Directors of Service have a particular responsibility in this regard.* ***Where the individual circumstances indicate the need to depart from normal policy, the reasons should be explained.*** *Also, while area offices enable some larger planning authorities to offer a more convenient service to the public, there is a need to ensure consistency of approach (e.g. in interpreting development plan policies) between such offices. The issue of consistency is dealt with in more detail at para. 6.7)* [emphasis added].

- Section 6.4 'Planning reports – importance of a balanced approach' states, *inter alia*:

  > *Minor concerns that arise in internal reports, for example concerns in relation to minor deficiencies in the capacity of local infrastructure, may be capable of being resolved by way of conditions in cases where the proposed development would otherwise be consistent with the objectives of the development plan. Essentially the planning report must strike an appropriate balance between concerns at local level and an overview of all relevant policies and information.*

- Section 6.7 sets out 'Measures to improve consistency and states: "Consistency is also facilitated when the planner's report is countersigned in certain circumstances by a more senior planner, such as a team leader or area planner, who is in a position **to ensure that, as far as possible, similar cases are assessed using similar criteria**" [emphasis added].

The LCC decision is made within a very short time period after the refusal by ACP of the previous LRD planning application, reg. ref. LH15.319077. ACP refused on 7/06/2024. The applicant submitted the current planning application on 30/05/2025. Pre-planning discussions were taking place shortly after the ACP decision and these exclude Third Parties.

It remains hard for our client to understand how LCC could be at all positive at pre-planning stage with the applicant or how this planning application has resulted in a grant given how, as noted above, the subject lands have been downzoned from 'New Residential' to 'L1 Strategic Reserve'. The proposals should have been deemed premature and unacceptable in Principle by LCC.

In short, our client opposes and objects to the decision made by LCC. They consider there to be no alternative but to lodge a planning appeal as both as the applicant 'and' LCC have failed to address their concerns. Having supported LCC and ACP in finding the previous LRD to be premature and supporting LCC in downzoning these lands, they object to now being forced to appeal themselves rather than respond to an applicant appeal as occurred under the previous LRD. They have been proven repeatedly to be correct as to the prematurity and unacceptability of these proposals and believe they have fully established standing and credibility in the planning process as it pertains to these lands.

2.0 Deadline for planning observation to be lodged

The LCC decision was made on 3/12/2025. The final date for submission of an appeal to ACP is set out on your website as the **8th of January 2024.** This appeal is therefore lodged on or prior to this date.

3.0 Validation matters

For the purposes of validation of this planning observation, please find attached:

(1) A copy of the acknowledgement letter received from LCC as regards our client's original objection.

(2) The €220 fee payable for a 3rd party planning appeal;

(3) A completed planning appeal checklist form;

(4) This planning appeal letter setting out our client's Grounds for Appeal;

(5) A copy of our client's original Planning Objection Report and Further Information stage submission lodged to LCC is attached as this is adopted as Ground 1.0 of our client's appeal; and

(6) A covering letter.

4.0 Grounds forAppeal

This letter sets out our client's 'Grounds for Appeal'; however, the attached Planning Objection Report submitted to LCC, the Further Information submission made to LCC, and the attached Planning Appeal Form should be taken to represent our client's complete appeal.

The attached Planning Objection Report submitted by our client to LCC and their subsequent Further Information stage planning objection represent their full list of concerns and objections. Insofar as possible, the content is 'taken as read' by ACP and is not repeated in this letter.

4.1 Ground 1.Planning objections lodged to LCC are he ıe ado pted

Please find a copy of our client's original Planning Objection Report submitted to LCC attached. That report includes the following sections which are all adopted here as part of this planning observation.

Grounds for original client objection:

- Technical & planning law concerns with the submitted planning application.
- Concerns raised regarding the planning history of the site and over how LCC issued a Notice of LRD Opinion dated 28th March 2025. Pursuant to Section 32D(1) of the Act. It was the opinion of the Planning Authority that the documentation submitted with the consultation request under section 32B of the Act does not constitute a reasonable basis on which to make an application. The documents required further consideration and amendments to constitute a reasonable basis for an application for permission for the proposed LRD under section 34 of the Act.
- Concerns raised over the pre-planning stage for the current scheme .
- Grounds for objection:

  Ground 1: Site is downzoned to L1 strategic Reserve – material contravention arises
  Ground 2: The starting point for the LRD planning application is previous proposal
  Ground 3: No permission(s) given for works on or under client lands
  Ground 4: Surface and/or flood water concerns are not addressed
  Ground 5: Concerns regarding likely scheme impacts on the Dundalk Bay SAC and S
  Ground 6: The site and its trees are home to bats and this is not adequately addressed
  Ground 7: Parking and traffic concerns
  Ground 8: Creche, pumping station and parking area, should be setback westward
  Ground 9: Concerns regarding the protection of existing trees & boundaries
  Ground 10: Impacts on existing residential amenity require revisions to the scheme
  Ground 11: Depreciation in the value of client's property
  Ground 12: The proposed development would set poor precedents
  Ground 13: A seven year planning permission is contrary to planning & environmental policy
  Ground 14: Louth County Council needs to carry out a 'Combined Approach Assessment

- Performance-based planning risk assessment conclusions indicated a refusal was justified.
- A refusal was recommended.
- A refusal was noted to be required given the site has been downzoned.

After Further Information was submitted by the applicant, this was deemed significant and our client was permitted to lodge a further objection. Additional grounds for objection were lodged to LCC (the submitted document is attached and 'taken as read'. These grounds set out how Dundalk WwTP is dysfunctional and it is not to be upgraded until after 2033.

4.2 Ground 2: The refusal dec'ısıonissued by ACP is not addressed – the LCC decision is premature

ACP's reason for refusing the previous LRD (as set out above) reads:

> *Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Eireann, the Board was not satisfied a sufficiently developed commitment and specific timeframe has been provided that demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency*

in the capacity ewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would, therefore, be contrary to the proper planning and sustainable development of the area.

Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on the file and particularly correspondence from Uisce Eireann, the Commission was not satisfied a sufficiently developed commitment and specific timeframe has been provided that demonstrates that the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency in the capacity of the sewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would therefore be contrary to the proper planning and sustainable development of the area. The Commission noted in the correspondence from Uisce Eireann that the wastewater connection "to the north as proposed by the developer would add flows to the Coe's Road pumping station which does not have the capacity for the development". Furthermore, Uisce Eireann estimated this capacity to upgrade to be completed in 2027 (this date has now been pushed back further).

The Commission acknowledged the recommendation of the Inspector to grant the 10-year permission with the condition that the proposed development would not commence until the upgrade works are completed. However, on balance and in these particular circumstances, the Commission considered the estimated timeframe for the required upgrade was not substantiated by demonstrable commitment from Uisce Eireann and, in the absence of this and there being no realistic alternative proposed by the applicant, the Board decided the proposed development would be premature by reference to the existing deficiency in the pumping station capacity

Our client's Planning Objection Report and FI stage objections exhaustively consider whether ACP's reasons for refusal have or have not been addressed. We submit that it has not been addressed. The decision of LCC is premature pending infrastructure updates which are not scheduled to take place fully until 2033.

We note how the previous LCC LRD decision was a refusal and Further Information was not requested such was concern over, inter alia, its prematurity. These have not been addressed in full. LCC's previous refusal reasons are:

1. Due to the inadequacy of the information provided with the application, particularly in relation to wastewater disposal, surface water drainage, water flow rate calculations and biodiversity, the Planning Authority is unable to carry out a comprehensive environmental impact assessment of the proposed development as required by legislation. Accordingly, to permit the proposed development would be contrary to the proper planning and sustainable development of the area, and in such circumstances the Planning Authority is precluded from granting permission.

2. On the basis of the information provided with the application, particularly in relation to waste water disposal, surface water drainage, water flow rate calculations and biodiversity, the Planning Authority cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European sites Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026) or any other European site, in view of the site's Conservation Objectives. Accordingly, to permit the proposed development would be contrary to the proper planning and sustainable development of the area, and in such circumstances the Planning Authority is precluded from granting permission.

3. Policy Objective HOU 29 of the Louth County Development Plan 2021 – 2027 (as varied), seeks to ensure that "all new residential developments in excess of 20 residential units provide for a minimum of 30% universally designed units in accordance with the requirements of 'Building for Everyone: A Universal Design Approach' published by the Centre for Excellence in Universal Design". The proposed development provides only 11% universally designed units (53 units) and therefore materially contravenes Policy Objective HOU 29 of the County Development Plan, would set an undesirable precedent for other similar developments in the surrounding area and is contrary to the proper planning and sustainable development of the

4.3 Ground 3: Grounds for appeal against the LCC decision and accompanying Planner's Report

4.3.1 Site has been downzoned in the LAP 2025 = material contravention of the zoning

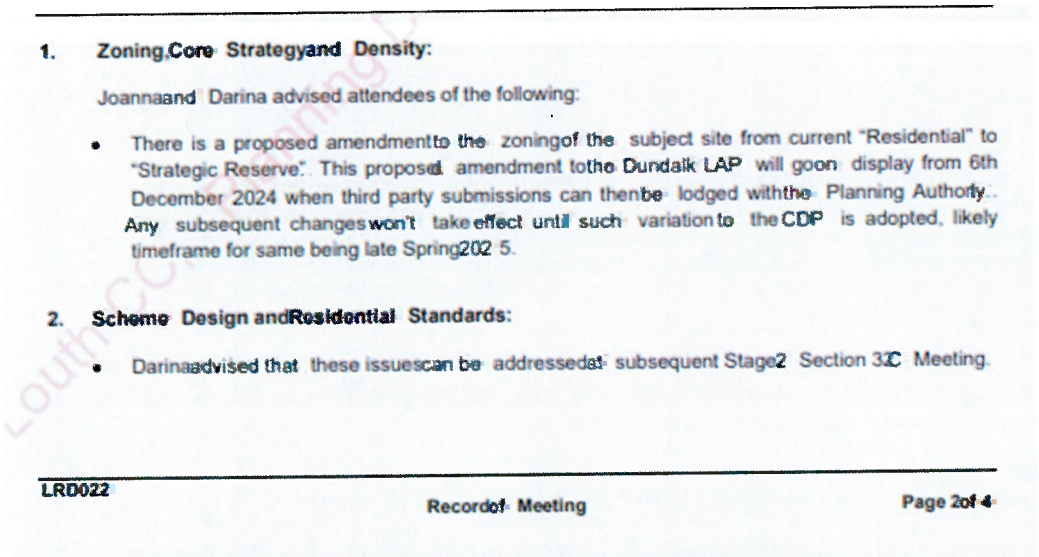
The LCC Planner's Report describes the site stating:

The site is situated within the urban boundary of Dundalk, being a Level 1 Settlement (Regional Growth Centre), as per Table 2.4 (Settlement Hierarchy) in the Louth County Development Plan 2021-2027, as varied. The site is predominantly zoned A2 New Residential Phase 1, with a H1 Open Space zoning through its centre running from east to west. The subject site is located on the northern side of Blackrock along the coast road from Dundalk, onto which access is proposed to the eastern site boundary.

To our client, this is a remarkable statement as regards overlooking the currently zoning in the fully up to date Dundalk Local Area Plan 2025-2031. It indicates that the LCC Planning Department is unable to offer a consistent zoning for the site as councillors have voted to downzone these lands. LCC's Planning Department has opted to ignore its LAP.
LCC and the applicant are fully aware that the subject site has been downzoned almost fully to L1 – 'Strategic Reserve' in the Dundalk Local Area Plan 2025-2031. ACP is invited to explain why this was an issue at pre-planning but not at planning application stage. **The applicant's pre-planning meeting of the 27/11/2024 (ref. LRD022) pre-dated the downzoning. Our**

client and others have reviewed the pre-planning notes and it is clear LCC told the applicant downzoning was possible. On 27/11/2024, LCC's ref. LRD022 meeting minutes stated:

> ***Joanna and Darina advised attendees of the following: There is a proposed amendment to the zoning of the subject site from current "Residential" to "Strategic Reserve". This proposed amendment to the Dundalk LAP will go on display from 6th December 2024 when third party submissions can then be lodged with the Planning Authority. Any subsequent changes won't take effect until such variation to the CDP is adopted, likely timeframe for same being late Spring 2025*** [emphasised].



1. **Zoning, Core Strategy and Density:**

   Joanna and Darina advised attendees of the following:

   - There is a proposed amendment to the zoning of the subject site from current "Residential" to "Strategic Reserve". This proposed amendment to the Dundalk LAP will go on display from 6th December 2024 when third party submissions can then be lodged with the Planning Authority. Any subsequent changes won't take effect until such variation to the CDP is adopted, likely timeframe for same being late Spring 2025.

2. **Scheme Design and Residential Standards:**

   - Darina advised that these issues can be addressed at subsequent Stage 2 Section 32C Meeting.

LRD022 Record of Meeting Page 2 of 4

Fig. 1: The applicant was advised in 11/2024 of the possible zoning change (Source: LCC pre-planning meeting minutes)

LCC was clearly stating that pre-planning was taking place but this potential showstopper was on the horizon. This showstopper now exists yet LCC has proceeded as though the zoning is the same as under the previous LRD. This is the critical point. The starting point for all other discussions for the pre-planning for this new planning application was the refused LRD scheme and the old zoning. This is not acceptable. ACP is invited to review the recent High Court case wherein Clane Community Council has successfully challenged approval given to developer Debussy Properties Ltd for more than 100 homes. Mr Justice Richard Humphreys quashed the decision partly because of its reliance on the same pre-application consultation it submitted in its previous application for the development.

We note how LCC issued a Notice of LRD Opinion dated 28th March 2025 (after these lands were downzoned): "Pursuant to Section 32D(1) of the Act. It was the opinion of the Planning Authority that the documentation submitted with the consultation request under section 32B of the Act does not constitute a reasonable basis on which to make an application. The documents require further consideration and amendments to constitute a reasonable basis for an application for permission for the proposed LRD under section 34 of the Act." How was the applicant able to subsequently proceed to offer a reasonable basis for an LRD application on lands which has been downzoned to Strategic Reserve?

LCC's Planner's Report states:

> *The Dundalk Local Area Plan 2025-2031 was adopted by resolution, at a Council Meeting on Thursday 6th March 2025. It is noted that during the adoption of the Dundalk Local Area Plan (LAP), elected members voted to change the zoning of the application site to 'L1 Strategic Reserve'. However, in accordance with the statutory plan hierarchy set out under the Planning and Development Act 2000 (as amended), the Planning Authority must assess planning applications having regard to the provisions of the Louth County Development Plan 2021- 2027, as varied, which currently zones the subject lands as A2 New Residential.*

The LCC position is, with respect, untenable and for two reasons:

- ***Variation No. 3 of the Louth County Development Plan 2021-2027 has been formally adopted.***

  As noted above, the applicant has taken judicial review against LCC's decision to downzone these lands. The documentation pertaining to Variation 3 of the LCDP which proposed to formally adopt the LAP excluded these lands only because of the legal challenge. That is, it appears LCC has decided not to include the lands 'and' to proceed on the basis essentially that the judicial review case would never need to be resolved as they would grant planning permission to resolve the matter. Our client has described this as having influenced Louth County Council's approach to this matter.

  Whatever way LCC wants to present it, it does not look good. It looks like all a landowner must do to prevent downzoning of lands to prevent premature development is to take judicial review (just start the proceedings) and while those proceedings are underway, LCC will pause any of the ramifications of downzoning, pretend it did not happen, and allow a planning application to proceed (here a very large planning application) against the democratic will of the councillors.

Louth County Council resolved to adopt Variation No. 3 at a council meeting on 20 October 2025. This should have put an end to this planning application. The applicant is now only proceeding on a technicality. The variation took effect immediately on that date (as is standard for variations under Section 13 of the Planning and Development Act 2000, as amended). It aligns the County Development Plan with the Dundalk Local Area Plan 2025-2031 (adopted 6 March 2025). A consolidated version of the County Development Plan (including Variations 1, 2, and 3) is available on the council's website. These details are stated on the official Louth County Council website and in statutory public notices. No appeals or delays are noted as of December 16, 2025. The LAP is now part of the County Development Plan. LCC made its decision when the lands had been downzoned in the LAP and the LAP had been adopted formally as a variation of the CDP. The LCC justification for using the old and out of date CDP zoning of the site should no longer apply.

Irrespective of LCC pausing the inclusion of these lands in Variation 3, it is clearly the intention of LCC to downzone pending the outcome of the judicial review. Our client asks ACP to explain on what basis the judicial review proceedings should be allowed to benefit the applicant in this scenario. Why has LCC not proceeded to downzone fully with this matter open to being revisited if the judicial review is successful?

The proposal does materially contravene the LAP zoning and, without the judicial review, it would materially contravene the LAP zoning as adopted under Variation 3. As it has not been adopted due to the judicial review, it would stand to reason that LCC's decision would be open to review should the judicial review not be successful. This is not however what the LCC decision states. Again, the LCC decision is made as though the LAP re-zoning does not exist. It favours the applicant in all respects.

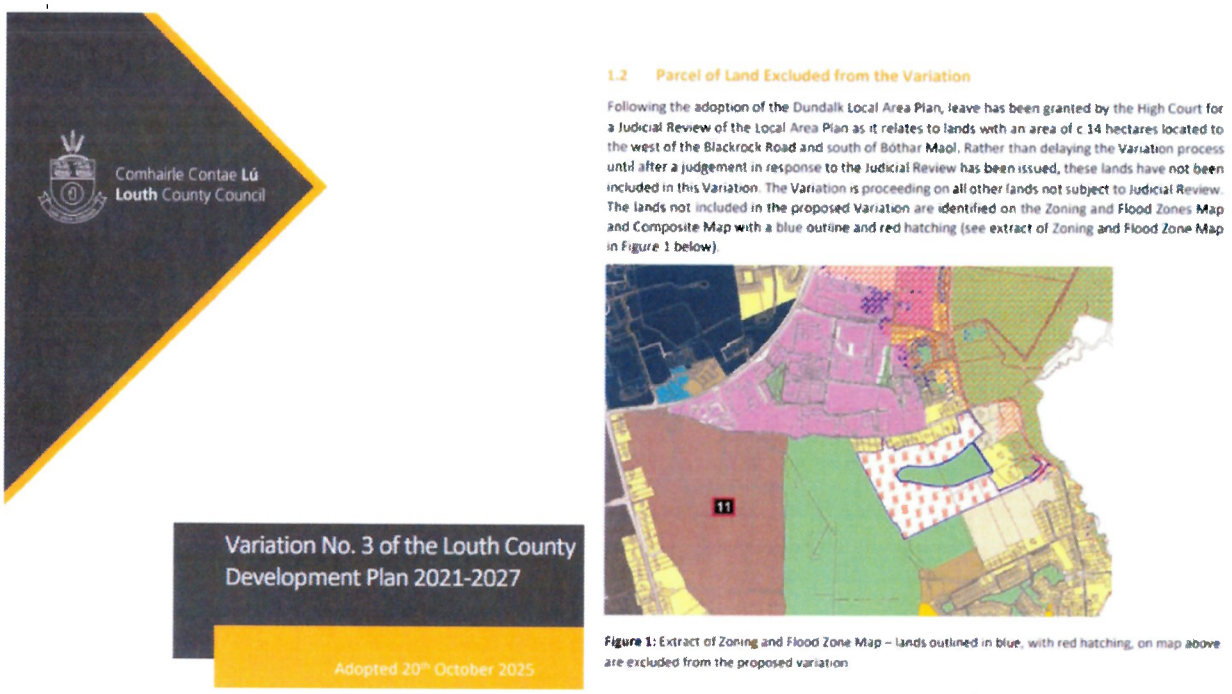
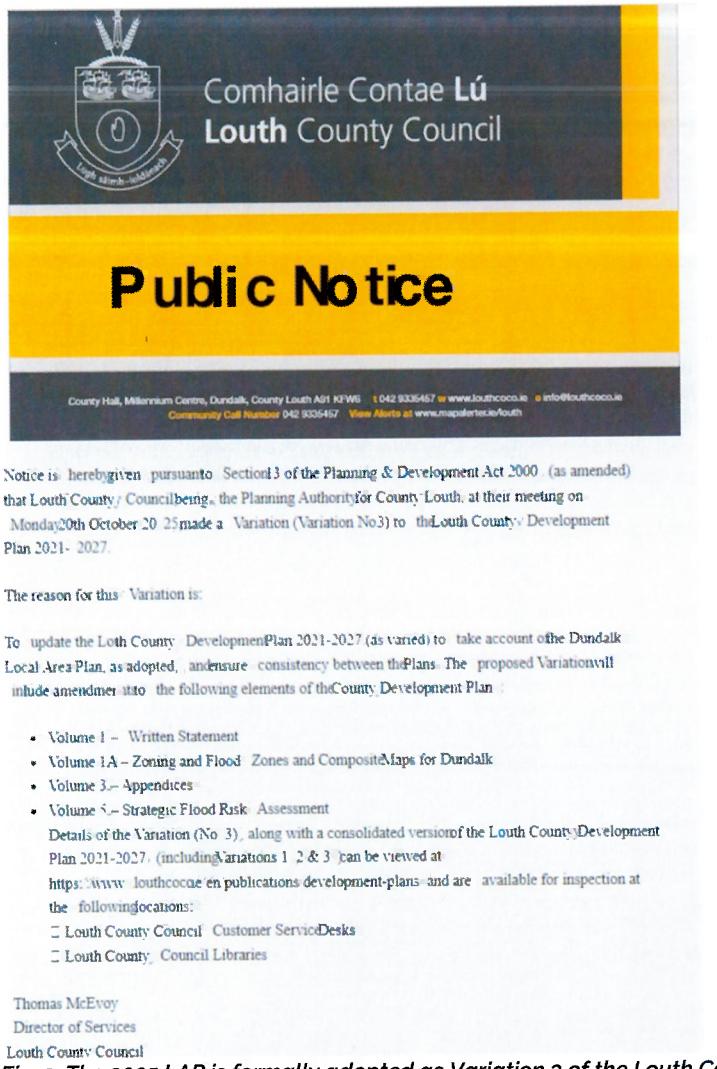


Fig. 2: The 2025 LAP's zoning is excluded from Variation 3 of the Louth County Development Plan 2021-2027 pending the outcome of the High Court challenge



Comhairle Contae Lú
Louth County Council

Public Notice

County Hall, Millennium Centre, Dundalk, County Louth A91 KFW6 t 042 9335457 w www.louthcoco.ie e info@louthcoco.ie
Community Call Number 042 9335457 View Alerts at www.mapalerter.ie/louth

Notice is hereby given pursuant to Section 13 of the Planning & Development Act 2000 (as amended) that Louth County Council being a the Planning Authority for County Louth, at their meeting on Monday 20th October 2025 made a Variation (Variation No 3) to the Louth County Development Plan 2021- 2027.

The reason for this Variation is:

To update the Louth County Development Plan 2021-2027 (as varied) to take account of the Dundalk Local Area Plan, as adopted, and ensure consistency between the Plans. The proposed Variation will include amendments to the following elements of the County Development Plan:

- Volume 1 – Written Statement
- Volume 1A – Zoning and Flood Zones and Composite Maps for Dundalk
- Volume 3 – Appendices
- Volume 5 – Strategic Flood Risk Assessment

Details of the Variation (No 3), along with a consolidated version of the Louth County Development Plan 2021-2027, (including Variations 1, 2 & 3) can be viewed at https://www.louthcoco.ie/en/publications/development-plans/ and are available for inspection at the following locations:

- Louth County Council Customer Service Desks
- Louth County Council Libraries

Thomas McEvoy
Director of Services
Louth County Council

Fig. 3: The 2025 LAP is formally adopted as Variation 3 of the Louth County Development Plan 2021-2027

- **Louth County Council fails to include all relevant LAP policies and objectives in its Planner's Report and to apply them to the current LRD planning application.**

  LCC Planning Department was, it seems, determined not to allow the 2025 LAP to be part of its planning assessment. The Planner's Report includes pages of policies and objectives taken from the LCDP 2021-2027; however, the LAP (prepared almost 4 years later and is therefore far more up to date) is essentially excluded. This is not acceptable. LCC has not taken the LAP adequately into account, if at all. Why then prepare a Local Area Plan? If no part of the LAP can supersede the CDP, then why have LAPs at all. This argument is not accepted. Please refer to Section 3.2 of this letter. The LCC position is untenable on this point. While the development of lands may be deemed premature by a local authority or by ACP as no Local Area Plan has been prepared despite this being an objective (as in this case) of the CDP, LCC is now stating that once the LAP is in place and the very issue which needed an LAP comes up for assessment, the Lap can just ne ignored. This is clearly not in keeping with either the spirit or the intention of the Planning Act 2000 (as amended) as regards Local Area Plans.

BPS can confirm, as acknowledged by the Office of the Planning Regulator in its letter to LCC dated the 17th of April 2025, that the reasons of the elected members for rezoning the lands to Strategic Reserve is because these lands are not currently serviced, which means that the policy and objective in the Development Plans, Guidelines for Planning Authorities (2022) against de-zoning serviced lands does not apply:

> *The Office of the Planning Regulator (the Office) acknowledges the adoption of the Dundalk Local Area Plan 2025-2031 (Local Area Plan) by Louth County Council (the Planning Authority) on the 6th March 2025 … The Office has, however, fully considered the reasons of the elected members for rezoning the lands to Strategic Reserve, and in particular the reason that these lands are not currently serviced, which means that the policy and objective in the Development Plans, Guidelines for Planning Authorities (2022) against de-zoning serviced lands does not apply.*

The decision of the elected members of LCC to do so in the adopted LAP arises from the decision of ACP issued under the previous LRD appeal decision which found that the site cannot reasonably be serviced for foul water drainage the lifetime of the Louth County Development Plan 2021-2027. ACP's reason for refusal reads:

Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Eireann, the Board was not satisfied a sufficiently developed commitment and specific timeframe has been provided that demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency in the capacity of sewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would, therefore, be contrary to the proper planning and sustainable development of the area.

The OPR has not challenged the downzoning as it cannot do so. The reason for the downzoning is justified and allowed for under the guidelines, the Regulations and the Planning Acts.

Understanding that this downzoning would prevent these lands being developed in the lifetime of the LAP, Glenveagh Homes Limited v. Louth County Council, High Court 2025 570 JR. Why would they take this judicial review case if LCC's Planning Department had the power to merely ignore the LAP's zoning. LCC Planning Department has not even waited for the High Court to decide on this case. The case Glenveagh Homes Limited v. Louth County Council (High Court Record No. 2025/570 JR) has not been decided as of December, 2025. This judicial review challenges Louth County Council's decision to de-zone land in the Dundalk area (Haggardstown/Blackrock) from residential to strategic reserve, blocking ~500 homes. Proceedings commenced in April–June 2025, with the council authorising defence in June. No judgment appears in the media, public records, courts.ie, BAILII, or news sources. Irish High Court judicial reviews often take 12–24+ months, especially planning cases with appeals or settlements. The case remains ongoing, with no reported hearing or decision by December 2025. How has the LCC decision issued in the context of this case. It brings the planning system into disrepute. Local people succeed in having the suite downzoned only for statutory zoning to be ignored.

The elected members' decision (and the decision of ACP) is fully justified and the Planning Department's decision to ignore the LAP's zoning is inexplicable. Please refer to our client's Further Information stage submission to LCC (copy attached).

The LCC Planning Department decision challenge the decision of the LCC elected members and the adopted LAP. The applicant states of this democratic decision: "The Dundalk Local Area Plan purports to zone the subject lands as 'L1 Strategic Reserve'". The LAP does not "purport" to do anything. The subject lands were downzoned (see Fig. 4).

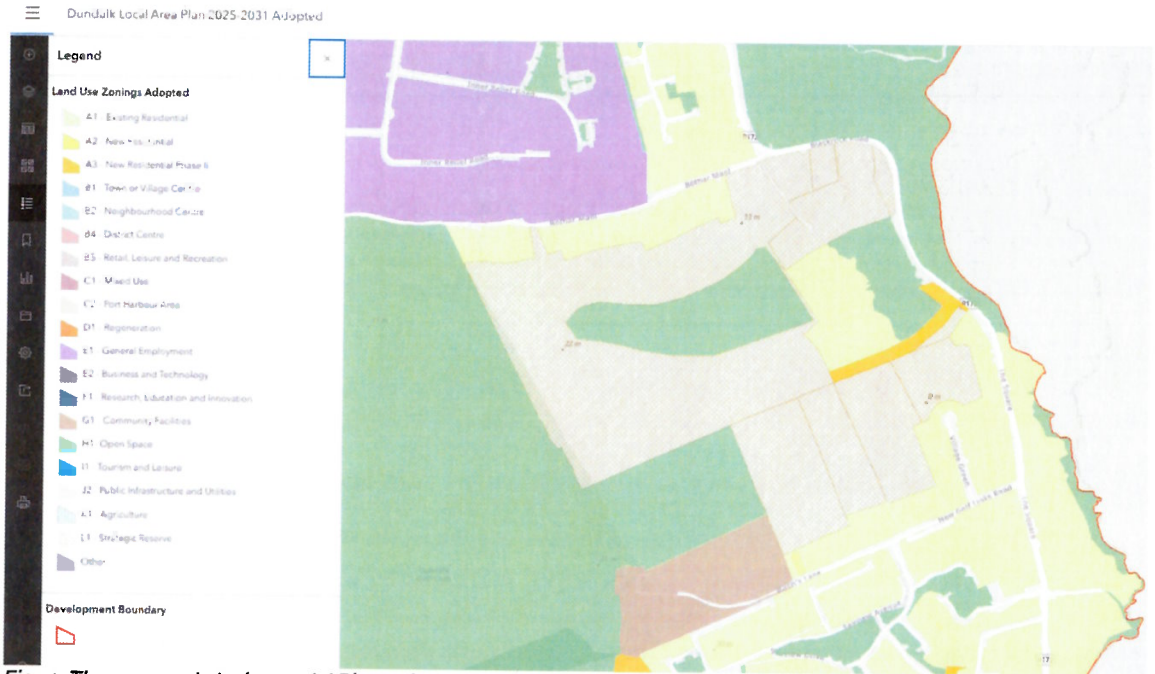


Fig. 4: The unannotated 2025 LAP's zoning map – this map supersedes the Louth County Development Plan 2021

The LAP was adopted after – by approx. 4 years - the Louth County Development Plan 2021-2027 and supersedes it as regards the zoning of the subject site. The applicant Planning Statement argues that Section (4) (a) of the Planning and Development Act 2000 (as amended) confirms a Development Plan has precedence at all times over an LAP. LCC is invited to read this section of the Act. Section 4(b) confirms that when a Development Plan is adopted or varied an LAP remains in place except in areas where it conflicts with the CDP. In the current instance, the LAP post-dates the adoption of the CDP and any variation(s) made to it since that adoption. Section 4 (b) does not apply.

4. (a) A local area plan prepared under this section shall indicate the period for which the plan is to remain in force … (b) A local area plan may remain in force in accordance with paragraph (a) notwithstanding the variation of a development plan or the making of a new development plan affecting the area to which the local area plan relates except that, where any provision of a local area plan conflicts with the provisions of the development plan as varied or the new development plan, the provision of the local area plan shall cease to have any effect.

The applicant Planning Statement argues: "This conflicts with the County Development Plan". This is not the case. It is not unusual for the more nuanced and locally detailed LAP to alter the zonings of lands previously zoned under a Development Plan. The LAP can reasonably also be viewed as an update or amendment to the Development Plan. If it were not possible for LAPs to alter CDPs (county wide policy documents) there would have been no point to the Oireachtas including LAPs in the Planning Act 2001 (as amended).

The applicant Planning Statement argues that Policy Objective DM3 essentially over-rules the LAP's zonings. This is not the case. The lands have ceased to be zoned as "A2 New Residential Phase 1" under the CDP. The LAP amended the site's zoning for all the county.

While the applicant would have supported the continued zoning of the lands, supported a more attractive zoning of the lands, or even a Specific Local Objective encouraging precisely the submitted LRD scheme's content, they do not support local democracy in planning when it does not benefit them.

Our client finds it difficult to understand how LCC Planning Department has accepted the applicant's arguments, including after variation 3 of the LCDP.

Irish Independent

Louth County Council refuses to extend planning permission for 483-home development

Louth County Council has refused to extend planning permission for 483 home development in Blackrock.

Permission for 258 houses, 213 apartments and 12 duplex style homes was granted in 2019 and expired on January 13th.

The Blackrock Road site extends from Bothar Maol back towards the village and Borders Dundalk Golf Club.

The landowner Glenveagh Homes did not get the go ahead to commence construction of seven homes on the site by December, but an inspection by planners last month determined that there hadn't been sufficient work undertaken to justify an extension.

The Council also determined that planning could not be extended as an Environmental Impact Assessment and Natura Impact Assessment will now be required for the remainder of the site.

The decision leaves the controversial site in something of a limbo as Louth County Councillors recently voted to re-zone the land from 'residential' to 'strategic reserve' in the Dundalk Local Area Plan, which is now nearing completion.

They did so despite advice from the Office of the Planning Regulator and County Council chief Executive, David Conway.

Glenveagh had indicated its intention to submit a new LRD (Largescale Residential Development) application for 502 homes to An Bord Pleanala, but time is not on their side due to the impending re-zoning.

The Minister for Housing could still be consulted, and potentially intervene, if the Office of the Planning Regulator is not satisfied with the reasons councillors provide for deciding to re-zone the land.

Louth County Council's decision is just the latest twist in a lengthy saga.

Read more

- Euro Toques role for Louth chef Conor Halpenny as popular Square Restaurant set for expansion
- 'It's absolute madness, I can't believe it' - Kate O'Connor's bronze at European Championship completes great day for the Irish
- €610,000 allocated to controversial Dundalk Bay to Carlingford Greenway

With the 2019 permission in place Glenveagh submitted a separate application for 502 homes in 2023, but this was rejected by the Council in early 2024 and An Bord Pleanala upheld that decision last summer.

In the wake of that ruling in July, local councillors and residents groups began a campaign to have the land re-zoned from 'A2 Residential' to 'Strategic Reserve'.

As well as wastewater issues, there are also there are environmental, biodiversity and flooding concerns in relation to the site.

Councillors subsequently voted to rezone the land during preliminary discussions on the Dundalk and Area Plan.

They doubled down on that decision during the material alterations phase of the plan, voting 11-6 in favour of the rezoning.

The new zoning classification will officially take effect when the Dundalk Local Area Plan has been adopted by the wider Louth County Development Plan on March

Louth councillors have become increasingly frustrated by the proliferation of high density housing without corresponding investment in community infrastructure.

At their last monthly meeting they remarked on the lack of infrastructure in sprawling urban areas, particularly to the south of Dundalk and north of Drogheda.

Cllr Shane McQuinneet, who says issues surrounding infrastructure and planning prompted him to run for election last summer, welcomed the Council's decision to refuse an extension to the Blackrock site.

"This just didn't happen by chance," he said. "It took a lot hard work over a long period of time, but I believe this was the last chance for Glenveagh and has now been turned down.

"My reasons to enter the race as a councillor was born out of my frustration at the sheer lack of infrastructure in every sense from green open space, schools, doctors, lack of footpaths and general lack of infrastructure around Irish Water and the ir ability to deal with the sheer volume of waste water in the Blackrock and Haggardstown area.

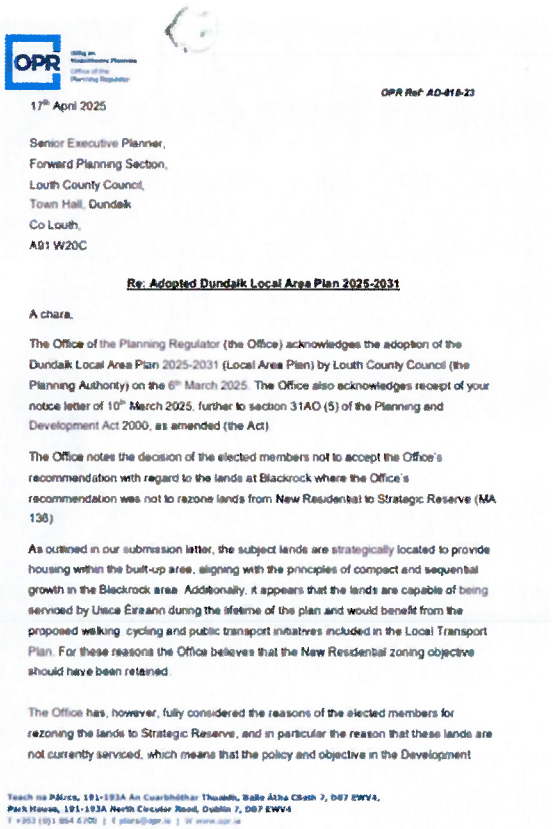
"The root cause of all of this is the lack of political will in Louth at a senior level over the past 10 years or so for not thinking ahead and putting the funding interests in Dundalk in particular ahead of where we have a serious situation.

"We're looking at the first quarter of 2030 before there is an upgrade of the Point Road (wastewater) plant. For me, this is not good enough that North Louth has to wait this length of time for funding.

"I am due to visit Leinster House towards the end of March and I will be asking my Fianna Fáil colleagues what do we have to do to get funding now from area of North-south".

Fig. 5: Summary of the planning and zoning status of the site set out by the Irish Independent (Source: Irish Independent[1])

[1] https://www.independent.ie/regionals/louth/dundalk-news/louth-county-council-refuses-to-extend-planning-permission-for-483-home-development/a699349115.html



OPR Ref: AD-018-23

17th April 2025

Senior Executive Planner,
Forward Planning Section,
Louth County Council,
Town Hall, Dundalk
Co Louth,
A91 W20C

Re: Adopted Dundalk Local Area Plan 2025-2031

A chara,

The Office of the Planning Regulator (the Office) acknowledges the adoption of the Dundalk Local Area Plan 2025-2031 (Local Area Plan) by Louth County Council (the Planning Authority) on the 6th March 2025. The Office also acknowledges receipt of your notice letter of 10th March 2025, further to section 31AO (5) of the Planning and Development Act 2000, as amended (the Act).

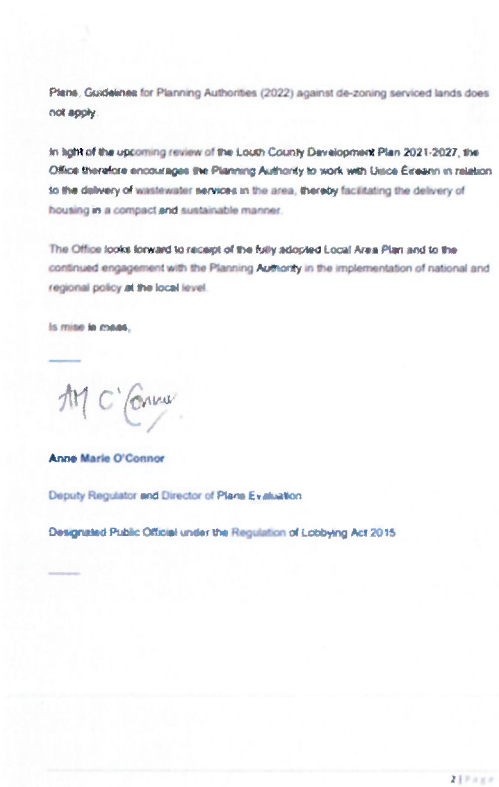
The Office notes the decision of the elected members not to accept the Office's recommendation with regard to the lands at Blackrock where the Office's recommendation was not to rezone lands from New Residential to Strategic Reserve (MA 138).

As outlined in our submission letter, the subject lands are strategically located to provide housing within the built-up area, aligning with the principles of compact and sequential growth in the Blackrock area. Additionally, it appears that the lands are capable of being serviced by Uisce Éireann during the lifetime of the plan and would benefit from the proposed walking, cycling and public transport initiatives included in the Local Transport Plan. For these reasons the Office believes that the New Residential zoning objective should have been retained.

The Office has, however, fully considered the reasons of the elected members for rezoning the lands to Strategic Reserve, and in particular the reason that these lands are not currently serviced, which means that the policy and objective in the Development

Teach na PArce, 191-193A An Cuarbhóthar Thuaidh, Baile Átha Cliath 7, D07 EWV4,
Park House, 191-193A North Circular Road, Dublin 7, D07 EWV4

Fig. 6: Letter from the OPR to LCC confirming the downzoning of the subject site to L1 – Strategic Reserve on appropriate grounds (Source: https://www.opr.ie/wp-content/uploads/2025/04/2025.04.17-OPR-Acknowledgement-of-Adoption-Dundalk-Local-Area-Plan.pdf



Plans, Guidelines for Planning Authorities (2022) against de-zoning serviced lands does not apply.

In light of the upcoming review of the Louth County Development Plan 2021-2027, the Office therefore encourages the Planning Authority to work with Uisce Éireann in relation to the delivery of wastewater services in the area, thereby facilitating the delivery of housing in a compact and sustainable manner.

The Office looks forward to receipt of the fully adopted Local Area Plan and to the continued engagement with the Planning Authority in the implementation of national and regional policy at the local level.

Is mise le meas,

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluation

Designated Public Official under the Regulation of Lobbying Act 2015

2 | Page

Fig. 7: Letter from the OPR to LCC confirming the downzoning of the subject site to L1 – Strategic Reserve on appropriate grounds (Source: https://www.opr.ie/wp-content/uploads/2025/04/2025.04.17-OPR-Acknolwedgement-of-Adoption-Dundalk-Local-Area-Plan.pdf

As ACP is aware, the Development Management Guidelines (2007) and the Development Plans – Guidelines for Planning Authorities (2022) require the planning authority to assess any proposed development in terms of the zoning presently applicable to a given site. This zoning is 'Strategic Reserve' and no development can take place during the lifetime of the current LAP. When the current CDP is updated, this may change. The justification for zoning lands Strategic Reserve lands is set out in the Core Strategy of the CDP.

When one considers the planning law pertaining to landowners challenging downzoning (they seldom oppose upzoning), the primary cases are as follows:

- In Brophy v An Bord Pleanála [2015] IEHC 433, Baker J. stated that "A development plan is arrived at following a democratic, public consultation process" and where there is a perceived conflict between a development plan and Ministerial Guidelines (in this case the 2005 Sustainable Rural Housing Guidelines), the "solemn and common public contract contained in the development plan itself must prevail." In general, the planning authority should consider a planning application by reference to the existing development plan and not to any future development plans or drafts: see Ebonwood Limited v Meath County Council [2004] 3 I.R. 34.

- Development plans include a mix of broad policies or statements and more specific objectives (see, for example, Maye v Sligo Borough Council [2007] 4 I.R. 678 at 696. And Clarke J. (at 696)). Zonings are specific objectives. In Christian v Dublin City Council which concerned a challenge to a zoning objective in the City Council's development plan, Clarke J. stated (at para. 51 and 52):

  > *The way in which Development Plans are set out vary. Certain aspects of the Plan may have a high level of specificity … In those cases it may not be at all difficult to determine whether what is proposed is in contravention of the Plan. In those circumstances it will only remain to exercise a judgment as to the materiality of any such contravention. However, at the other end of the spectrum, it is not uncommon to find in a Development Plan objectives which may, to a greater or lesser extent, be properly described as aspirational. Such objectives may be expressed in general terms. In such cases a much greater degree of judgment may need to be exercised as to whether the development proposed amounts to a material contravention of the Development Plan.*

- Similarly, in Christian v Dublin City Council [2012] 2 I.R. 506, which concerned a challenge to a zoning objective in the City Council's development plan, Clarke J. stated (at pars. 51 and 52):

  > *It also seems to me to be appropriate to characterise the Development Plan as a mixture of the general and the specific. The Development Plan is required, as has been pointed out, to contain a written statement of the development objectives of the area in question. The means by which those objectives are to be achieved or developed in the detail of the Plan which specifies different zones in which particular types of development are to be focused … it is, therefore, appropriate to characterise the Development Plan as being a mix of broad policy and concrete implementation measures. The implementation measures can themselves, of course, range from the specific (such as, for example, the maximum heights of buildings or plot ratios) to the more general (such as a desire to provide a certain level of certain green space in an area) which can sometimes border on the aspirational. There are many points in between those two extremes.*

- In Christian & Ors. v Dublin City Council [2012] 2 I.R. 506, the respondent Council adopted a development plan which included a zoning category "to provide for institutional, educational, recreational, community, green infrastructure and health uses" and excluded residential development as a use either permissible or open for consideration. The applicants sought judicial review on the grounds, inter alia, that the respondent failed to give reasons for adopting the zoning category and contended that this was an impermissible restriction of their right to property and right to equality.

- It was held by Clarke J., in quashing the aspects of the development plan which dealt with the impugned zoning category Z15, that there was no basis for suggesting that elected members of local authorities could not give, or be required to give, reasons. In order to assess the lawfulness of a decision affecting persons' rights and obligations, the court required access to a sufficient amount of information to enable an assessment to be made as to the lawfulness of the decision, including the reasons for the decision. It was held that there was no obligation on the elected members to give reasons in respect of the policies implemented in a development plan but there was an obligation to give reasons in respect of how policies would be implemented. While reasons could generally be inferred from a local authority manager's report, where the elected members adopted a resolution with which the manager did not agree, there was an obligation to include reasons for a resolution, either in the resolution, or in the documentation and materials referenced therein. In the current case, those reasons have been given and they align with ACP's previous LRD scheme refusal.

- As under the previous LRD, ACP refused planning permission at appeal stage (in line with LCC's own refusal decision) on the ground of prematurity pertaining to servicing by way of foul water infrastructure, it could be argued that LCC had no choice but to downzone the lands – see Redmond v An Bord Pleanála [2020] IEHC 151, as well as the High Court decision in Highlands Residents Association v An Bord Pleanála [2020] IEHC 622.

- Our client reminds ACP that Section 15 of the PDA 2000 imposes a duty to secure the objectives in a development plan. Within two years of the making of the plan, the chief executive must prepare a report and present it to the elected members. The planning authority may not frustrate the objectives in the development plan Browne v Cashel Urban District Council (UDC), unreported, High Court, Geoghegan J., March 26, 1993. LCC could not at the time of the

downzoning any confidence – arising from the decision of ACP – that the previous zoning objective pertaining to these lands could be secured.

- The LCC housing authority must ensure consistency of approach between the preparation of the development plan's zoning requirements by the planning authority and the housing strategy developed by the housing authority for the same functional area. Such an approach only exists with these lands zoned Strategic Reserve.

Having considered this matter and the planning law arising, our client is confident that the LCC position will not stand, and the Strategic Reserve zoning is correct and legal. This planning appeal is lodged on the basis that ACP will refuse permission on this basis as the proposed development, as submitted, materially contravenes the Strategic Reserve zoning. The Commission may not grant permission where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land: see the discussion in Redmond v An Bord Pleanála [2020] IEHC 151, as well as the High Court decision in Highlands Residents Association v An Bord Pleanála [2020] IEHC 622.

4.3.2 Contradictions in the LCC application of Local Area Plan policies & objectives

As noted above, LCC's Planner's Report makes clear the Planning Department's decision not to apply the policies and objectives of the 2025 LAP to this planning application. They are not even listed. This is despite how the LAP has been adopted as Variation 3 of the CDP.

The LCC Planner's Report states: "The proposed development ... is also considered to be consistent with the zoning objective for the area. The principle of the proposed development is therefore considered to be acceptable". This statement is made having disregarded the LAP's zoning of the site.

LCC has failed to have regard to the provisions of the 2025 LAP.

The Planning Act 2000 (as amended) and the Development Management Guidelines (2007) make clear that a planning authority must have regard to a Local Area Plan (it has its own statutory standing):

- Local Area Plans are given statutory footing in s.18(1) of the PDA 2000, as amended by s.11 of the 2010 Act. A planning authority may prepare a local area plan (LAP) for any particular area within its functional area and at any time. **The planning authority or the Commission on appeal must have regard to the provisions of any LAP prepared when deciding on a planning application.**

- The LCC decision ignores the LAP's downzoning of these lands. We note that the planning authority reverts to the CDP's zoning. We note how the applicant's judicial review case has influenced LCC; however, there is no presumption in law that any land zoned in a particular plan shall remain so zoned in any subsequent plan. The lands were downzoned and LCC should be standing over this decision and not ignoring the LAP. It is accepted that, where there is a conflict between the LAP and the development plan has primacy. However, in this case the LAP post dates the County Development Plan by up to four years (2021 vs. 2025) 'and' it was clearly the intention of the planning authority to formally adopt the LAP as Variation 3. The judicial review intervention of the applicant should not reasonably be permitted to influence planning decisions as regards whether the LAP's zoning and other policies do or do not apply to this site and to this proposed development[2]. The LAP maintains a consistent approach with the development plan, its core strategy and to the regional spatial and economic strategy. Arguments that it conflicts with the CDP are not accepted by our client.

- While the applicant and LCC have decided to rely on a 2021 zoning in preference to the 2025 LAP zoning of the site, we note how the LAP has been the subject of Strategic Environmental Assessment and appropriate assessment of a draft LAP must be carried out. These assessments have applied the most up to date scientific information available pertaining to these lands. The LAP then downzoned these lands. The 2021 CDP is out of date compared to the LAP when it comes to SEA and AA matters. The LAP contains and has been assessed in accordance with the most up-to-date scientific information. Relying on the CDP is to rely not on the most up to date scientific information and, as such, how has LCC reached a conclusion in its competent authority appropriate assessment that the CDP zoning remains appropriate "beyond all reasonable scientific doubt". There is no evidence provided by LCC that it has taken into consideration the AA carried out for the LAP.

- It emerged during planning law cases arising from the, now defunct, Strategic Housing Development process, that the Commission may not grant permission where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land: see the discussion in Redmond v An Bord Pleanála[3], as well as the High Court decision in Highlands Residents Association v An Bord Pleanála[4].

- As ACP is aware, if a planning authority considers that the proposed development is inconsistent with the provisions of its development plan (or local area plan (LAP)) it must refuse planning permission. Under s.178 of the PDA 2000 the local

[2] PDA s.19(2), as amended by s.8 of the Planning and Development (Amendment) Act 2002, s.12 of the 2010 Act and Part 4 of Sch.2 to the Local Government Reform Act 2014.
[3] [2020] IEHC 151.
[4] [2020] IEHC 622.

authority cannot carry out development that materially contravenes the development plan. This being the case, it is very difficult to understand how LCC could grant permission for development which materially contravenes the LAP.

- ACP is permitted to grant permission for development which would materially contravene the development plan or local area plan, other than in relation to the zoning of the land, where it considers that, if s.37(2)(b) of the PDA 2000 applies. Despite being an LRD planning application, neither the applicant or LCC have proven that this proposal is: "(a) the development would be of strategic economic or social importance to the State or the region in which it would be situate,(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate, (c) the development would have a significant effect on the area of more than one planning authority. **The applicant and LCC have acted on the basis of ignoring the 2025 LAP. We note how Humphreys J. stated in Clonres CLG v An Bord Pleanála[5] that SHD applications are not of themselves 'strategic' within the meaning of s.37 of the PDA 2000. This being the case, we submit that LRD planning applications are not either.**

- Section 2.4 'Benefits of pre-application consultation' of the Development Management Guidelines makes clear that LAPs should form part of the pre-planning feedback given to an applicant. It states: "More specifically, consultations can be of value in: Applying development plan/local area plan objectives to a particular site, and especially assessing how the design treatment responds to the local context, thus allowing the planning authority to input to design and layout at an early stage … Informing the applicant about local policy documents such as design guides, Action Area Plans, framework plans …". **The LCC pre-planning feedback to the applicant noted the forthcoming 2025 LAP; however, neither the applicant nor LCC have been guided by or have had regard to the 2025 LAP.**

- Section 6.3 'Structure and content of planning reports' of the guidelines states: "The format and structure of planning reports will necessarily vary in line with differing types of application but, in general, a planning report should be typed/in electronic format, logically set out and clearly signed by the person who prepared it, and should contain at least the following elements: … (5) A summary of the relevant matters set out in section 34 of the Planning Act. These matters include the provisions of the development plan and any Local Area Plan, any European site, any relevant policy of the Government or the Minister, which of course includes Planning Guidelines issued by the Minister, and any other relevant planning policy provisions relevant to the area including zoning, development objectives and architectural conservation areas …". **The LCC Planner's Report fails to set out the provisions of the LAP and to apply these to the assessment of this planning application.**

- Section 7.15 'Refusals arising from development plans or local area plans' of the guidelines states:

  A statement of objectives in a development plan should not be regarded as imposing a blanket prohibition on particular classes of development and does not relieve the planning authority of responsibility for considering the merits or otherwise of particular applications. A brief reference to an objective or policy statement is not, therefore, adequate as a reason for refusal if it is not made clear what the objective is, how it would be contravened by the proposed development, and why that contravention would be contrary to the proper planning and sustainable development of the area. A reason for refusal must, as far as possible, bring out the reasonableness of applying the provisions of the plan in the particular case. Accordingly, caution should be exercised when refusing permission on the grounds that the proposed development would materially contravene the development plan. Where such a reason is given it must be clearly shown that specific policies/objectives of the plan would be breached in a significant way.

  LCC has failed to set out a proper statement of objectives from the LAP or to assess the proposal in light of those objectives. LCC has a responsibility to consider the merits or otherwise of particular applications. The LCC assessment is inadequate. No explanation is given for why no assessment of the proposals under the LAP zoning and/or its policies and objectives is provided. Stating that the LAP is to be ignored is not sufficient when the LAP is formally adopted and the majority of it now forms part of the CDP arising from Variation 3. ACP is left with no clear LCC assessment as to whether the proposals do or do not comply with and/or materially contravene the LAP.

- Section 7.16.1 'Premature development' of the guidelines states:

  Development which is premature because of existing deficiencies in water supply, sewerage facilities and/or road network may be refused without incurring a compensation liability provided that the criteria set out in the Fourth Schedule of the Planning Act are met. In general, prematurity arises where there are proposals to remedy the deficiency. If there are no such plans to remove the constraints within a reasonable period (e.g. if there are no plans to extend public water supplies or sewerage to a particular area), this form of wording should not be used as a reason for refusal. It should be borne in mind that for a compensation claim to succeed, the applicant must demonstrate that the planning decision has resulted in a reduction in value of the land in question. Premature development in this context also includes development which would be premature pending the determination by the planning authority or the road authority of a road layout for the area. However development which is premature because of a commitment in a development plan to prepare a strategy, Local Area Plan or framework plan not yet completed should only be used as a reason for refusal if there is a realistic prospect of the strategy or plan being completed within a specific stated time frame.

[5] [2021] IEHC 303.

The primary reason on why these lands have been downzoned is because ACP found under its previous LRD appeal decision that intensive development of these lands for housing would be premature because of existing deficiencies in sewerage facilities. The guidelines emphasise that, "In general, prematurity arises where there are proposals to remedy the deficiency". This is the case in the current circumstances. The applicant continues to contend as they did to ACP under the previous LRD that these deficiencies can be addressed in a reasonable period. Our client does not agree. They have looked at all Uisce Eireann's plans and areas of these will not be completed until well after 2030. As ACP found, there are no plans to remove the constraints within a reasonable period. Planning permission cannot be granted on the basis that sewerage infrastructure may be in place at some time in the future. The 2025 LAP was drafted and adopted on this basis. We note how it is often the case that a development is deemed premature pending the drafting and adoption of an LAP to address infrastructure and other issues. Such an LAP is now in place, and it downzoned these lands.

Concerns arise over the legality and the material correctness of the LCC planning assessment. LCC has not had proper regard for the LAP including the site's zoning and all applicable planning policies and objectives. This being the case, the LCC decision needs to be amended. We trust the Commission will properly assess the proposals in light of the LAP.

4.3.3 "Some works have taken place" – this is accepted without question despite the downzoning

The LCC Planner's Report states: "Some works have taken place with the installation of a construction site access onto the Boathar Maol secured within field gates and security fencing and some ground works within the site". Why is this not interrogated further by LCC. How is it acceptable that lands which were refused permission under the previous LRD and were subsequently downzoned have been the subject of any works prior to the current planning application, indeed, during the current planning application?

These works took place in a hurried manner in December 2024, This may have been an attempt by the applicant to achieve an extension of duration granted to the 2019 SHD planning permission, which local# people had understood expired on 7th October 2024 (unaware that there is time added on for Covid days and holidays)

The applicant entered the site through an unauthorised entrances on Bothar Maol and Birches Lane. Residents on Bothar Maol blocked their entry as this is a private road and not an authorised entrance to the site.

Commencing work on a 2019, 5 year grant, for 483 houses in December 2024 /January 2025 was then and remains nonsensical and inexplicable.

No significant work was completed. The applicant was notified by LCC that no extension would be given and was ordered to vacate the site on January 15th. The 2019 grant was extinguished.

4.3.4 LCC accepts no EIAR consideration of alternatives given the site's zoning

In considering the EIAR requirement to consider "alternatives", LCC allows the applicant to disregard this requirement, "Having regard to the residential zoning of the subject site ..." The site has been downzoned under the LAP. There are now far more suitable zoned sites that not zoned 'Strategic Reserve' and which are prioritised under the LAP for development.

This proposal would leapfrog these other lands and be contrary to the sequential approach to development, i.e. with properly phased and zoned lands developed first and 'Strategic Reserve' zoned lands only developed once those other lands are fully developed. How then can LCC state: "no alternative sites or processes are considered necessary within the context of this proposal"?

4.4 Ground 4: Disputed claims of no works outside of the applicant's or LCC's ownership

The applicant argues and LCC accepts that, "No works are proposed outside the applicant's ownership and/or control, or lands in control of the local authority". For the reasons set out in our client's Planning Objection Report, this is not accepted by our client. ACP is asked to consider how this proposal encroaches into lands owned by our client and relies on the discharge of surface water into our client's property.

It pre-planning stage, LCC Roads set out Item 8c which states:

> *The applicant/developer shall submit written evidence that all necessary rights and/or permissions from third party landowner(s) have been obtained for provision of access/sightlines, footpath and new road edge to accommodate the development. The applicant shall submit a formal agreement at LRD application stage together with a map showing the extent of third-party lands affected outside the site boundary to the public road together with an undertaking from the landowner's solicitor that the agreement will be entered as a burden against the title of the land.*

Our client has not reached any agreement with the applicant or given any consent for any part of this scheme to encroach into their lands or for their property to be used directly or indirectly as part of this scheme.

The applicant's response to Item 8c is, in our client's opinion, untrue.

The land ownership concerns primarily involve the unauthorised inclusion of our client's property in the applicant's development plans without their consent. Our clients are the registered owners of the property, as confirmed by their land folio (LH42319F). The proposed works that encroach on their land. Despite this, the applicant has included parts of their property within the red line boundary of the development and proposed significant works, including road realignment, drainage infrastructure, and the discharge of surface and flood waters.

As noted elsewhere in this letter, our client's strenuously object to the applicant's claim of an "eastern drainage channel" that purportedly runs through their property. This channel is intended to facilitate the discharge of surface and flood waters from the development site. However, our client and their surveyors have confirmed that no such channel exists on their property. The applicant has not conducted any surveys on our client's land to substantiate this claim, and they have not granted access for such surveys. The applicant's reliance on outdated maps and assumptions about the existence of this channel has further exacerbated the dispute.

Additionally, the applicant has proposed works on the R172 road, which passes through our client's property. These works include raising the road level and creating new drainage infrastructure. The applicant claims rights of way or consent from Louth County Council (LCC) for these works, but our client has not ceded ownership of this land or provided any permissions. Our client has repeatedly sought clarification from LCC regarding the boundaries of their property and the "taking in charge" process, but no satisfactory response has been provided.

The proposed discharge of surface and flood waters into our client's property is another significant concern. Their land already experiences flooding during high rainfall events, and the additional water from the development would exacerbate this issue. This raises serious questions about the impact on their property rights, the potential for increased flood risks, and the implications for their ability to obtain insurance.

Despite multiple submissions from our client's solicitor and surveyor, LCC has not adequately addressed these concerns. Our client has requested that their land ownership be clearly acknowledged and respected in any future development proposals, and they have sought a meeting with LCC to clarify boundaries and resolve the ongoing disputes.

The applicant has failed to secure the necessary permissions for works on our client's property and has included their land in the development plans without authorisation. This has raised significant legal, procedural, and environmental concerns, undermining the validity of the planning application.

4.4.1 Forcing surface and storm waters into clients property without consent is unacceptable

The applicant proposes to discharge part of the surface and storm water generated from the site to what they say is a drainage channel which would pass into our client's property which already floods during high rainfall events (there is a large pond in their front garden which is a *de facto* detention basin).

The claimed drainage channel would, if it existed, be highly convenient for the applicant. They have therefore set out a myriad of very formal appearing engineering plans and reports which purport to suggest our client's property has always supported a drainage channel. This is not accepted.

Neither our client nor LCC have any records of the claimed drainage channel alongside the public road. The applicant claims to have mapped this yet at no point has our client ever given permission for any member of the project team to do any more than approach their front door (an act which has tacit approval as regards postmen and others who may knock at the door).

The applicant purports to have based their surface and storm water plans on historic maps which purportedly show a drainage channel. This argument is less than flimsy. Drainage of areas changes over time, stream and rivers are channelised, etc. There is not current drainage channel at this location. What the applicant proposes would constitute an act of vandalism of our client's property by forcing surface and storm waters into their front garden areas which are always flooded during high rainfall events. The proposal makes no sense whatsoever.

It is revealing that the applicant offers to provide CCTV for all areas of the purported drainage channel excepting where it would be forced through private lands. IE Consulting states: "A CCTV survey of the culvert crossing the road was attempted, but it was not completed due to obstruction". Where is the CCTV survey of the claimed drainage channel as it purportedly passed through our client's property? IE Consulting claims that as water comes out of the end of the purported drainage channel then there must be a drainage channel. This is not the case. The part of our client's private property though which the applicant wishes to force its surface water and flood water is in Flood Zone A and is a wetland. Surface and ground water constantly drains out of this area in a range of ways. This does not mean that water from the proposed scheme entrance currently passes from there, through our client's land, and onwards through LCC lands. The claims made by the applicant are not credible. The applicant offers only their own opinions as proof to support their own opinions.

The LCC Planner's Report essentially cuts and pastes sentences out of the Chapter 10.3.1.2 of the Environmental Impact Assessment Report (EIAR) and is wholly accepting of the applicant's arguments as regards this purported drainage channel. LCC Placemaking and Physical Development Section indicated that it considered this matter could be addressed by way of condition such that "additional detail in relation to the drainage channel". This is extremely hard to understand. The scheme is proposing to pass vast amounts of surface and storm waters into our client's property and LCC had no adequate detail on which to base its assessment. Our client is not aware of any LCC member of staff ever having entered their property to view this purported drainage channel. The applicant has made something up, fed LCC some flimsy arguments to suit their case,

and LCC has acc d these without even visiting our client's property. Where is the oversight? LCC states: "I also note the images included in the 'DOBA Response to LRD Opinion Report' which includes images of the culvert. Based on the information submitted it is considered that the applicant has confirmed the presence of this drainage channel". The attached Planning Objection Report has fully debunked the appellant's submission. Concerns arise that LCC has placed far more weight on the applicant submission than on our client's submission. This is not acceptable.

It is very concerning that LCC has kicked the can down the road stating: "... it is considered that this is an appropriate route for surface water drainage. However final design details relating to same will be conditioned to be agreed as part of any grant of permission ..." That is, LCC has issued a grant of planning permission before it has sufficient detail and ACP is now presented with a scheme proposing to discharge its surface and storm water into our client's front garden which is in Flood Zone A and already floods during all heavy spells of rainfall.

All of this is required so as to avoid having to provide a surface water and storm water drain under the Regional Road and into the SAC in an easterly direction from the proposed entrance.
How is it even possible that LCC could consider as acceptable an exit point for the scheme's surface and flood waters being in a Flood Zone A wetland area which would be under water during high rainfall events and could not receive scheme outflows. The ongoing willingness to enter into discussions with the applicant as regards flows and not the principle of this proposal is hard to understand. One would not think the best way to develop a flood scheme for areas of Cork City often hit by flooding would be to try to discharge those waters into the river which is causing the flooding. Flood Zone A areas cannot accommodate the scheme's surface water and flood water. How is this not obvious? How can a "flow path" flow into a Flood Zone A area which is already flooding? Our client's property is often flooded during pluvial events. It contains a large pond as otherwise much of their garden would be a marsh.

The applicant is told that their AA and EIAR will need to be robust, yet these reports are essentially repeats of the refused LRD scheme. We note that while the Strategic Environmental Assessment pertaining to the Adopted Dundalk Local Area Plan 2025-2031 includes these lands as Strategic Reserve only. They are no longer pre-screened as appropriate in principle for development. The starting point for the AA and EIAR is no longer one which ACP can support as this scheme is not presently permitted in Strategic Reserve zoned lands.

Our client repeats: No permission has been given for the applicant to create an open drainage channel through their property. This matter is addressed in detail in the attached Planning Objection Report.

4.4.2 The proposed 'taking in charge' drawing includes lands owned by the Henry family

If ACP needs any confirmation of whether our client's lands included in the red line boundary are not currently owned or 'taken in charge' by LCC, it needs only to view the applicant's 'Site Layout Taking in Charge' (Drawing No. HGG-00-XX-DR-JFA-AR-P1019). This drawing essentially provides for LCC to take areas of our client's lands in charge without obtaining their consent for this.

The attached Planning Objection Report sets out those areas within the applicant's red line boundary which neither the applicant nor LCC own or control. These proposals require review as regards the validity and legality of this planning application.

Despite repeated submissions made to LCC, the local authority refuses to engage with our client's solicitor and surveyor as regards this matter. Concerns arise that LCC has acted ultra vires in issuing a letter of consent for development to take place on lands it does not own.

LCC's Planner's Report states:

> *Legal Interest/ Ownership: Concerns have been raised in a number of 3rd party submissions lodged relating to encroachment onto or under private lands, particularly at the access point to the development on the R172, at the entrance to Bóthar Maol, at the watercourse along the eastern boundary adjacent to the R172 and at the area where the surface water drainage pipe enters Dundalk Bay. Louth County Council issued a letter giving consents on public lands whereby proposed works are to be undertaken. Taking account that an issue has been raised by third parties, I would refer to the Development Management Guidelines for Planning Authorities, where Section 5.13 deals with issues relating to the title of land and states the following:*
>
> *Under the Planning Regulations as amended, a planning applicant who is not the legal owner of the land or structure in question must submit a letter of consent from the owner in order to make the planning application. Where an applicant is not the owner and does not submit such a letter of consent, the application must be invalidated. The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development. Where appropriate, an advisory note to this effect should be added at the end of the planning decision. Accordingly, where in making an application, a person asserts that he/she is the owner of the land or structure in question, and there is nothing to cast doubt on the bona fides of that assertion, the planning authority is not required to inquire further into the matter. If, however, the terms of the application itself, or a submission made by a third party, or information which may otherwise reach the authority, raise doubts as to the sufficiency of the legal interest, further information may have to be sought under Article 33 of the Regulations.*

Only where it is clear from the response that the applicant does not have sufficient legal interest should permission be refused on that basis. If notwithstanding the further information, some doubt still remains, the planning authority may decide to grant permission. However, such a grant of permission is subject to the provisions of section 34(13) of the Act, referred to above. In other words the developer must be certain under civil law that he/she has all rights in the land to execute the grant of permission. Before a planning application can be made in respect of proposed development on land owned by the local authority, the local authority will have to give a letter of consent to the making of the application: in this regard a letter from the Manager will suffice. The consent of the elected members will of course be required for the disposal (whether by means of lease, licence, or sale) of the land in question: the developer should be advised of this in advance.

The submitted "Map showing area of consent from landowner" (Drg. No: HGG-00-XX-DRJFA-AR-P1001) show that development works (hatched in green) are required on "Land within the public road with works to be undertaken by the statutory undertaker". The LCC "Letter of Consent" dated 26th May 2025 (including a map outlining the site boundary) has been submitted with the application, and is considered acceptable The Planning Authority is satisfied that sufficient legal interest as per Article 22 (2) (g) (i) of the Planning and Development Regulations, 2001, as amended, to make this application has been demonstrated by the applicant.

In this way, LCC has decided not to engage on the issue but to force our client into a situation where the only way for them to defend their property ownership is to do so in court. Reliance on the Development Management Guidelines for Planning Authorities and on section 34 (13) of the Planning Act (2000), as amended, to defend the issuing of a letter of consent over lands our client's solicitor has clearly stated LCC does not own suggests, to our client, a lack of objectivity from LCC and an unwilling and unreasonable determination to stand over a decision (to issue the letter of consent) which our client considers to be wholly incorrect. This position is to our client, a misuse of the powers of the local authority.

We further note how the guidelines make clear how when a person asserts that if a submission made by a third party, here to LCC, raises doubts as to the sufficiency of the legal interest, further information may have to be sought under Article 33 of the Regulations. LCC has, as noted above, refused to engage with our client. Were a private developer to have a letter of consent challenged at planning application stage by a landowner's solicitor (backed by a surveyor) this would be addressed by LCC with an FI request. Here, as LCC is the issuer of the letter of consent, no such request has issued and LCC is placed in the position of applicant, judge, and jury on the matter. Our client has demonstrated that LCC does not have sufficient legal interest to have issued the letter of consent.

It is unreasonable for LCC to essentially say that if our client does not like it, they can challenge the applicant under civil law to prevent a planning permission from being implemented. This places our client in a position where they would face challenging one of the largest developers in Ireland. This in a context where LCC has reacted to this developer's judicial review over the LAP's downzoning by giving them everything they want.

Our client therefore, for the reasons given above, strenuously objects to the statement: "The LCC Letter of Consent" dated 26th May 2025 (including a map outlining the site boundary) has been submitted with the application, and is considered acceptable The Planning Authority is satisfied that sufficient legal interest as per Article 22 (2) (g) (i) of the Planning and Development Regulations, 2001, as amended, to make this application has been demonstrated by the applicant".

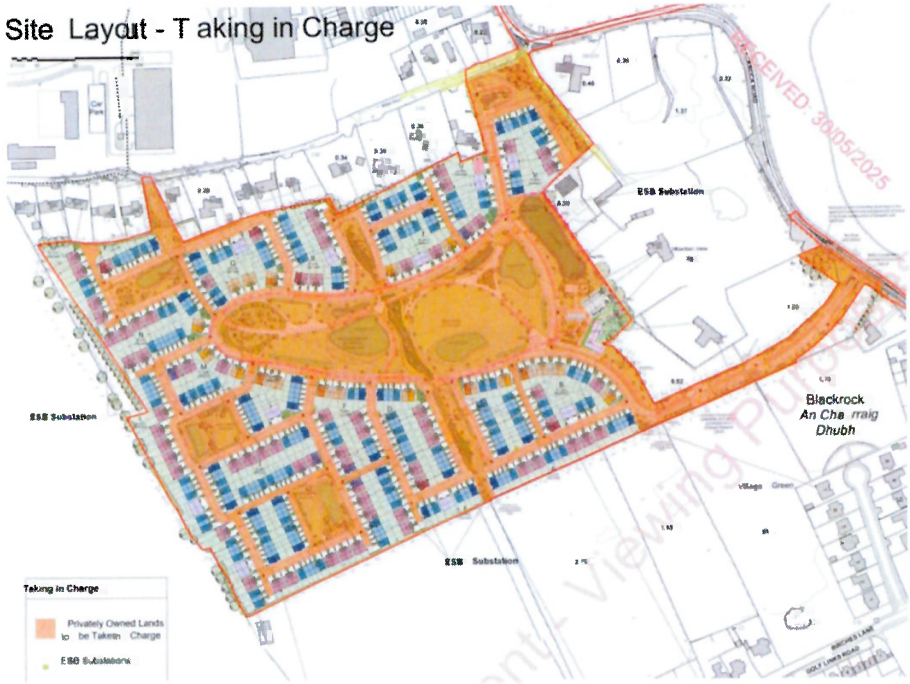


Fig. 8: Client lands included in the red line boundary to be 'taken in charge' by LCC

4.5 Ground 'oul drainage infrastructure - prematurity concerns

Concerns over foul drainage prematurity were raised under the previous LRD and both LCC and ACP refused on this basis. These concerns remain. Our client is not the only concerned party. The DAU referral report dated 08/07/2025 noted how the Department is concerned about potential pollution from inadequately treated wastewater affecting Dundalk Bay SAC and SPA.

Also, in their referral response, dated 7th July 2025, the NPWS stated:

> *In undertaking AA of the potential effects of the proposed development on European Sites, whether UÉ or the applicant may have responsibility for possible inadequate treatment of wastewater originating from the development eventually discharged into such sites is irrelevant. To the Department it does not appear therefore that consideration of the potential effects on the Dundalk Bay European Sites by wastewater discharged from the proposed development should have been screened out in the AA Screening Report.* ***Rather, in the opinion of the Department, the Stage 2 AA set out in the NIS should have included evaluation of the potential effects on QIs for the Dundalk Bay SAC and the Dundalk Bay SPA that may result due to the possible pollution of these sites caused by inadequate treatment of foul water discharges originating from the proposed development in combination with existing discharges of apparently inadequately treated wastewater from the Dundalk WwTP*** [emphasis added].

It is noted the within the NIS that the proposed wastewater is to be pumped to the Dundalk WWTP. The NIS states that the 2023 Uisce Éireann Annual Environmental Report (AER) indicated that discharges from the WWTP may be adversely impacting the water quality of the Castletown River within the Dundalk Bay SPA and SAC. While it is noted that Uisce Éireann has recently completed several projects to improve the wastewater infrastructure in Dundalk, there remains reasonable doubt the that the proposal may contribute to the deterioration of water quality within the Dundalk Bay SPA and SAC. Given the qualifying interests and conservation objectives, LCC cannot have ascertained based on the best scientific knowledge, that it will not adversely affect the integrity of a European site, either alone or in combination with other plans or projects, in view of the site's conservation objectives.

We note the Uisce Éireann report dated 4th July 2025 which states: "Uisce Éireann has no objection in principle to the proposed development. Water connection is feasible without upgrades, while wastewater connection is feasible subject to upgrades scheduled for completion by Q1 2030. Interim wastewater solutions are required if connections are made before the upgrades. The applicant must enter into a Connection Agreement and comply with Uisce Éireann's standards and conditions." **In fact, as Fig. 9 of this letter confirms – by UE itself – this date is now put back to 2033.**

There remains a lack of current capacity for water and sewage systems to support the proposed development. There are significant concerns regarding wastewater management, network capacity, and the wastewater treatment system (WWTS). The site is dependent on connecting to the Coe's Road Pumping Station and the Dundalk Wastewater Treatment Plant (WWTP), both of which face capacity and operational challenges. The Coe's Road Pumping Station is currently unable to accommodate the additional wastewater load from the proposed development. Uisce Éireann has confirmed that upgrades to the pumping station are required, but these upgrades are not expected to be completed until well after 2030, a delay from the previously estimated completion date of 2027. This delay renders the development premature, as the necessary infrastructure to support it is not yet in place. The applicant proposes temporary on-site storage of foul wastewater in surface tanks until the pumping station is upgraded, but this solution is considered inadequate and unrealistic. Such temporary measures are worse than proposing a temporary wastewater treatment plant and are not acceptable for a development of this scale.

The Dundalk WWTP also faces significant challenges. The plant has a history of regular exceedances in effluent discharge limits, which have resulted in untreated wastewater being discharged into Dundalk Bay, a designated Special Area of Conservation (SAC) and Special Protection Area (SPA). The additional load from the proposed development could exacerbate these issues, further impacting the SAC and SPA. The applicant has not provided sufficient evidence to demonstrate that the WWTP can handle the increased wastewater load without causing environmental harm. The wastewater network capacity is another concern. The applicant plans to connect to the existing gravity network at Finnabair Crescent, which would then discharge to the Coe's Road Pumping Station and ultimately to the Dundalk WWTP. However, the network is already under strain, and the proposed development would add significant pressure. The applicant's reliance on Uisce Éireann's Confirmation of Feasibility does not guarantee a connection, as Uisce Éireann has stated that connections are subject to infrastructure upgrades and capacity availability.

As noted in Section 4.6 of this letter, the submitted Natura Impact Statement (NIS) and Environmental Impact Assessment Report (EIAR) fail to adequately address the risks associated with wastewater management. The NIS does not provide a detailed assessment of the in-combination effects of other developments in the area that are also dependent on the same wastewater infrastructure. Additionally, the NIS relies on assumptions about the WWTP's capacity and operational effectiveness, which are not supported by current evidence.

Significant concerns remain regarding wastewater, network capacity, and the WWTS highlight the prematurity of the proposed development and its potential to cause significant environmental harm. The reliance on temporary measures and the lack of infrastructure upgrades make the proposal unsuitable at this time.

The applicant's submission and arguments on foul drainage are much the same as those made to ACP during the previous LRD's assessment. Proposals are set out for a bit of the development to be completed and serviced and then another bit,

etc. with infrastructure hopefully being upgraded along the way until the development and the infrastructure all in place at the sae time at some point in the future. ACP refused to accept this piecemeal and *ad hoc* approach and refused permission.

As with the last LRD, the applicant emphasises how monies have already been paid to UE as though this should make a difference when the SHD permission has lapsed.

The LCC Planner's Report's weaknesses are immediately obvious:

> *b) Water and Waste Water connections Uisce Éireann has issued a Confirmation of Feasibility (CoF) for all 502 units, confirming that a water connection is feasible without any Uisce Éireann upgrades and wastewater connection* ***is feasible, albeit with interim arrangements. For Phase 1, serving 200 units, wastewater will be pumped during peak hours (7 a.m. to 7 p.m.), with a total volume of 61m³. For the remaining 302 units, flows will be stored on-site during the day and discharged during off-peak hours (7 p.m. to 7 a.m.). Dosing will be required to avoid septicity during storage****. Additionally, the applicant has secured and paid for a Connection Agreement for the first phase of 200 units under a previous Strategic Housing Development (SHD) permission, allowing wastewater to discharge to the Coes Road Pumping Station and onward to Dundalk Wastewater Treatment Plant. Uisce Éireann has confirmed that the proposed development can proceed, with no capacity issues remaining.* ***This arrangement will remain in place until the Coes Road Pumping Station upgrade is completed in 2030*** **[now 2033].**
> [Emphasis added by BPS].

While ACP's decision was clear, the applicant has successfully undermined that decision with LCC openly discussing finding ways around prematurity at pre-planning stage and then LCC Place-making and Physical Development stating in its referral report:

> *'The applicant needs to clarify the extents of the agreement with Irish Water on their Confirmation of Feasibility (COF) for Foul Sewer Capacity. With reference to Appendix D of the Infrastructure Report, the COF states the following... "Flows from the pumping station constructed under Phase 1 of the development (serving 200 units)* ***shall not be increased during daytime hours (ie 7am to 7pm)".*** *The applicant needs to outline via* ***a phasing drawing*** *which 200 units inclusive of creche will be built initially* ***until such times that Irish Water Infrastructure can cater for the full proposed development of 502 units plus creche.*** *The Irish Water CoF notes that upgrades to the Coes Road Wastewater Pumping Station (WWPS), which will be carried out by UE, are planned for Q1 2030 (this may be subject to change –* ***[it is now 2033]****).' It is noted however that* ***the proposed phasing arrangements included with the application indicate that the development will be constructed in two phases, with 198 units and the creche being constructed in Phase 1 and the remaining 304 units constructed in Phase 2.*** *The units to be delivered in Phase 1 and Phase 2 are identified on site layout drawing no. JFA P1016. Taking this into account I am satisfied that this information has been provided.*
> [Emphasis added by BPS].

To be clear, LCC have accepted extraordinary measures to facilitate a staged development only because upgraded and/or necessary UE infrastructure is not in place to serve this scheme. ACP refused on this basis. The proposal is premature.

This half-baked approach to foul wastewater infrastructure has knock-on effects for this planning application's EIAR and AA assessment which LCC does not adequately address. The Department should be asked by ACP to comment on whether the proposals are or are, in its view, premature.

LCC accepted that the submitted Appropriate Assessment failed to recognise and assess the failings of existing foul water infrastructure that serves this site at present. It asked FI on this issue, stating: "Having regard to the provisions of Section 33 of the Planning and Development Act 2000 (as amended) further information will be sought to clarify and expand information provided with the AA Screening, NIS and EIAR".

Section 4.6 of this letter sets out our client's concerns over the Appropriate Assessment, the FI request, and the prematurity of these proposals on foul water infrastructure grounds.

4.6 Ground 6: Environmental concerns arise linked to the foul drainage concerns

Environmental concerns include risks to the Dundalk Bay SAC and SPA, inadequate foul waste water infrastructure, increased flooding, loss of biodiversity, and reliance on mitigation measures that may not be effective or sustainable. These issues make the development incompatible with national, regional, and local environmental policies and the proper planning and sustainable development of the area.

These concerns are summarised below and addressed in detail in our client's attached objection submissions made to LCC.

4.6.1 Appropriate Assessment concerns

Significant environmental concerns arise particularly regarding the site's proximity to the Dundalk Bay SAC (Special Area of Conservation) and SPA (Special Protection Area). The site directy adjoins these protected areas, and the development risks causing significant adverse impacts on their conservation objectives. The applicant proposes direct hydrological and hydrogeological connections to the SAC and SPA, including surface water and flood water discharges, which carry a high

risk of contamina[illegible]. The Dundalk Wastewater Treatment Plant (WWTP), which the development would rely on, has a history of regular exceedances in effluent discharge limits, and the additional load from the development could exacerbate untreated discharges into the SAC and SPA. The site itself is characterized by a high-water table, underground springs, and culverts, which make it prone to flooding.

On 14/10/2025, LCC requested the following Further Information:

1. *The Appropriate Assessment Screening Report included with the application makes reference to the Uisce Éireann 2023 Annual Environmental Report relating to the Dundalk Wastewater Treatment Plant and the potential impacts of the Treatment Plant on the water quality and Water Framework Directive status of the Castletown Estuary and Inner Dundalk Bay, which are within the Dundalk Bay SAC and the Dundalk Bay SPA. Whilst it is noted that the potential for likely significant effects on European Sites in Dundalk Bay as a result of foul water generated by the proposed development was screened out, it is considered that a proper evaluation of the possibility that discharges of inadequately treated foul water originating from the proposed development into the Dundalk Bay SAC and the Dundalk Bay SPA from the Dundalk Wastewater Treatment Plant might adversely affect Qualifying Interests and/or Conservation Objectives for these European Sites is undertaken. An Amended Appropriate Assessment Screening Report is requested to be prepared in this regard. Note that if the amended AA Screening Report considers adverse effects on Qualifying Interests and/or Conservation Objectives are possible as a consequence of such discharges, a complete evaluation of their potential effects on the Qualifying Interests and/or Conservation Objectives for the Dundalk Bay European Sites shall be included in an amended Natura Impact Statement and Environmental Impact Assessment Report.*

In objecting to the current and previous planning applications, our client has expressed significant concerns over the efficacy of the Dundalk Wastewater Treatment Plant. Their concern is always to protect the water quality and Water Framework Directive status of the Castletown Estuary and Inner Dundalk Bay, which are within the Dundalk Bay SAC and the Dundalk Bay SPA. They did not agree with the applicant assessment that the potential for likely significant effects on European Sites in Dundalk Bay because of foul water generated by the proposed development could be screened out.

They held this opinion because the Dundalk Wastewater Treatment Plant has, for some years, discharged inadequately treated foul water into the Dundalk Bay SAC and the Dundalk Bay SPA thereby significantly and adversely affecting Qualifying Interests and/or Conservation Objectives for these European Sites.

The applicant project team has sought to portray the future foul wastewater to be generated by this proposed development as being the responsibility of Uisce Éireann and not their own. While such a position may be justified in circumstances where a scheme pumps its foul wastewater to a perfectly functioning Uisce Éireann wastewater treatment plant, such a circumstance does not arise in the current case.

Everyone in Dundalk, in LCC, in UÉ, in the EPA, etc. knows that the Dundalk WwTP requires a full upgrade. The only question arising is when this will take place. Until the end of 2024, the EPA and UÉ stated that this was due to happen after 2029. UÉ has, however, issued an August 2025 update (see Fig. 9) on the Blackrock WwTP which also addressed the Dundalk WwTP. It states:

> ***The Dundalk WWTP will be upgraded and detailed design is commencing, and this upgrade is being designed with sufficient treatment capacity to accept the full Blackrock load and to facilitate ultimately the de-commissioning of the Blackrock WWTP. <u>Currently the programme for the Dundalk upgrade is 2033</u>*** *and the full transfer of all the Blackrock load would then be dependent on a number of other network projects being completed.*
> *WWTP upgrade projects have typically 5-7 year delivery programmes (once detailed design has commenced) because of the need for modelling studies of the receiving waters, preparation of an EIAR (Environmental Impact Assessment Report), obtaining of planning permission, obtaining of an EPA license all of which has to be completed before construction can begin.*
>
> [Emphasis added by BPS].

The Dundalk WWTP and its many endemic problems will not be fully upgraded before 2033, and it may take longer (as UÉ makes clear 2033 is a current estimate only.

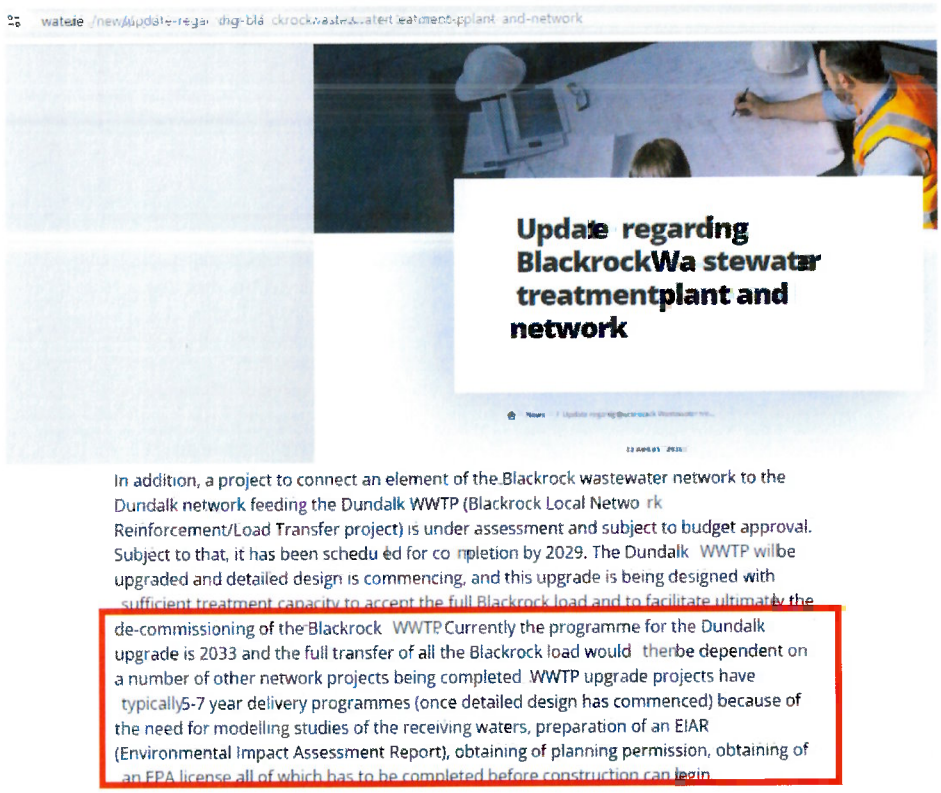


Fig. 9: The most recent update as regards the Dundalk WwTP's upgrade - after 2033 (Source: UÉ, as per above footnote)

There are two problems arising at present as regards the Dundalk Wastewater Treatment Plant's present operations:

1. **Dundalk Bay is already impacted by the Dundalk Wastewater Treatment Plant, and this impact is growing.**

The Environmental Protection Agency (EPA) classifies the water quality in Inner Dundalk Bay—a transitional (estuarine) water body in the inner part of Dundalk Harbour—as "poor" ecological status, which indicates pollution and failure to meet environmental objectives under the EU Water Framework Directive (WFD). This assessment is based on the EPA's latest triennial report, Water Quality in Ireland 2019-2024, published on October 14, 2025, covering monitoring data from that period. The saline waters of Ireland comprise 307 water bodies (110 coastal and 197 transitional). Only 19 of these water bodies are in poor ecological status. One of these is inner Dundalk Bay. The Environmental Protection Agency's 'Water Quality in Ireland 2019-2024' report[6] found that the 'Status' of Inner Dundalk Bay is 'Poor' and Castletown Estuary is 'Bad' arising from Phytoplankton (the 'Main biological element responsible'). This arises due to elevated dissolved oxygen concentration resulting in excessive algal growth.

Table 4.1 Transitional water bodies at poor and bad status, and the main biological element responsible for determining status

Water Body	Status	Main biological element responsible
Ballyteige	Poor	Lagoonal communities
Boyne Estuary	Poor	Fish
Durnesh	Poor	Lagoonal communities
Gavaroge Estuary	Poor	Phytoplankton
Ilen Estuary	Poor	Phytoplankton
Inner Dundalk Bay	Poor	Phytoplankton
Castletown Estuary	Bad	Phytoplankton

Fig 10: Excerpt from Table 4.1 'Transitional water bodies at poor and bad status, and the main biological element responsible for determining status' (Source: EPA, 'Water Quality in Ireland 2019-2024')

[6] Editors: Hugh Feeley, Cormac McConigley and Jenny Deakin ENVIRONMENTAL PROTECTION AGENCY, An Ghníomhaireacht um Chaomhnú Comhshaoil, PO Box 3000, Johnstown Castle, Co. Wexford, Ireland.

The main conclus s of this report are:

- ***Ecological Status:*** Poor (the second-worst category after "bad"). This reflects significant nutrient enrichment leading to eutrophication, where excessive algae growth (phytoplankton) disrupts ecosystems, reduces oxygen levels, and harms biodiversity.

- ***Specific Issue:*** Inner Dundalk Bay recorded the second-highest phytoplankton levels among all tested Irish water bodies at 155% above baseline.

- ***Trends:*** No improvement since the previous assessment (2016-2021), where it was also rated poor. Overall, Ireland's transitional waters have seen a slight decline, with only 52% of surface waters (rivers, lakes, estuaries, and coasts) now in satisfactory (good or high) condition, down from 54%.

Inner Dundalk Bay Status on Catchments.ie

The EPA's Catchments.ie tool classifies Inner Dundalk Bay (WFD code: IW_090_0100) as polluted due to nutrient pollution and eutrophication, with an overall ecological status of "Poor" and high risk of deterioration. This is based on the latest available data also integrated into the tool from the EPA's Water Quality in Ireland 2019-2024 report (see above), which Catchments.ie uses for its interactive maps and assessments. "Poor" status under the EU Water Framework Directive (WFD) explicitly indicates pollution pressures failing to meet good environmental objectives, primarily from nutrient enrichment causing eutrophication.

Key Details from Catchments.ie:

- ***Ecological Status:*** Poor (driven by high phytoplankton levels at 155% above baseline—the second-highest recorded among Irish transitional waters). This reflects excessive algae blooms reducing oxygen and harming biodiversity.

- ***Chemical Status:*** Good (no widespread contaminants like heavy metals, but this doesn't override ecological issues).

- ***Overall Risk:*** High—due to ongoing pressures; no trajectory toward improvement by the 2027 WFD deadline.

- ***Main Pollution Sources:*** Include urban wastewater (e.g., discharges from Dundalk Treatment Plant and Blackrock WwTP).

- ***Trends:*** Stable at "Poor" since 2016–2021. No significant recovery. The tool's interactive map shows red/high-risk colouring for this estuarine area in Co. Louth.

- ***Other Indicators:*** Moderate biological quality (fish/invertebrates affected); high nutrient scores (e.g., phosphorus at risk thresholds). The bay is not a shellfish-designated area but impacts adjacent ones like Dundalk Bay outer sections.

General implications of "Poor" Status:

Under the WFD, "poor" means the water body is polluted enough to cause ecological damage but not irreparably so. It requires targeted actions like better wastewater treatment (e.g., upgrades at Dundalk's plant – see below).

Recent issues, like the 2025 cancellation of the Blackrock Raft Race[7] (in Inner Dundalk Bay) due to suspected sewage overflows and odours, highlight ongoing risks. Community groups have pointed out discharges from the Dundalk Wastewater Treatment Plant as causing the problems:[8]

> *We know the water is unsafe. I have tested it myself and the level of ecoli is beyond any safe limits. This is a public health issue which isn't being addressed. Louth County Council are under no obligation to test it as it is not a designated beach*
> ...
> *"Uisce Éireann are permitted to use stormwater outlet pipes (SWO) to release stormwater in periods of heavy rain to act as relief valves within the system. They say that the sewage which is released into the sea is heavily diluted and that the discharge is fully screened but I have taken videos of the SWO's and it is clear that there is sewage coming out of the pipes. It is a combined sewer system so there cannot be any separation of sewage and flood waters".*
> *"We know that* ***Uisce Éireann released over 1 million litres of untreated sewage into the River Fane between the 14th and 15th of July.*** *They cited a Yellow Weather warning as their reason for doing this even though that Yellow Weather warning only applied to the South of the country.* ***The release contained untreated sewage which should have been sent to the Waste Water Treatment Plant in Blackrock but it wasn't as that treatment plant is now running beyond its designed capacity.***
> ***"Uisce Éireann have acknowledged the issue but say it can't be fixed until at least 2029.*** *For us that is not good enough and that is why we are protesting this weekend," stated Brian.*
> *"I've been living in Blackrock for over thirty years and the problem is worse now than it ever was ..."*
> *"... This area is zoned for more houses being built. Before that happens we need to fight for a new or upgraded wastewater treatment plant for Dundalk South".*

[7] https://www.lmfm.ie/news/news-extra/blackrock-raft-race-amended-due-to-water-quality-issues/
[8] https://www.dundalkleader.com/2025/08/27/shoreline-showdown-blackrock-residents-unite-to-fight-for-a-clean-beach/

"The wastewater treatment plant currently serving Blackrock is at capacity and not fit for purpose. Uisc eann have acknowledged that they need to upgrade the Dundalk Waste Water Treatment Plant but the problem is this won't happen until 2029 at least which is not good enough".
"What happens now is that every time there is heavy rainfall or storms they have to open the taps and let untreated sewage into the sea which simply isn't good enough. As a temporary solution I am proposing to Louth County Council to do what they do in the UK and when they know heavy rain is coming to have tankers available and transfer the overflow access pipes to these tankers before disposing the waste in a proper way. The alternative is to just accept what is happening now for the next five or six years and that is simply not an option. The fact that Uisce Éireann has admitted that there is a problem is a huge win for the strength of the movement in Blackrock from the local community and people like Brian Hopper who have submitted evidence to Uisce Éireann and the EPA showing exactly what is happening to our water.
Louth County Council must meet up with Uisce Éireann and try and work together to fix this. It's not good enough to pass the responsibility fully on to Uisce Éireann.

[Emphasis added by BPS].

The observable appearance of discharged untreated sewage visible from client's lands[9]

Our client owns lands which adjoin the Dundalk Bay SAC on the other side of the public road from their home. These lands adjoin the SAC and likely should be sited within the SAC. They have walked along the boundary of their lands 100s of times and on some of these walks they have found untreated sewage clearly visible to the naked eye.

Figs. 11 to 15 show just some of this sewage arising in June 2025. They find it difficult to believe that the sewage from a further 500 dwellings could be pumped to the Dundalk WwTP in circumstances where evidence of untreated sewage is clearly visible in the area and is clearly impacting on the SAC and the SPA.

Our client's email to BPS containing these photographs states: "These are pictures of the inlets of the salt marshes at the Loakers opposite our property, i.e., the otters' habitat. The pollution is horrendous as it is, with toilet waste visible at times. How can adding more sewage to this problem make any se nse." This is not seaweed. It is clearly human waste, toilet paper, etc.

The applicant project team appears to have no idea of just the sheer extent of untreated sewage entering Dundalk Bay and how this manifests itself. The impression given is that it is all diluted by the sea water and that more sewage will not make this situation any worse than it presently is.

ACP is asked to look at Figs. 11 to 15 and to consider how the situation could be any worse than it is at present where areas of the SAC are wholly covered in sewage. The applicant states that this is not their responsibility, that the existing poor water quality of Dundalk Bay would not be made worse by this project, and that the poor water quality does not itself mean significant adverse impacts on the SAC are occurring.

Can the applicant project team explain how areas of the SAC literally covered in human waste could be found to not be being impacted significantly and adversely by existing failings at the Dundalk WwTP and how pumping more human waste into this context would not, cumulatively, represent a proposed significant adverse impact requiring a Natura Impact statement. Our client is very concerned for the otters and the applicant's submission does not mention otters at all. Can ACP look at Figs. 11 to 15 and explain how otters would not be significantly and adversely impacted in circumstances where it appears that their habitat has been covered into a well-used cesspit. This is also a concern of the Department.

The applicant is represented by DNV. There is no indication in the applicant submission than DNV has visited any of the areas of the SAC - where tides allow – to view the current and ongoing outcome of the failings of the Dundalk WwTP. Our client invited DNV and LCC to visit the visible areas of the SAC after incidents of spillages, overtopping, machinery breakdowns, etc. at the plant. They now invite ACP to visit.

The EPA's latest monitoring report (attached) states that they did not get to view the outfall passing into Dundalk Bay. It appears high time that some photographs are provided to LCC of this area and of all visible areas of Dundalk Bay such that the blatant visibility of raw untreated sewage is properly represented.

We submit that the applicant's FI submission presented a picture which is contradicted by the reality on the ground as faced by the SAC (the SPA is also impacted but by way of water quality concerns) and its Qualifying Interests.

[9] Please refer to our client's original objection report. Their lands extend over the public road and adjoin the Dundalk Bay SAC. The wastewater shown in these photographs is visible from their lands. They have witnessed the washing up of untreated sewerage in this area of Dundalk Bay many times.

Fig. 11: Human waste visible from client lands adjoining the SAC (Source: Client photo, June 2025)

Fig. 12: Human waste visible from client lands adjoining the SAC (Source: Client photo, June 2025)

Fig. 13: Human waste visible from client lands adjoining the SAC (Source: Client photo, June 2025)

Fig. 14: Human waste visible from client lands adjoining the SAC (Source: Client photo, June 2025)

Fig. 15: Human waste visible from client lands adjoining the SAC (Source: Client photo, June 2025)

Specific implications of 'Poor Ecological Status' of Inner Dundalk Bay waters for Dundalk Bay SAC and SPA

That Inner Dundalk Bay (WFD code: IW_090_0100) has been classified as having "poor" ecological status by the EPA due to nutrient pollution and eutrophication, directly affects the Dundalk Bay Special Area of Conservation (SAC) and Special Protection Area (SPA). These designations, under the EU Habitats and Birds Directives, protect critical habitats and bird populations, but the bay's poor water quality—driven by excessive nitrogen/phosphorus causing phytoplankton blooms (155% above baseline) - threatens their ecological integrity. Below is an analysis of impacts, drawing from EPA data (Water Quality in Ireland 2019-2024, Catchments.ie), NPWS (National Parks and Wildlife Service) reports, and related conservation frameworks.

Dundalk Bay SAC and SPA Overview

SAC (Site Code: IE0000455): Protects 4,636 ha of estuarine and coastal habitats, including:

- ***Annex I habitats:*** Estuaries, mudflats/sandflats, saltmarshes, and sand dunes.
- ***Key species:*** Harbour seals, otters (indirectly via food chains).
- ***Conservation Objective:*** Maintain/restore favourable conservation status of habitats and species.

SPA (Site Code: IE0004026): Covers 5,760 ha, safeguarding internationally important wintering waterfowl (e.g., 20,000+ birds, including greylag goose, knot, bar-tailed godwit):

- ***Annex I species***: Golden plover, bar-tailed godwit.
- Conservation Objective: Maintain populations and supporting wetlands.

We note how Inner Dundalk Bay is a core part of both SAC and SPA, meaning its poor status directly impacts protected features.

Impacts of Poor Ecological Status on Dundalk Bay SAC and SPA:

Habitat Degradation in SAC:

- ***Eutrophication Effects:*** High nutrient loads (from agriculture, wastewater, and runoff) fuel algal b loo reducing dissolved oxygen. This stresses mudflat/sandflat ecosystems, critical for benthic invertebrates (e.g., mollusks, worms) that support SAC food webs. NPWS notes mudflats are "sensitive" to water quality declines.
- ***Saltmarsh Decline:*** Nutrient enrichment alters plant communities, favouring invasive or opportunistic species over protected saltmarsh vegetation (e.g., Salicornia). EPA data shows phosphorus levels exceed thresholds, risking habitat loss.
- ***Seal and Otter Food Chains:*** Poor water quality reduces prey availability (e.g., fish, crustaceans), indirectly affecting harbour seals and otters. The NPWS's 2019 report notes "unfavourable" status for some SAC features due to water quality pressures.

Bird Population Threats in SPA:

- ***Foraging Disruption:*** Algal blooms and low oxygen levels reduce food sources like invertebrates and small fish, critical for wading birds (e.g., knot, oystercatcher). BirdWatch Ireland data shows declines in some Dundalk Bay wader populations (e.g., 10–15% drop in knot numbers since 2000s), partly linked to habitat quality.
- ***Wetland Integrity:*** SPA wetlands rely on clean estuarine waters. Eutrophication promotes sediment anoxia, degrading feeding grounds. EPA's Catchments.ie flags Inner Dundalk Bay's "high risk" status as a threat to SPA objectives.
- ***Migratory Impacts:*** Internationally important species (e.g., bar-tailed godwit) face cumulative stress if Dundalk Bay, a key wintering site, degrades further. This risks Ireland's compliance with EU Birds Directive obligations.

Current Mitigation and Challenges

The applicant proposal comes at a time when Dundalk Bay is the focus of multi-agency restoration initiatives under Ireland's River Basin Management Plan (RBMP) 2022–2027. Led by the EPA, Uisce Éireann, Louth County Council, and the Department of Housing, Local Government and Heritage, these efforts aim to achieve "good" status by 2027 per the EU Water Framework Directive. Key drivers include addressing wastewater treatment concerns and habitat protection in the Dundalk Bay Special Area of Conservation (SAC) and Special Protection Area (SPA).

EPA's Water Quality in Ireland 2019–2024 (October 2025) shows no status improvement yet. Significant concerns arise as regards Uisce Éireann's planned upgrades to Dundalk Wastewater Treatment Plant which aim to cut discharges. This has been delayed beyond 2033 (see above) and realistically means that the RBMP 2022-2027 cannot be a success.

There is no direct SAC/SPA funding for Inner Dundalk Bay restoration available to mitigate the failings of the Dundalk Wastewater Treatment Plant. Inner Dundalk Bay's "poor" status shows no improvement since 2016 and this will continue past 2033 (see above), risking further SAC/SPA degradation.

2. Ongoing monitoring assessments of the Dundalk Wastewater Treatment Plant raise concerns

There is no debate as to whether the Dundalk Wastewater Treatment Plant is impacting on the Dundalk Bay SAC and SPA. The above analysis confirms that it is and that there are no plans to fully upgrade the plant prior to 2033 (see above).

Our client lives in Dundalk alongside the Dundalk Bay SAC and SPA. They have witnessed the fallout from the failings of the Dundalk Wastewater Treatment Plant, and they are also aware of local concerns and media coverage.

Official inspection & monitoring reports prepared by the EPA raise ongoing concerns since 2017

Local concerns are reflected in the EPA's own monitoring reports for Dundalk Wastewater Treatment Plant. These reports contain admissions from Uisce Éireann as to breaches of their EPA licence. The attached report dated 27/11/2024 states:

> ***This site inspection was completed to check the performance of the waste water works and follow up on waste water discharges which have been identified as significant pressures on Castletown Estuary and Inner Dundalk Bay. Uisce Éireann reported three Total Nitrogen and two Total Phosphorus emission limit value breaches in 2024, the latest of which occurred in October 2024. Uisce Éireann must resolve these non-compliances. Over the last number of years, Uisce Éireann has reported several incidents linked to ageing equipment breaking down at the plant. The EPA Inspectors noted Dundalk waste water treatment plant is over 20 years old and raised concerns at the nature and frequency of incidents reported.*** *Uisce Éireann has completed some upgrades at the sludge treatment plant with further phased upgrades planned, however the unreliable centrifuges have not been upgraded. Dundalk agglomeration is an EPA priority area and Uisce Éireann must identify and implement all corrective actions necessary on the sewer network and at the waste water treatment plant to ensure discharges do not prevent the receiving waterbodies from meeting their environmental objectives.* ***Uisce Éireann must carry out all upgrades necessary at the plant to improve the robustness of the plant and effluent compliance.***
>
> [Emphasis added by BPS].

There are significant concerns arising which Uisce Éireann cannot address without fully upgrading Dundalk Wastewater Treatment Plant. ACP can read the EPA's inspection report for itself, but we have included an excerpt in Fig. 16. Time and again the EPA finds a problem with the plant and Uisce Éireann is told to fix it yet Uisce Éireann make clear that the plant and/or parts of the plant is/are reaching their end of life.

2. Inlet Work

		Answer	Condition Number	Non Compliance	Observation
2.1	Is the screening system at the plant inlet working adequately?	No			

Comment / Action Required

There are two mechanical inlet screens at Dundalk WWTP operating in a duty duty configuration. At the time of the inspection one of the screens was offline pending repairs. A timeframe to repair/replace this screen is to be confirmed to the EPA. Uisce Éireann's representatives advised the screens are reaching their end of life with upgrades to the inlet works under development, including an additional third mechanical screen. Uisce Éireann should progress its plans to upgrade the inlet works to minimise incidents.

EPA Inspectors observed some minor ragging on the surface of the final clarifiers at the time of the inspection indicating some screenings are getting through the preliminary treatment process.

Uisce Éireann shall shall carry out all repairs necessary to return the screen to service without delay and remove any ragging from the final clarifiers.

		Answer	Condition Number	Non Compliance	Observation
2.2	Are there overflows at the plant?	Yes			

Comment / Action Required

Uisce Éireann has assessed the storm water overflow associated with Dundalk WWTP storm tank and determined it does not meet the Department of Environment procedures and criteria in relation to storm water overflows.

Discharges into and from the 5,000m3 storm tank at the plant are not screened. In 2024, year to date, Uisce Éireann reported circa 20 storm water overflow events occurred. There is no flow meter on the overflow. The EPA Inspectors raised concern at the frequency of discharges from the storm tank and that discharges are not screened. At the time of the visit, EPA Inspectors observed large amounts of ragging and other sewage debris in the storm tank and discharge weir/bench wall.

The EPA Inspectors recommended Uisce Éireann install an appropriate screen on the storm tank overflow and regularly inspect and clean the screen following storm events. Uisce Éireann shall carry out all works necessary to reduce the frequency and volume of storm water overflows and ensure all storm water overflows meet the Department of Environment criteria.

This issue was raised in the previous site inspection.

4. Aeration Basin

		Answer	Condition Number	Non Compliance	Observation
4.1	Have there been breakdowns of the sludge pumps in the last 12 months?	Yes			

Comment / Action Required

Uisce Éireann reported an incident occurred on a sludge cake pump on 05/11/2024 which prevented optimal sludge centrifuging for approximately 6 days. The incident was resolved when the issue with the pump was repaired. Uisce Éireann's representatives advised during this incident there was no emission limit value breaches reported, however the Mixed Liquor Suspended Solids (MLSS) had increased to 7,000 MLSS which was above the 5,000 - 5,500 MLSS target range.

Uisce Éireann shall reduce the level of solids in the treatment process to optimal/target levels.

Fig. 16: Excerpts from 2024's EPA monitoring inspection report of Dundalk Wastewater Treatment Plant (Source: EPA)

The EPA was unable to inspect the discharge point. The assessment was incomplete (see Fig. 17).

		Answer	Condition Number	Non Compliance	Observation
5.2	Is there visual evidence of pollution at, or downstream of, the discharge point to the receiving water?	Not Checked			

Comment / Action Required

The storm water overflow discharge location (SW005) from the pumping station was not accessible due to permanent fencing around the site. The EPA Inspectors recommended Uisce Éireann provide appropriate permanent access to the discharge location.

Fig. 17: Excerpt from 2024's EPA monitoring inspection report of Dundalk Wastewater Treatment Plant (Source: EPA)

The EPA Inspection Report answers the question: "Is the agglomeration categorised as a significant pressure under the Water Framework Directive? The following text should reasonably result in the refusal of the current planning application which proposes to pump its foul wastewater to the Dundalk Waste Water Treatment Plant:

> *During the latest characterisation for the 3rd cycle of the River Basin Management Plan,* ***waste water discharges from Dundalk agglomeration (sewer network and WWTP) have been identified as significant pressures on Inner Dundalk***

> ***Bay*** *and the Castletown Estuary.* ***The EPA has raised concerns regarding this issue since 2017 and Dundalk agglomeration is an EPA priority area for action****. Some targeted upgrades have been completed by Uisce Éireann at the sludge treatment plant in recent years.* ***Uisce Éireann's representatives advised plans for wider upgrades to improve the robustness of the treatment process and effluent quality are a number of years away. Through a series of operational and infrastructural improvements at Dundalk in recent years, total nitrogen and total phosphorus performance has improved. Notwithstanding these improvements, consistent compliance with the emission limit values is required. The frequency of discharges from monitored storm water overflows at Dundalk are high and Uisce Éireann report three of twelve storm water overflows do not meet the national design standards (SW010 - WWTP storm tank, SW008 - Coe's Road pumping station and SW009 - Point Road pumping station).*** *Uisce Éireann's representatives advised the upgrade of Coe's Road pumping station (SW008) and installation of the overdue storm water storage tank were planned. Uisce Éireann's representatives advised a sewer network Drainage Area Plan (DAP) was nearing completion and the next stage would identify network improvement works required including the upgrade of storm water overflows, storm storage and rising mains. Uisce Éireann shall provide updates on these network projects and timeframes through the open compliance investigation. Uisce Éireann shall carry out all works necessary to ensure waste water discharges from the network and plant do not prevent the receiving waterbodies from meeting their environmental objectives. Uisce Éireann must ensure all storm water overflows meet the Department criteria and carry out all works necessary to reduce the frequency and volume of storm water overflows from this agglomeration.*
>
> [Emphasis added by BPS].

The EPA found that Dundalk Wastewater Treatment Plant has a specific issue with 'Sludge treatment capacity and centrifuge breakdowns' stating:

> *Uisce Éireann has built and commissioned a new 1,500m3 picket fence thickener in the last 12 months. This piece of infrastructure, Uisce Éireann's representatives advised has significantly improved the sludge treatment capacity. The new anaerobic digester is also completed,* ***however Uisce Éireann has confirmed following assessment, the wider supporting infrastructure requires complete upgrade. Completion dates were not available and the EPA Inspectors requested these be provided. Dundalk waste water treatment plant was originally designed with three sludge centrifuges, currently only two of these are operational. Over the last number of years Uisce Éireann has reported multiple incidents for breakdowns of these centrifuges. Uisce Éireann's representatives advised the centrifuges require capital upgrade/replacement which are planned under the wider sludge treatment plant upgrades. The EPA Inspectors raised concerns with the reliability of these critical pieces of infrastructure and recommended the upgrade and replacement of these centrifuges be prioritised. At the time of the inspection, one of two centrifuges was offline pending re-routing of outlet pipework****. Uisce Éireann shall carry out all upgrades and repairs necessary to avoid incidents at the centrifuges and to ensure adequate sludge handling and treatment capacity at the plant.*
>
> [Emphasis added by BPS].

The EPA has confirmed the ongoing failings of the Dundalk Wastewater Treatment Plant. For every piece of the plant which is replaced or upgraded, another needs upgrading. The Dundalk Wastewater Treatment Plant will not be fit for purpose until it is upgraded in its entirety, and this will not be until after 2033 (see above).

The currently proposed development is premature pending this upgrade.

Any further foul wastewater received by the Dundalk Wastewater Treatment Plant cannot be guaranteed to be properly treated and/or not to be discharged untreated into Dundalk Bay (during periods of high rainfall etc.) with consequent impact on the Dundalk Bay SAC and SPA, i.e., contributing to the ongoing poor ecological status of these waters.

Spillage Incidents at Dundalk Wastewater Treatment Plant (WwTP)

Beyond the EPA's monitoring reports, publicly available data on specific spillage incidents (e.g., untreated sewage overflows, equipment failures leading to discharges, or storm water overflow events) from Dundalk WwTP is limited. The plant, operated by Uisce Éireann and licensed by the EPA (licence DWW001), treats wastewater for approx. 70,000 people before discharging into Dundalk Bay. While no major publicised "spill" events (e.g., visible plumes or acute pollution breaches) were reported for Dundalk in 2020–2025, chronic issues like non-compliant discharges and odours - linked to overload during heavy rain—have contributed to the bay's "poor" ecological status. These are often tied to storm water overflows (SWOs) where excess flow bypasses treatment.

EPA reports aggregate incidents nationally (e.g., 500 equipment breakdowns in 2023 across all plants), but site-specific details for Dundalk are only available in its annual environmental reports (AERs) or enforcement files, accessible via EPA's portal. Uisce Éireann's enhanced monitoring (telemetry since 2020) has increased incident reporting, but many are "limited" (e.g., minor overflows) rather than major spills.

<u>Key issues from 2020–2025</u>

Dundalk has no reported uncontrolled releases or prosecutions in this period. However, the plant is flagged for upgrades due to ongoing pollution risks. The full upgrade is delayed to post-2033 (see above).

Dundalk is one of EPA "priority areas" (down from 148 in 2017) where discharges harm water quality, primarily via nutrient overload (ammonia, phosphorus) exceeding limits.

59% of Uisce Éireann plants (including Dundalk) failed consistent EU standards in 2024, often from overloads during rain, leading to SWO discharges. The applicant has included these events within their submission. That these events have occurred and continue to occur is not in question.

There were 337 public complaints in 2021 about odours and potential discharges (possibly from manganese in related water systems, though drinking vs. wastewater conflated in reports). Maintenance works in November 2022 addressed odours but not root causes.

The Castletown Estuary – existing impacts from the Dundalk WwTP

The Castletown Estuary is a transitional coastal water body where the Castletown River flows into Dundalk Bay. It is the primary receiving water for the treated effluent outfall from the Dundalk Wastewater Treatment Plant (WWTP). The outfall pipe discharges approx. 25,000 m^3/day of secondary-treated wastewater (with nutrient removal and UV disinfection) into the estuary, under EPA license P0009-01.

The WWTP accounts for approx. 40-50% of nutrient loading (N and P) to the estuary, per Irish Water's 2024 hydraulic modeling. It treats foul sewage from approx. 100,000 PE in Dundalk/Blackrock, reducing raw inputs by 95% (e.g., BOD from 300 mg/L raw to <5 mg/L treated).

The following cumulative concerns arise before the applicant scheme's loading is added:

- ***Nutrient Pollution:*** Residual phosphorus (avg. 0.05 mg/L in effluent) drives eutrophication, linked to 2024 HABs (harmful algal blooms) closing shellfish areas for 2 weeks (June). EPA attributes 30% of bay's P-load to WWTP.
- ***Pathogens:*** UV treatment achieves >99% inactivation, but episodic CSO (combined sewer overflows) during rain (~5 events in 2024) spike E. coli near outfall, impacting bathing waters (moderate status at Blackrock Beach).
- ***Thermal/Other:*** Minor effluent warming (2-3°C above ambient) in summer.
- ***Quantified Impact:*** EPA's 2024 source apportionment: WWTP contributes 25% to estuary's overall pollution risk score (moderate-high). Without upgrades not due to be completed until 2033, status will be "poor."

The applicant assessment relies on upgrades being undertaken which are not due to be completed until after 2029 (the upgrades to the Blackrock WWTP and its network are not due to be completed until after 2033 – see below).

Uisce Éireann's August 2025 'Update regarding Blackrock Wastewater treatment plant and network'[10]

The applicant's project team has sought to portray Dundalk's closest treatment plants and sewer network as having the capacity and efficacy to receive the foul wastewater from this 500 dwelling plus scheme (and from all other planning permissions granted to date, under construction, or which will be permitted over the next 5 to 10 years).

This appeal includes concerns over the Dundalk WwTP; however, the Blackrock Wastewater treatment plant also has problems which the applicant has not taken into account in their cumulative assessment of ongoing and likely future adverse impacts on the SAC and SPA.

While the Dundalk WwTP is expected to be upgraded after 2033, the Blackrock Wastewater treatment plant and network will, according to Uisce Éireann, be addressed from 2029-2033 (see above). It is, again, clear that the wastewater infrastructure on which the applicant scheme relies requires upgrades. These upgrades remain many years away.

Uisce Éireann's August 2025 'Update regarding Blackrock Wastewater treatment plant and network' states:

> *Cocklehill pumping station, stormwater overflow (SWO) is not compliant with regulatory storage capacity requirements and options for further improvements to Cocklehill pumping station SWO activations will be considered under next phase of capital improvements ...* ***at this stage it is very difficult to provide a timeframe other than it would not be any sooner than 2029.***
> *In addition, a project to connect an element of the Blackrock wastewater network to the Dundalk network feeding the Dundalk WWTP (Blackrock Local Network Reinforcement/Load Transfer project)* ***is under assessment and subject to budget approval. Subject to that, it has been scheduled for completion by 2029.***
> *The Dundalk WWTP will be upgraded and detailed design is commencing, and this upgrade is being designed with sufficient treatment capacity to accept the full Blackrock load and to facilitate ultimately the de-commissioning of the Blackrock WWTP.* ***Currently the programme for the Dundalk upgrade is 2033 and the full transfer of all the Blackrock load would then be dependent on a number of other network projects being completed. WWTP upgrade projects have typically 5-7 year delivery programmes (once detailed design has commenced) because of the need for modelling studies of the receiving waters, preparation of an EIAR (Environmental Impact Assessment Report),***

[10] https://www.water.ie/news/update-regarding-blackrock-wastewater-treatment-plant-and-network

obtaining of planning permission, obtaining of an EPA license all of which has to be completed before cons t ion can begin.

[Emphasis added by BPS].

Implications for the SAC and SPA

The issues of SWOs releasing raw sewage worsens eutrophication in Inner Dundalk Bay, affecting SAC/SPA habitats. Uisce Éireann attributes the problems to aging infrastructure and underinvestment at Dundalk Waste Water Treatment Plant.

This cannot be addressed until post-2029 or even 2033 (see above). The current planning application is premature.

The applicant's planning consultant and ecologist do not attempt to address these concerns. Both state: "An Amended Appropriate Assessment Screening Report is not submitted with this response". The applicant has not addressed the FI request. The applicant essentially argues that LCC was wrong to ask for this and LCC accepts this. The Department disagrees and so does our client. ACP is asked to assess this issue.

The applicant failed to address FI stage concerns which arose in part from a referral submission made by the Department of Housing, Local Government and Heritage.

The planning consultant's covering letter and the Amended Appropriate Assessment Screening Report attempt to find a way around the issue. Both fail to do so. Indeed, both highlight how this project has no control over wastewater infrastructure outside of the red line boundary and cannot force Uisce Éireann to fully upgrade the Dundalk Waste Water Treatment Plant prior to 2033 (see above). Further, the Blackrock WwTP and network will not be fully addressed before 2029-2033.

The wastewater treatment infrastructure needed to service this proposal is deficient and the applicant is unwilling to confirm that the proposed development could significantly and adversely impact on Qualifying Interests and/or Conservation Objectives as a consequence of untreated or partially treated discharges from the Dundalk Waste Water Treatment Plant into Dundalk Bay. The applicant has failed to provide a complete evaluation of the potential effects of this on the Qualifying Interests and/or Conservation Objectives for the Dundalk Bay European Sites.

This being the case, the proposed development should be refused for the following reason which is included in the FOURTH SCHEDULE 'Reasons for the Refusal of Permission which Exclude Compensation' (section 191):[11]

1. Development of the kind proposed on the land would be premature by reference to any one or combination of the following constraints and the period within which the constraints involved may reasonably be expected to cease—

(a) an existing deficiency in the provision of sewerage facilities,

(b) the capacity of existing or prospective sewerage facilities being required for prospective development as regards which a grant of a permission under Part III of this Act, an undertaking under Part VI of the Act of 1963 or a notice under section 13 of the Act of 1990 or section 192 of this Act exists,

(c) the capacity of existing or prospective sewerage facilities being required for the prospective development of another part of the functional area of the planning authority, as indicated in the development plan,

(d) the capacity of existing or prospective sewerage facilities being required for any other prospective development or for any development objective, as indicated in the development plan,

2. The proposed development—

(a) would contravene materially a development objective indicated in the development plan for the conservation and preservation of a European site insofar as the proposed development would adversely affect one or more specific—
(i) (I) natural habitat types in Annex I of the Habitats Directive, or
(II) species in Annex II of the Habitats Directive which the site hosts,
and which have been selected by the Minister for Arts, Heritage, Gaeltacht and the Islands in accordance with Annex III (Stage 1) of that Directive,
(ii) species of bird or their habitat or other habitat specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site.

Responses to the applicant planning consultant's submission at FI stage

- The planning consultant states: "An Amended Appropriate Assessment Screening Report is not submitted with this response". The applicant has therefore not addressed the LCC FI stage request.
- References are made to case law without offering any context or explanation for their inclusion.

[11] BPS has edited the first recommended reason for refusal to fit this matter as it refers to sewerage facilities only.

- The submiss epeats (twice) the "screening out" point noted in Item 1 of the LCC request.

- The submission notes the amended FI stage AA report but asked LCC (and now ACP) to consider how it would, essentially, not be possible to determine whose foul wastewater is not properly treated or discharged untreated to Dundalk Bay arising from the ongoing failings of the Dundalk Waste Water Treatment Plant

- The submission fails to reflect on how the Dundalk Waste Water Treatment Plant is no longer fit for purpose and upgrades are required. Where are the references to the documents and details included in our client's FI stage submission.

- LCC was informed (and now ACP is likewise informed) that the concern is not "water quality". It is "with the risk of significant effects on European designated sites". In this way, the applicant seeks to distance themselves from the ongoing 'Poor' ecological status of the waters of Dundalk Bay which have been significantly and adversely affected by the Dundalk Waste Water Treatment Plant since 2017 (according to the EPA's inspection reports).

- The Ecology RFI Response Memo prepared by DNV evaluates the possibility that discharges of inadequately treated foul water originating from the Proposed Development, via the Dundalk WwTP, might adversely affect the Qualifying Interests (QIs) and/or Conservation Objectives (COs) of the Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026). It notes how the wastewater treatment plant in Dundalk has experienced incidents in recent years including effluent quality breaches due to equipment failure discharges at the plant and due to discharges during periods of high rainfall (i.e., events which happen regularly in Dundalk being part of Ireland). The EPA has confirmed that the failings of the Dundalk Waste Water Treatment Plant have impacted adversely on water quality and on the SAC and SPA and their Qualifying Interests. It would be difficult for the applicant ecologist to disagree with this. The applicant planning consultant is forced to try to find a way around this concern.

- The planning consultant focuses on an argument that the failings of the Dundalk Waste Water Treatment Plant do not arise from capacity constraints stating: "The incidents are not related to capacity constraints in the system". With all due respect, the theoretical capacity of a dysfunctional Waste Water Treatment Plant whose most recent inspection report is genuinely concerning is irrelevant. The plant cannot take any further foul waste water before upgrades arise post-2033 (see above). The applicant and the Uisce Éireann Confirmation of Feasibility (CoF) set out a wholly contradictory position whereby they propose that the existing plant take more foul wastewater at a time when the EPA considers the period from 2017 to today to be wholly unsatisfactory as regards its operations which have contributed to the 'Poor' ecological status of Dundalk Bay's waters with consequent adverse impacts on the SAC and SPA.

- LCC was told, and ACP is now also told, to ignore the EPA and to accept the applicant's position that: "The incidents at the WWTP were operational and infrastructure related which would occur regardless of the proposed development or any other development discharging to the WWTP". That is, an environmental car crash is taking place, but us sending more vehicles at high speeds toward the crash site will not make it any worse. It is clear why LCC needed to request this FI. The applicant has revealed their position. They have no concerns for the likely cumulative adverse impact of the scheme's foul wastewater impacts on the SAC and SPA when all other foul waters already passing to the dysfunctional Waste Water Treatment Plant are taken into account.

- Finally, the applicant is forced to go back to their original position, i.e., it is not our responsibility. The document states: " ... the issues at the WWTP are not in the applicant's control to mitigate, nor do they have any power to require that they are implemented". LCC was asked to grant planning permission despite the failings of the dysfunctional Waste Water Treatment Plant. LCC has done so. Our client objects to this.

- The applicant was aware of these issues when they lodged this planning application. They are detailed in our client's previous objections, and they are published on the EPA's website. The infrastructure is not available at present to service this project's foul wastewater. The proposal is premature because: "there is no mechanism through a project related NIS to include mitigation measures at the Dundalk WWTP". The applicant cannot upgrade the plant, and these upgrades are not due to start until 2033 (see above).

- The applicant accepts that there are "infrastructure failures" at the plant.

- Claims are made (as they have been made by the applicant previously in respect of the Coe's Road pumping station) that works are due to start to fix these problems as early as next year ("a further programme to maintain capacity is due to commence in 2026"). In fact, the EPA has been formally informed by Uisce Éireann that these works will not be fixed until after 2033 (see above).

- The applicant concludes: "the Proposed Development, if permitted, could not reasonably be deemed to affect this baseline at the plant in any significant manner". This statement is not supported by the EPA's site inspection or monitoring results. The plant is dysfunctional and requires upgrades. The applicant wishes to force a largescale additional foul waste water loading onto this plant with all the likely consequences set out above.

- The applicant refers in the conclusion to: "the possibility that discharges of inadequately treated foul water originating from the Proposed Development into the Dundalk Bay SAC/SPA, from the Dundalk WwTP". This is precisely the point. The EPA has confirmed that the Dundalk WwTP is discharging untreated or partially treated sewage into Dundalk Bay

and into the SAC and SPA. The applicant's weak argument is essentially that LCC, the EPA, and Uisce Éireann could not be able to tell that from their scheme from all other sources. This is hardly an argument. They now the situation is bad, but it seems to our client that LCC considers that no one could point the finger at the proposed development as its waste will be indistinguishable from all others and untraceable to them.

- The applicant's conclusion states finally that the project ecologist is unsure if discharges from the Dundalk WwTP are causing adverse impacts on the SAC and SPA. We note that the EPA has confirmed that this is the case and has been the case since 2017. There has been no improvement in the 'Poor' ecological status of these waters.

Responses to the applicant's DNV's submission at FI stage:

- Enviroguide has been purchased by DNV whose website calls them an "independent assurance and risk management provider, operating in more than 100 countries". The submission offers no details of this firm and the qualifications and experience of the author.

- The author states: "An Amended Appropriate Assessment Screening Report is not submitted with this response". The applicant has therefore not addressed the LCC request. DNV has decided only to provide a "Memo Document".

- As per the project planning consultant's narrative, DNV refers first to the capacity of the Dundalk WwTP. The stated capacity of the plant, is, as set out above, wholly at odds with the current operational efficacy of the plant, as assessed by the EPA.

- DNV confirms how this single project would cause 1,400pe additional load on the Dundalk WwTP. Given how the WWtP has been experiencing, inter alia, "overflows" (EPA), it is difficult to understand how the arrival of the sewage from the 503 homes in the current scheme, let alone the many other homes granted permission by LCC or ACP in the past 5 years, would have anything but an adverse impact causing additional overflows. DNV attempt to diminish this concern by stating that the scheme would represent "2% to the total capacity to the WWTP". Given the overall pe of the dysfunctional WWtP, 2% is a large increase. It is much like arguing that a 2% increase on the M50 would be a drop in the ocean when, it is a large increase but it is also an increase added to infrastructure which is already regularly showing signs of breakdown.

- DNV, which is meant to be the project's ecologist and not its planning consultant or drainage engineer (why is the project ecologist making these arguments?), argues that: "This load will arise over a number of years during which the UÉ CM [Capital Maintenance] programme will have been implementing capital investment to address asset deficits which will ensure the capacity of 71,000pe is maintained and compliance restored". **That is, LCC is asked to trust the applicant's reliance on Uisce Éireann while the applicant asked LCC not to require them to have any responsibility for relying on Uisce Éireann as regards possible adverse impacts on the Dundalk Bay SAC and SPA arising from the failings of the Dundalk WwTP if the scheme's foul wastewater is pumped to it. LCC has accepted this.**

  This argument is very reminiscent of that made by the applicant in respect of the Coe's Road pumping station under the previous appeal, reg. ref. ACP-319077-24. The applicant requested that LCC and ACP grant permission and that wastewater infrastructure would then be upgraded, as required, over the lifetime of the permission. ACP's decision has been proven correct in all regards pertaining to prematurity as regards foul wastewater infrastructure. The reason for refusal issued by ACP and set out in Fig. 18 could be re-written to apply to the Dundalk WwTP.

Reasons and Considerations

Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Éireann, the Board was not satisfied a sufficiently developed

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commitment and specific timeframe has been provided that demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency in the capacity of sewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board noted in the correspondence from Uisce Éireann that the wastewater connection "...to the north as proposed by the developer would add flows to the Coe's Road pumping station which does not have capacity for the development " Furthermore, Uisce Éireann estimated this capacity upgrade to be completed in 2027. The Board acknowledged the recommendation of the Inspector to grant the 10-year application with the condition that the proposed development would not commence until the upgrade works are completed However, on balance and in these particular circumstances, the Board considered the estimated timeframe for the required upgrade was not substantiated by demonstrable commitments from Uisce Éireann and, in the absence of this and there being no realistic alternative proposed by the applicant, the Board decided the proposed development would be premature by reference to the existing deficiency in pumping station capacity

Éamonn James Kelly

Éamonn James Kelly
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Fig. 18: The Commission's refusal of appeal reg. ref. ACP-319077-24 (Source: Commission archives[12])

- DNV point to Uisce Éireann's future plans for Dundalk WwTP. Section 2.1 of this letter sets out the EPA's understanding that these works will not be completed until after 2033. Indeed, even DNV note how: "This project is expected to go to site in 2029 subject to planning and other approvals." This is incorrect. UÉ has stated it will be 2033 (see above). If the project is delayed, it will be well after 2033 before it is operational. This planning application is premature.

- DNV argue that planned capacity amounts to existing capacity. It does not. ACP did not accept this argument under the previous appeal (see Fig. 18).

- LCC's request was that the applicant assesses the likely adverse impacts of foul wastewater being processed at the Dundalk WwTP before the works planned after 2033 take place. DNV argues again and again that, despite the failings of the Dundalk WwTP, these can be ignored. DNV's position is that Uisce Éireann states there is current capacity and future planned capacity, so all day-to-day concerns identified by the EPA in its monitoring can be disregarded. This is not the case.

- DNV appears to believe that by making this "capacity" argument enough times, ACP, like LCC has done, will forget the failings of the Dundalk WwTP such that the following statement can be made without irony: "... there is no feasible likelihood of the foul waters generated by the Proposed Development and treated at the WwTP adversely affecting Dundalk Bay SAC/SPA due to capacity issues". This argument is much like the Catholic doctrine, as interpreted by some clergy during the child sexual abuse scandals, which allowed for deception without committing the mortal sin of lying through a theological concept called mental reservation (also known as "mental restriction"). This permitted church officials to withhold key information or imply falsehoods in their statements while internally qualifying their words in a way that, in their view, preserved truthfulness before God. In the current case, the DNV argues that because Uisce Éireann

[12] https://www.pleanala.ie/en-ie/case/319077

has stated that the WwTp has capacity then it is reasonable for the project team to rely on this and not to to EPA research and findings which confirm that these capacity claims are fantastical in the face of spills/overflows/equipment failings/ageing equipment/ heavy rainfall/ outages, etc. That is, the applicant cannot be held responsible for the sins of Uisce Éireann; but they would like to benefit from those sins.

- Section 4.2.2 of the DNV arguments in favour of the scheme, refers to "Treatment Issues to-date" and informed LCC, and now ACP, that these are: "**Separate to and independent from this planning application and the Proposed Development**" [emphasis added]. That is, one assumes DNV means the foul wastewater from the applicant scheme would be treated differently and would never be the subject of any failings relating to the dysfunctional nature of the Dundalk WwTP. It is unclear how this would work. Do they receive priority treatment?

  DNV accepts how: "the WwTP has experienced ongoing treatment issues to-date, largely relating to incidents of effluent quality breaches (mainly excess nutrients), equipment failures leading to treatment bypass or outage, and occasional uncontrolled discharges (spills/overflows) due to infrastructure issues". This is not a complete or objective list of the issues faced since 2017 at the WwTP.

  DNV then argues that Uisce Éireann has addressed the concerns: "through mitigation measures, plant upgrades, and improved procedures to prevent recurrence of these issues" yet this is not what the EPA states in its monitoring results and site inspection reports. They point to how the WwTp is reaching its end of life in many areas and needs the 2033 upgrade.

  DNV then notes the EPA's findings and attempts to undermine them (we note that Uisce Éireann has not itself tried to unde rmine the EPA on these points). DNV notes how: "A deterioration in water quality has been identified (see Appendix 7.1) however it is not known if it or is not caused directly by the WWTP". This is much like a big tobacco argument. The man/woman also drives a car; how do we know the carbon monoxide came from the cigarettes? This is despite how

  Catchments.ie points to one of the main pollution sources as being urban wastewater such as discharges from Dundalk Treatment Plant.
  DNV is willing to accept only that: "the discharge from the wastewater treatment plant may be having an observable negative impact on the water quality and the WFD status of the Castletown Estuary and Inner Dundalk Bay." It is reasonable to state that the EPA's position is more that it is definitely having an observable impact.

  DNV then argues: "Screening is concerned not with risk of effect on water quality, but with risk of significant effect on European Sites". This statement is true, but it is not the case that water quality is irrelevant to AA screening. For example:

  - ***AA Screening is Site-Specific and Precautionary***: It uses "best scientific knowledge" to screen for effects on designated sites where ambient water quality can vary across a spectrum from good to bad. In this case, a discharge from the Dundalk WwTP enters waters which are already 'Poor' as assessed by the EPA. The applicant can argue that the scheme will not worsen this 'Poor' rating even if further discharges occur from the WwTP. However, this fails to account for cumulative impacts and for how achieving the objectives of the Dundalk Bay SAC and SPA depends on water quality.

    Improved water quality is critical to achieving and maintaining the conservation objectives of the Dundalk Bay SAC and SPA, as water quality directly affects the qualifying habitats and species for which these sites are designated. However, the primary aim of these sites under the EU Habitats and Birds Directives is not to "benefit from better water quality" in a general sense but to ensure no adverse effects on site integrity (i.e., the structure, function, and conservation status of protected features). Improved water quality is often necessary to meet these objectives, especially given pressures like wastewater discharges identified in the Dundalk agglomeration.

    Our client asks ACP to consider the role of water quality in the context of Dundalk Bay SAC and SPA, given their conservation objectives and the pressures on this water quality as noted above.

    <u>Dundalk Bay SAC and SPA: Conservation Objectives</u>

    Dundalk Bay is designated as both an SAC (under the EU Habitats Directive) and an SPA (under the EU Birds Directive) due to its ecological importance. These designations come with specific conservation objectives set by the National Parks and Wildlife Service (NPWS) to maintain or restore the favourable conservation condition of protected features.

    Dundalk Bay SAC (Site Code: IE000455):

    Qualifying Interests (Annex I habitats and species):

    - Estuaries [1130]
    - Mudflats and sandflats not covered by seawater at low tide [1140]
    - Perennial vegetation of stony banks [1220]
    - Salicornia and other annuals colonizing mud and sand [1310]

- Atlan[illegible]alt meadows [1330]
- Mediterranean salt meadows [1410]
- Conservation Objectives: To maintain or restore these habitats to favorable conservation status, defined by attributes like habitat area, structure (e.g., sediment composition), and ecological functions (e.g., nutrient cycling). Water quality is a key attribute, as nutrient enrichment (e.g., nitrogen/phosphorus from wastewater) can degrade habitats like mudflats or salt meadows by causing eutrophication or algal blooms.

Dundalk Bay SPA (Site Code: IE004026):

Qualifying Interests: Internationally important populations of migratory birds (e.g., knot, oystercatcher, bar-tailed godwit, great crested grebe) and a wintering waterbird assemblage.

Conservation Objectives: To maintain or restore favourable conservation condition for these bird species, measured by population trends, distribution, and habitat quality (e.g., availability of feeding areas like mudflats). Poor water quality can reduce prey availability (e.g., shellfish or invertebrates) or alter feeding habitats, indirectly affecting bird populations.

Water quality and the SAC and SPA:

The NPWS Conservation Objectives for both sites (detailed in documents like NPWS 2011 for the SAC and SPA) emphasise that water quality must support the ecological requirements of these habitats and species. For example, excessive nutrient loads from wastewater discharges can lead to significant effects like habitat degradation, which would undermine these objectives.

Water Quality as a Pressure on Dundalk Bay:

Wastewater discharges from the Dundalk Wastewater Treatment Plant is a significant pressure on Dundalk Bay SAC and Castletown Estuary, as identified in the 3rd cycle of the River Basin Management Plan (RBMP) and EPA inspections. Specific issues include:

- ✓ *Emission Limit Value (ELV) Breaches:* Uisce Éireann reported three Total Nitrogen and two Total Phosphorus breaches in 2024, indicating water quality impacts.
- ✓ *Storm Water Overflows:* High-frequency discharges from non-compliant overflows (e.g., SW008, SW009, SW010) contribute to nutrient pollution.
- ✓ *EPA Priority Area:* Dundalk is flagged for corrective actions to ensure discharges do not prevent receiving waterbodies (like Dundalk Bay) from meeting their environmental objectives.

These pressures directly threaten the SAC and SPA, as nutrient enrichment can:

- ✓ Cause eutrophication, altering mudflat ecosystems (SAC).
- ✓ Reduce prey availability for birds (SPA).
- ✓ Disrupt habitat structure (e.g., sediment smothering from suspended solids).

Thus, improving water quality is essential to mitigate these pressures and achieve the conservation objectives of the SAC and SPA. For instance, reducing nitrogen/phosphorus loads aligns with maintaining favourable conditions for mudflats or salt meadows and supporting bird populations.

Is Water Quality an objective of the SAC and SPA

While water quality is not the explicit "objective" of the SAC or SPA (the objective is maintaining site integrity and favourable conservation status), it is a critical supporting factor. The EU Habitats Directive requires that plans or projects (e.g., wastewater operations) undergo AA Screening to determine if they are likely to have significant effects on European Sites. If significant effects cannot be ruled out, a full Appropriate Assessment is required to ensure no adverse impact on site integrity. AA Screening focuses on risks to European Sites, not general water quality under the Water Framework Directive (WFD). However, in practice, poor water quality (e.g., from wastewater discharges) is a key pathway for significant effects on Dundalk Bay SAC/SPA. Mitigating these risks requires improving water quality to meet WFD "good status" or site-specific standards, indirectly benefiting the SAC/SPA. For example, the EPA's insistence on Uisce Éireann resolving ELV breaches and upgrading infrastructure (e.g., storm water overflows, centrifuges) aims to reduce nutrient inputs to Dundalk Bay, directly supporting the SAC/SPA's conservation objectives.

The EPA and Uisce Éireann monitor water quality parameters (e.g., nitrogen, phosphorus) as part of RBMP and WFD compliance, which indirectly supports SAC/SPA objectives. Under the Habitats Directive, Uisce Éireann must ensure wastewater discharges do not compromise Dundalk Bay's site integrity, which often necessitates water quality improvements.

The Dundalk Bay SAC and SPA require improved water quality to achieve their conservation objectives, as poor water quality from wastewater discharges is a significant pressure threatening their qualifying habitats and species. While the primary aim is to maintain or restore favourable conservation status (not to "benefit from better water quality" in

isolation), water quality is a critical factor in ensuring site integrity. Actions like upgrading the Dundalk tewater treatment plant and addressing storm water overflows are mandated to prevent adverse effects on these European Sites, aligning with findings from the EPA inspections.

- ***Overlap between Appropriate Assessment and Water Quality:*** While water quality issues (e.g., eutrophication) can be pathways for significant effects on European Sites, AA Screening does not substitute for WFD or EPA water quality processes. However, in cases like wastewater plants such as Dundalk WwTP near estuaries (e.g., Dundalk Bay SAC and SPA), both may apply, but AA focuses solely on site integrity. This aligns with EU guidance (e.g., ECJ rulings like Sweetman v An Bord Pleanála (C-258/11)) and Irish EPA/NPWS protocols, emphasizing that screening excludes projects only if significant effects can be ruled out without relying on unproven mitigation.

  DNV takes a position which our client has shown above to be an incorrect one. That is, they ask "whether the Proposed Development itself would feasibly affect this current baseline of the WwTP's operation (in terms of the issues the plant experiences); and then adversely affect the Dundalk Bay SAC/SPA as a result". By setting out the question in this way, DNV can reach their preferred conclusion. The correct approach would be to ask whether the current 'Poor' water quality status of Dundalk Inner Bay is causing significant adverse impacts on the SAC and SPA and whether this project would contribute to this situation continuing or worsening.

  DNV again reviews the history of failings at the Dundalk WwTP. Following the setting out of this list – a list which raises significant questions over the operations and fit for purpose nature of the facility at all – DNV states: "any issues arising at the WwTP would be present regardless of the Proposed Development going ahead or not". This 'we won't make it any worse than it already is' argument is addressed above and is not accepted. Cumulative impacts, if significant, mean that the Dundalk WwTP cannot be screened out insofar as it would receive foul wastewater from this project including prior to upgrade works starting in 2033.

- In Section 4.2.3, DNV refers to 'Preventive Measures and Upgrades' and lists UÉ's proposed upgrades to the WwTP. These will not all be completed until after 2033. This is the pertinent fact. While the EPA has identified significant concerns since 2017, DNV chooses to go back to the "2010s".

  DNV confirms how a "1,500 m^3 storm balancing tank at Coe's Road Pumping Station (the main inlet pumping station) is still at the planning stage with a completion timeframe of 2032.

  DNV refers to various paraphrased points from a range of UÉ and EPA documents to try to paint a picture of the Dundalk WwTP now operating much better than before. The reader is told that 7 incidents at the WwTP in 2024 is an improvement.

  DNV is willing to express the utmost confidence in the future and in UÉ by speculating as to how: "As result of its increased operational efficiency, the WwTP will experience a reduction in the frequency of issues set out above at 4.2.2 …". This is yet to be seen and any emerging results exclude the applicant scheme. Also, DNV does not set out the number of connections which UÉ has agreed to in the past 5 years which have actually been activated.

  Likewise, having listed significant issues with the WwTP and noted EPA concerns, DNV then states: "there is no evidence to suggest that such issues currently have the potential for significant effects on the Dundalk Bay SAC/SPA". Our client considers that, again, this statement is at odds with EPA data and findings as regards Dundalk Inner Bay.

- In Section 4.3, DNV finally sets out their position as to 'The effect of the Proposed Development on Dundalk WwTP'. LCC and now ACP is told that it can ignore the dysfunctional aspects of the WwTP and the long list of problems which have beset it and over which the EPA has made clear a full upgrade is needed after 2033. LCC was asked, again, only to focus on capacity. LCC has done so. This issue is addressed above. The applicant ha convinced LCC to close its eyes to the "equipment failures and associated shortcomings in the plant's capacity to remove nutrients prior to discharge" or to see these as short term issues which can easily be addressed with better procedures, training, etc.

  DNV then resorts again to their position that "with regard to discharges from the WwTP not meeting emissions standards, this is a matter for UÉ and is not within the purview or control of the applicant. It is respectfully submitted that UÉ are responsible for whether the receiving drainage infrastructure has the capacity to facilitate a development and also for ensuring that public wastewater infrastructure is operating to a satisfactory level in terms of wastewater treatment". ACP is again asked to disregard the reason why it asked for this FI. DNV's position does not stand up to scrutiny.

  LCC was told again and again, and ACP is now told likewise, to just ignore the clear and blatant dysfunction of the WwTP, the Poor water quality in Inner Dundalk Bay, and the adverse impacts this is having on the SAC and SPA and see the issue as one for UÉ to address at some point in the future. LCC and now ACP is asked to see the two projects as taking place at the same time with UÉ essentially having made a promise that the scheme will be able to connect to the WwTP without any problems arising. Our client's position is that UÉ has no credibility in this regard and cannot guarantee this until the WwTP is upgraded in full after 2033.

DNV include sentence which reads, "these infrastructural issues at the WwTP are ongoing, internal, and separate from the Proposed Development and the foul waters it will generate if permitted". This told LCC and now tells ACP that the applicant considers the WwTP to be nothing to do with them even it were to cause significant adverse impacts on water quality in Inner Dundalk Bay and the SAC and SPA.

- Our client disagrees with the DNV conclusions. The ongoing issues (i.e., the baseline) at Dundalk WwTP refer to infrastructural failings which will not be fully addressed until after 2033. This proposal is premature.
- The proposed development would exacerbate the risk to the SAC and SPA from Poor water quality in a cumulative manner which is not assessed by the applicant.
- A hydrological connection between the Proposed Development and the Dundalk Bay SAC/SPA, via the WwTP, arises and the applicant refuses to address this with a Natura Impact Statement (despite the scale of the project).
- The potential for likely significant effects on European Sites in Dundalk Bay due to foul water generated by the proposed development should not have been screened out.
- The Source-Pathway-Receptor model to presents a credible risk of likely significant effects to Dundalk Bay SAC/SPA as UÉ and the EPA have acknowledged that the WwTP is adversely impacting water quality within the SAC and SPA whose Conservation Objectives depend on improvements in water quality. As noted above, while water quality is not the explicit "objective" of the SAC or SPA (the objective is maintaining site integrity and favourable conservation status), it is a critical supporting factor. The EU Habitats Directive requires that plans or projects (e.g., wastewater operations) undergo AA Screening to determine if they are likely to have significant effects on European Sites. If significant effects cannot be ruled out, a full Appropriate Assessment is required to ensure no adverse impact on site integrity. AA Screening focuses on risks to European Sites, not general water quality under the Water Framework Directive (WFD). However, in practice, poor water quality (e.g., from wastewater discharges) is a key pathway for significant effects on Dundalk Bay SAC/SPA. Mitigating these risks requires improving water quality to meet WFD "good status" or site-specific standards, indirectly benefiting the SAC/SPA. For example, the EPA's insistence on Uisce Éireann resolving ELV breaches and upgrading infrastructure (e.g., storm water overflows, centrifuges) aims to reduce nutrient inputs to Dundalk Bay, directly supporting the SAC/SPA's conservation objectives.
- A letter from UÉ does not absolve the applicant of their responsibilities under the Habitats Directive.
- The responsibility for ensuring effective operation of the WwTP lies with UÉ. However, it would be irresponsible and illegal for this project to rely on a WwTP which is actively polluting the SAC and SPA.
- The applicant states: "once the receiving WwTP is operating effectively, there is no potential for likely significant cumulative effects involving foul water generated by the Proposed Development. The potential for likely significant effects on European Sites in Dundalk Bay because of foul water generated by the Proposed Development was therefore screened out". This will not be until after 2033. The assessor's conclusions' caveat is significant and undermines the conclusion.
- The letter received by the applicant from UÉ dated August 2025 (included with the applicant's overall RFI Response), and the DNV submission fail to address the fact that planning permission is requested when a planning application has not been lodged to upgrade the Dundalk WwTP. This is not even at planning stage. The project is premature.
- The DNV submission is speculative and not scientific, or best practice, when it refers repeatedly to "the trend in terms of performance at Dundalk WwTP is positive". This "trend" is from a low starting point and will not be completed until after 2033. DNV further states, for example, "While work remains to achieve compliance with all ELVs at the plant, it appears that the worst problems are being mitigated". This is not the impression that the attached EPA 2024 inspection report gives. It suggests a full overhaul is needed of the WwTP after 2033.

4.6.2 The LCC assessment of the FI request on foul drainage prematurity is not accepted

The LCC Planner's Report summarises the applicant's FI stage submission whose entire purpose is to convince LCC that there are no showstopping prematurity issues 'and' there are no related Appropriate Assessment concerns.

With respect, BPS submits it would have been helpful for LCC to appoint an expert firm of qualified and experienced environmental planners such as CAAS who could have provided advice.

It is inexplicable as to how LCC Planning Department has moved from being very opposed to this proposal in infrastructure prematurity grounds to now being supportive of the project beyond what our client considers an objective assessment. They say this having regard to ACP's recent LRD decision over prematurity on foul infrastructure grounds which relied on predicted dates for completion of the relevant UE projects of within the 2020s. The current date for full completion is now pushed back to 2033.

The applicant is in no way convincing as regards the issue of infrastructure and how this second LRD planning a[illegible]cation is now to be served by the same infrastructure as the last LRD - which is characterised by the same delays – but this no longer must be deemed a reason for refusal. It is odd.

Where might this oddity come from? It comes from the applicant's submission which has been accepted over what our client calls "common sense". LCC states: "In assessing this further information response consideration was given to the fact that the issues with non-compliance with the Dundalk WWTP are operational and are not related to capacity issues". To be clear, UE accepts that discharges of untreated foul water are occurring into Dundalk Bay and these are significant discharges.

They occur because the WWTP becomes overwhelmed especially during periods of heavy rainfall. The plant cannot cope and discharges are made. The operations of the WWTP are forced to make these discharges as, for all the reasons discussed in Section 4.5 of this letter, foul water infrastructure needs to be upgraded. The focus on the word capacity is meaningless. The plant is dysfunctional at present. This is a fact. It is difficult to understand how LCC has accepted the applicant's argument that most of the time they could send foul water to the WWTP as there may be capacity at times, but during periods of high demand, often during heavy rainfall, discharges arise. UE and the applicant have not provided any guarantee to LCC that this scheme can be serviced in a manner which will ensure no discharges into Dundalk Bay.

The best that UE has provided is a letter stating that the dysfunctional part of the foul drainage infrastructure are being addressed. LCC states: "Uisce Eireann in the letter dated August 2025 included in the further information response have set out how these issues are being addressed".

Again, allowing the applicant full regulatory capture over on this point, LCC repeats their argument that: "The additional loading from the proposed development will represent just 2% of the total capacity of the WWTP, and taking account of the lead in time to commencing development alongside the construction phases this additional loading will go live on a gradual basis rather than at one single point in time. On this basis, it is considered that the proposed development will not have any significant impact on the baseline discharges from the WWTP and therefore foul water from the proposed development will not result in any likely significant effects on the Qualifying Interests or Conservation Objectives of Dundalk Bay SAC (Site Code 000455) or Dundalk Bay SPA (Site Code 004026)".

These are with respect precisely the same arguments as were made at appeal stage by the applicant under the previous LRD. They were not accepted. An additional 2% loading on an already overloaded (at given times) and dysfunctional WWTP is in fact significant. To use an analogy, an extra 2% traffic on the M50 in Dublin adds up to 1,160,000 vehicles a year. 2% does not mean a small increase.

In its rush to grant, LCC brushes aside the FI stage referral submission of the Development Applications Unit of the DHLGH. In their response, they raise the same concerns as our client. They are concerned that the applicant Appropriate Assessment report does not include an evaluation as to whether or not the observed deterioration in water quality within the Dundalk SAC or SPA has had an adverse effect on the Qualifying Interests and Conservation Objectives for these European Sites.

Our client does not consider LCC to have been provided with sufficient information to over-rule the previous ACP decision and to find that this project is not premature on foul drainage infrastructure grounds and does not present a significant risk to the QIs of the Dundalk Bay Natura 2000 sites.

Where in the applicant submissions, given the Department's comments is LCC provided with the basis for the statement: "foul water generated by the proposed development, when taken cumulatively with.the Dundalk WWTP, would not be likely to have a significant effect on Dundalk Bay SAC and SPA and therefore am satisfied that this can be screened out. It is not considered that the proposed development will have any significant effects on the Qualifying Interests or Conservation Objectives of Dundalk Bay SAC (Site Code 000455) or Dundalk Bay SPA (Site Code 004026). It is therefore reasonable to conclude that the proposed development, either individually or in combination with other plans or projects, would not be likely to adversely affect the integrity of these European sites, having regard to their conservation objectives".

4.63 Biodiversity concerns

The development also risks disturbing protected bird species that use the site as an ex-situ foraging habitat. The loss of trees and open field areas would disrupt these habitats, and the construction phase could cause noise and vibration disturbances to birds and other wildlife.

Our client has set out significant concerns over otter as regards proposed works to the Regional Road to facilitate the scheme's entrance in Flood Zone A and in the SAC. Our client is not the only concerned party. It recommends an amended AA Screening Report, an otter underpass with fencing, etc. however these measures are not enough.

The site is also home to bats, and the proposed tree removals and construction activities could significantly impact their population. The applicant's Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) rely heavily on mitigation measures to address these concerns, but many of these measures lack sufficient detail and are based on assumptions.

The NIS fails to adequately assess in-combination effects with other developments in the area, which could collectively impact the SAC and SPA. Furthermore, the proposed development includes temporary foul water storage on-site, which is an unrealistic and inappropriate solution given the sensitivity of the receiving environment.

4.7 Ground 7: Surface water and flooding concerns

4.7.1 Flood risk concerns

The applicant proposes extensive surface water and flood water management measures, including attenuation tanks and detention basins, but these measures rely on permanent maintenance and carry significant risks of failure. Additionally, the applicant plans to discharge surface and flood waters into private properties, including our client's property, which is located in Flood Zone A and already experiences flooding. This raises concerns about the potential for increased flooding and environmental degradation.

The eastern portion of the site, including the proposed entrance and access road onto the R172, is situated in Flood Zones A and B, which are areas with a high and moderate probability of flooding. This location is prone to both coastal and pluvial (rainfall-related) flooding, and the applicant's flood risk assessment acknowledges that these areas would be underwater during extreme flood events. The applicant proposes extensive measures to address flood risks, including raising the ground levels of the entrance and access road by up to 2 metres, installing large-scale attenuation tanks and detention basins, and redirecting surface and flood waters through private properties, including our client's property. However, these measures carry significant risks. Redirecting surface and flood waters into private properties, including the objector's property, could exacerbate flooding in these areas, especially during high rainfall or coastal flood events.

The applicant claims the existence of an "eastern drainage channel" to direct flood waters, but this channel does not currently exist (ACP is invited to visit our client's property). The proposal to create a new watercourse in marshy and waterlogged ground is unrealistic and lacks proper assessment. Raising the levels of the access road and entrance may displace flood waters into surrounding areas, including private properties. The applicant has not adequately assessed the unintended consequences of these changes.

LCC's Planner's Report offers almost no assessment of this matter stating:

> *With regards to the infilling of land at the proposed entrance it is noted that the R172 at the proposed site entrance is being raised by c.1.3 metres to provide access to the development above the predictive 0.5% AEP (1 in 200 year) tidal flood level for the Mid-Range Future Scenario (MRFS) of +4.14m. The Infrastructure Design Report included with the application has indicated that this infilling has been designed to avoid impact on existing properties and their associated entrances. I have reviewed the drawings and concur with this assessment.*

The LCC assessment is essentially that the applicant has said the proposals will not impact on existing properties and their associated entrances and so this is accepted. The assessment does not note how the entrance area is in Flood Zone A.

The applicant's flood risk assessment relies heavily on mitigation measures, such as pipes, culverts, and detention basins, which require permanent maintenance. Failures in these systems could lead to significant flooding impacts.

Additionally, the proposed sewage pumping station and creche are located in the lowest-lying area of the site, which is most vulnerable to flooding. This could render these facilities inaccessible during flood events.

The site is adjacent to Dundalk Bay, and rising sea levels and extreme weather events could worsen coastal flooding. The applicant's flood risk assessment does not adequately address long-term climate change impacts. Furthermore, the development does not meet the requirements of the "Planning System and Flood Risk Management Guidelines," which discourage development in Flood Zones A and B unless exceptional circumstances apply. The proposed mitigation measures fail to ensure that flood risks are managed to an acceptable level.

Flooding concerns highlight the unsuitability of the site for a largescale residential development. The proposed measures are insufficient to address the risks, and the development could cause significant flooding impacts on adjoining properties, infrastructure, and the environment.

In concluding its brief assessment of the issue of flooding, LCC offers no detailed assessment of the flood risk the entrance area and regional road proposals raise and the risks of the scheme pushing flood waters into adjoining lands. The matter is essentially disregarded. ACP is asked to review the attached Planning Objection Report which quotes from the applicant's own ecologist who described the entrance area as essentially a marsh area. Our client does not accept the following LCC flood risk assessment conclusion as regards this area:

> *The SSFRA concludes that the proposed development complies with the requirements of the Justification Test for development management, and that—subject to implementation of its recommendations—the flood risk to and from the development is considered to be low. The proposal is not expected to result in adverse impacts to the hydrological regime, nor increase flood risk elsewhere, and is therefore considered acceptable from a flood risk perspective. Having regard to the findings of the submitted SSFRA and the report from the Placemaking and Physical Development Section dated 27th June 2025, I am satisfied that the proposed development does not represent a flood risk.*

ACP is invited to attend our client's property and the proposed scheme entrance location after a period of heavy rainfall. The area is under water and is poorly draining.

While any planning application can provide a high quality presentation which appears wholly credible, so[illegible]mes this credibility is challenged by facts. In this case, the applicant's proposed entrance area to the Regional Road, our client's front garden (in which the applicant wishes to channel their surface and storm waters), and the Regional Road itself flood during periods of heavy rainfall. It is telling that the applicant team has not provided any photographs of these areas during period of high rainfall. Our client has taken photographs of these areas during the recent heavy rainfall which arose under Storm Bran on the 9th of December 2025 (a storm which did not involve an unduly high quantity of rainfall relative to longer duration storms). The following images are:

- Photos of the R172 outside our client's property showing extensive flooding on December 9th within the flood zone.
- Photos taken while our client walked from north to south direction just past the Loakers. The proposed head wall and stormdrain is to be located off the road in the water to the east. One image captures the planning notice amidst the flood.

ACP is invited to review the applicant's Flood Risk Assessment and development proposals for these areas in light of these images.

Fig. 19: The Regional Roadunderwater arising from Storm Bran on the 9th of December 2025

Fig. 20: The Regional Road under water arising from Storm Bran on the 9th of December 2025

Fig. 21: The Regional Road under water arising from Storm Bran on the 9th of December 2025

Fig. 22: The Regional Road under water arising from Storm Bran on the 9th of December 2025

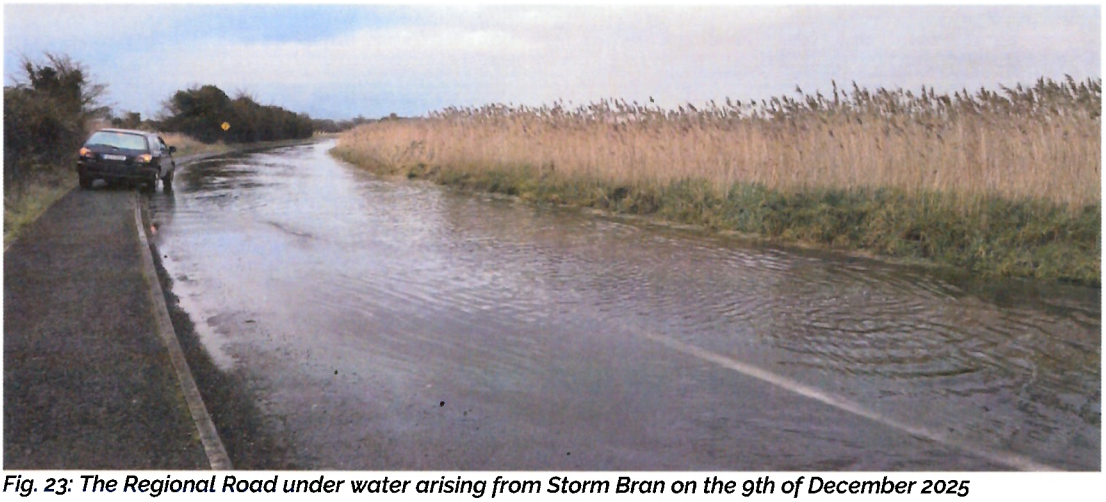

Fig. 23: The Regional Road under water arising from Storm Bran on the 9th of December 2025

Fig. 24: TheRegional Road under water arising from Storm Bran on the 9th of December 2025

Fig. 25: The applicant's site notice close to the proposed surface and storm water ou tletpoint to the east of the Regional Road set within the context of flood waters arising from Storm Bran on the 9th of December 2025

Fig.2 6. The applicant's site notice close to the proposed surface and storm water outlet point to theeast of the Regional Road set within the context of flood waters arising from Storm Bran on the 9th of December 2025

Fig. 27: The applicant's site notice close to the proposed surface and storm water outlet point to the east of the Regional Road set within the context of flood waters arising from Storm Bran on the 9th of December 2025

Fig. 28: Areas approaching the applicant's proposed surface and storm water outlet point to the east of the Regional Road set within the context of flood waters arising from Storm Bran on the 9th of December 2025

4.7.2 Surface water concerns

The surface water drainage proposals are not feasible and would cause significant environmental impacts. The applicant proposes to discharge surface and flood waters into private properties, including our client's without their consent. This property is already prone to flooding and contains areas designated as Flood Zone A, making it unsuitable to receive additional water from the development. The applicant has not conducted any surveys on our client's property to assess the impact of these proposals, relying instead on outdated maps and assumptions about the existence of a drainage channel that does not currently exist. The applicant's plans include creating a new watercourse at the eastern end of the site to direct surface and flood waters into private property and other private lands to the north. This proposal is problematic because it assumes that these private properties can act as drainage infrastructure, which is not the case. The applicant has no legal right or permission to use these lands for such purposes, and the proposed watercourse would exacerbate flooding in areas already vulnerable to high rainfall events.

The site is characterised by poor infiltration and a highwater table, leading to regular surface water ponding. The applicant proposes extensive attenuation measures, including detention basins and underground tanks, to manage surface water. However, these measures are excessive and highlight the unsuitability of the site for large-scale residential development. The detention basins are located close to third party properties, raising concerns about safety and the risk of overflow during high rainfall events.

The applicant's reliance on gravity-based drainage systems and the proposed outfalls to Dundalk Bay SAC and SPA also raise environmental concerns. The discharge of surface water into these protected areas could negatively impact their conservation objectives, particularly if the water contains contaminants. The applicant has not provided sufficient details or credible mitigation measures to ensure that the discharged water will be free of pollutants. Furthermore, the applicant's Site-Specific Flood Risk Assessment acknowledges that the proposed development will alter existing flow paths and increase flood risk to adjacent lands, including our client's property. The proposed mitigation measures, such as installing large drainage pipes and raising road levels, are inadequate and fail to address the fundamental issue of directing water into areas that cannot accommodate it. In summary, the surface water drainage proposals are flawed due to the unauthorized use of private lands, reliance on non-existent infrastructure, excessive attenuation measures, environmental risks to protected areas, and inadequate mitigation of flood risks. These issues collectively render the drainage strategy unsuitable and raise serious concerns about the viability of the development.

4.8 Ground 8: Transport proposals are unsustainably car-based at a poorly connected site

Significant concerns arise regarding transport, mobility, and cycling. The proposal is heavily car-dependent, with an overprovision of parking spaces, which is excessive and contrary to national, regional, and local climate and transport policies. The modal split suggests car journeys will generate that larger majority of trips, far exceeding the national targets to reduce car dependency. Public transport accessibility is poor, as the site is served by only one infrequent hourly bus service, which is unsuitable for commuters or school children. Additionally, no details are provided on the capacity of the bus service or whether it can accommodate the increased demand from the development.

Walking distances to key amenities such as schools, shops, and employment centres are impractical, which discourages pedestrian use. The existing footpaths near the site are thin, substandard, and unlit, further limiting pedestrian accessibility. The proposed entrance onto the R172 raises traffic hazard concerns, as it is located in Flood Zones A and B, which could make it inaccessible during floods. Sightlines at the entrance are limited to 65 meters, which is insufficient given the road's bends and high vehicle speeds. Collision data for the R172 indicates it is a dangerous stretch of road, with multiple accidents recorded.

Cycling infrastructure is also inadequate. The immediate area lacks dedicated cycling lanes, making cycling unsafe and unattractive. The site itself is heavily sloped, which may further discourage cycling. The applicant's claims of cycling time to the train station are unrealistic given the site's location and lack of infrastructure. Proposed bike hire hubs are not confirmed, as no operator has been appointed, and future cycle initiatives, such as the Cycle Connects proposals, are years away and do not address the immediate lack of cycling infrastructure.

The development fails to align with policies promoting sustainable transport and mobility. It is overly reliant on car use, offers poor public transport accessibility, and lacks adequate cycling infrastructure, making it unsustainable and contrary to proper planning and development.

Please refer also to the attached Planning Objection Report.

4.8.1 Works to the R172 will impact private sightlines

The proposed new vertical and horizontal alignment of the R172 Regional Road will impact on visibility standards of the residential entrances to the northwest, including that of our client's property. This is not acceptable. The applicant's arguments in this regard have been accepted by LCC ACP is asked to review this matter.

4.8.2 The proposed bus stop impacts scheme sightlines & client property

The proposed location of the bus stop to the northwest of the flood zone located site entrance raises visibility concerns when a bus is stopped, etc. The applicant has failed to address this concern. This raises road safety and traffic hazard concerns for the future occupants of the scheme and for our client.

It is not our client's concern that the site is landlocked, and its only possible road entrance is unsuitably located in a flood zone and flooding area of land within the Dundalk Bay SAC. This entrance is wholly unsuited to serving this scheme including as regards the northern sightline.

The LCC Planner's Report notes how: "The Placemaking and Physical Development Section have sought to condition issues pertaining to the realignment of the road at the site entrance, impact on 3rd party lands, the safety of the bus stop, junction layout at Bother Maol, DMURS standards, storm water ..." Concerns arise that these matters cannot reasonably be addressed by condition. They are significant amendments and require re-advertising.

Despite the issue of sightlines being of concern to the Regional Road entrance throughout the pre-planning and planning application stages to date, the matter was unresolved when LCC made its decision. The LCC Planner's Report states: "As a point of clarity, the applicant will be conditioned as part of any grant of permission to submit drawings to confirm sight line of 2.4m x 65m from the existing residential entrances to the north west of the site can be achieved following the implementation of the proposed entrance arrangements".

It is unclear to our client how this matter – a matter which directly impacts the safety of future residents and any person accessing their property – can be addressed by condition. It has not been possible to address it to date and the applicant has made clear they see no way to relocate the bus stop.

While a Road Safety Audit is normally used to inform a planning application's assessment, LCC states: "With regards to the requirement for a Road Safety Audit this can be conditioned as part of any grant of permission and will be required to focus on footpath and accessibility issues 500 metres either side of the main entrance to the development onto the R172 and Bothar Maol. This report shall consider restricted visibility from the proposed entrance when buses are stopped at the proposed bus stop to the north of the proposed entrance".

Again, how has this issue been allowed to be addressed by condition and compliance when clearly the bus stop's location is wholly incompatible with the sightline and moving the bus stop would be a significant scheme change requiring re-advertising.

ACP is asked to address this matter and not to allow it to be conditioned. Impacted Third Parties such as our client should be able to comment on amended proposals and not left outside compliance discussions between the applicant and LCC.

4.8.3 The proposed bus stop conflicts with an area of the SAC

The location of the northbound bus stop conflicts with an area of the SAC, a phragmite swamp listed with NPWS / DAU previously as a protected area. Please see the Development Applications Unit submission. This has not been addressed by LCC who have conditioned the matter such that the full impacts of the bus stop would not be known until after a decision is made. This is not acceptable or appropriate. The Appropriate Assessment process requires all matters to be assessed at planning stage. The concerns of the Development Applications Unit have been repeatedly dismissed by the LCC planning assessment.

recommendationsco-ordinated by the Development ApplicationsUnit

Having considered thedocumentation supportingthe present application, particularlythe Environmental Impact Assessment Report (EIAR)and the NaturalImpact Statement (NIS)it is noted that the 18.54 ha site of the proposeddevelopment lies to the westof but is largely separatedby several residential propertiesfrom a coastal sectionof the R172 Road from Blackrockto Dundalk.In this area in generalthe R172 forms the landwardboundary of the Dundalk Bay Special Areaof Conservation (SAC) and Dundalk Bay Special Protection Area (SPA). However,a smallsection of the SAC is located inland of the R 172and to the north of a segment of the development sitewhich extends east from the main bodyof the siteto the R172 and through which the entrance roadinto the proposed development from this public road is to be routed. The area of the SAC inland of the R72 is included in the Natura site because, though the habitats developedin it, mainly *Phragmites*reed swamp, are not Qualifying Interests(QIs) for theSAC they represent a more natual transition frommarine to terrestrial habitats than is evident elsewhere alongother nearby sections ofthe landward boundary of this siteand therefore addto the SAC's scientific and conservation value. The *Phragmites* swamppart of theSAC is fed by a streamwhich risesin an areaof marshand wet woodlandon thenside of the R172 where the entrancefor thedevelopment sites to be located, then runs north parallel to this road into the swamp. Thisstream is the only water courcepresent on the development site,its current drainage apparentlybeing mainly by infiltrationinto the ground and overland surface flowstowards the east.

Fig. 29: Referral letter to LCC from the Development Applications Unit submission

4.8 .4 A bus stopis ind icated on client'slands in the SAC to theeast of the Regional R oad

The applicant continues to infer that a bus top could be provided on their lands, outside of the red line boundary, and within the SAC. These claims (see Fig. 30) have no basis. This bus stop has no possibility of ever obtaining planning permission. The submission is misleading. ACO is asked to disregard the applicant's submissions in this regard.

The Systra submission is not accepted by our client (see Fig. 30). ACP is also asked to require the applicant to provide the missing Figure 33 from their submission as regards the bus stop.

This bus stop would adversely impact the SAC including otter. It is shown in lands which flood. It is irresponsible to have ever considered placing a bus stop at this location.

from the Draft NTA Bus Stop Guidance Document (Nov 22), which suggests an indicative distance after s aide of road of 10m + bus length to the bus stop sign.

4.5.5 Relating to the inline option, **DOBA Drawing 0590** demonstrates northbound traffic approaching on the R172 will be able to see a stopped bus from well in excess of the required Stopping Sight Distance (SSD) of 65m.

4.5.6 The inline design prevents vehicles on the westbound R172 overtaking stopped buses, by providing:

- Continuous white lining through the junction, to ban overtaking.
- Advance 'no overtaking signs'

4.5.7 The DOBA inline design ensures that none of the bus stop infrastructure (such as the shelter or sign) impedes the junction visibility splay, meaning that the splay would only be reduced by a stopped bus. There are currently seven buses day that could potentially stop at the northbound bus stop, each of which might be expected to remain stationary for around a minute. This would mean that visibility would be impeded for around 7 minutes per day. During this period, drivers wishing to turn out of the development would likely wait at the stopline until the northbound bus moves away.

Southbound bus stop

4.5.8 A future potential southbound bus stop has been designed, but is located outside of the red line boundary and does not form part of this application. The design is presented to show how same can be accommodated at this location and could be brought forward by LCC / the Roads Authority, should the development gain consent.

4.5.9 The bus stop would potentially be located on the east side of the R172, immediately to the south of the development access junction. The indicative design, which is shown on **DOBA Drawing 0575** and in **Figure 33** below, would provide a pedestrian refuge island to assist users in crossing the R172.

Fig. 30: Excerpt from the applicant's Systra report

5.0 Conclusion

BPS Planning & Development Consultants Ltd have had regard to the site context, to the siting of our client's property adjoining the site and to national, regional and local climate, planning, environmental and transportation policies, including the downzoning of the site to L1 Strategic Reserve, to the previous ACP decision to refuse planning permission on the basis of infrastructural prematurity pertaining to the Coe's Road wastewater pumping station. To the current LCC planning assessment and decision, and to all applicable planning policies set out within the Louth County Development Plan 2021-2027 and in the Adopted Dundalk Local Area Plan 2025-2031. Having done so, we reach the following conclusions:

- The lands have been downzoned to L1 Strategic Reserve and the site is unavailable for development at present. The proposal represents a material contravention of the LAP. Section 4.3 of this appeal letter sets out a detailed response to the applicant's and to LCC's position on this matter.

- All pre-planning with LCC for the current proposal took place before the lands were downzoned (including the issuing of the jLRD Opinion). This advice was issued *without prejudice*, and the downzoning means permission cannot issue without the material contravention procedure set out in the Planning Act 2000 (as amended) and the Planning Regulations 2001 (as amended) being applied. This would be unfortunate as the LAP has only recently been adopted.

- The concerns of ACP in refusing the previous LRD are not addressed. The project remains premature on foul drainage grounds (grounds which caused LCC to downzone the site). The proposed upgrade to the Road pumping station was considered to be too distant when the deadline was suggested to be 2027, now it is 2030. The current proposal is for on-site storage of foul waste in surfaced tanks. This proposition is worse than an applicant suggesting a temporary on-site wastewater treatment plant. It is not a realistic or credible proposition. LCC and ACP cannot reasonably overturn the previous ACP refusal issued only on **07/06/2024** on the basis of this proposal.

- The applicant has submitted a second LRD scheme much like a previous SHD planning application and again appears to be expecting this to be 'rubber stamped'. However, the site's zoning has altered and climate, transport, planning and environmental policies have changed since **Paul Hyde** signed that decision. No matter how many times this decision is referred to by the applicant project team including in its many technical reports, the previous SHD scheme would not be granted arising from an assessment under current planning policy including under the LCDP 2021-2027 and the 2025 LAP (including the Strategic Reserve zoning).

  The extent of reliance placed by LCC and the applicant on the SHD decision as regards land ownership, Appropriate Assessment, transport issues, etc. is not appropriate. The applicant consistently refers to this within the application and it remaisn wholly what this LRD application is based on. Considering the continued reference to the SHD grant, our client asks: "Weren't SHD's supposed to be granted only on fully serviced ready to go lands in order to expediate

housing? How can an SHD for 483 houses be given permission in a completely unserviced field with no (ince? 6 years on and this land is still an agricultural field .

Our client is aware of each application planning application as it is lodged. They see the site notices. They confirm that the last planning application was refused and the SHD scheme has lapsed. Works undertake on the site after the ACP refusal are now referred to in the public notices as to be removed. They should not have been undertaken. The applicant has failed to take cognisance of Clane Community Council v An Bord Pleanàla & Ors which made clear that a new strategic planning application means a new strategic planning application. A previous strategic planning application's assessment cannot be used as a steppingstone to that of the next.

Despite its vastness, this planning application, when viewed on a page-by-page is incomplete:

- The submitted drawings and details are inaccurate and contain attempts to, *inter alia*, infer that our client's property contains some form of drainage channel. This is not the case.
- National Parks and Wildlife Service do not appear to have been consulted for this new LRD. The applicant can clarify this.
- The EIAR is inadequate.
- The submitted Appropriate Assessment Screening Report and NIS are incomplete and lack fundamental details regarding, for example, the status and capacity of the Dundalk WWTP with its regular exceedances causing discharges of untreated foul water to the Dundalk Bay SAC and SPA. The NIS is incomplete as regards assessment of in-combination effects and other planning permissions awaiting access to the 2030 upgraded Coe's Road pumping station.
- The development description and public notices are inadequate.
- The requirements of the Planning & Development Regulations 2001 are not met.
- The extent of open space areas used for detention basins requires review as these appear also to be claimed open space areas.
- The Transport Report fails to set out the capacity of the hourly bus service that runs approx. 9am to 5pm along the R172. Is this service full when it reaches the site or does it have capacity?
- The quantum of parking spaces and the proposed vehicular trips that this scheme would generate is excessive.
- The creche is under capacity for a scheme of this scale with the applicant failing to rely on the LCDP policy and trying to apply national guidance which is now out of date.

- The proposals are contrary to national climate policy, including the Climate Action Plan 2023 and the National Sustainable Mobility Policy (2022), as this is a car-based scheme dependant on an excessive quantum of unsustainable trips by car to as much as 73% of all trips and well over 2500 trips per day by car for the proposed 502 units which are served by as many as 762 parking spaces.

- The proposals are premature as Uisce Eireann has made clear that Coe's Road Pumping Station's upgrade is now put back from 2027 to 2030. **ACP was/is correct. The scheme is premature. There is no way to service it without resorting to unrealistic and inappropriate on-site foul waste storage and treatment measures that are reliant on private sector maintenance.**

- Notwithstanding the submission of an Appropriate Assessment Screening Report and a Natura Impact Statement, the applicant has failed to demonstrate that, even with the myriad of mitigation measures proposed, the scheme would not significantly and adversely impact on the Dundalk Bay SAC and SPA. A careful review of the proposals finds many areas over which LCC cannot have confidence, while the Dundalk WWTP has regular "exceedances", when all other recent grants of permission which will direct their sewage to it are taken into account, to accommodate this scheme in a manner that would not present risks to the SAC and SPA. Further, the proposals for surface water management and flood water management each involve direct discharges of water into the SAC and SPA which are not discharges whose contamination free status can realistically be permanently ensured as this is not a scheme in public ownership and/or one which will be subject to regulatory control into the future. Finally, the area is characterised by a myriad of large planning permissions in recent years all with large lists of mitigation measures such as that submitted in the NIS. The in-combination risks LCC is being asked to take are now at breaking point.

This scheme may be a Stage 4 scheme whereby it needs to be abandoned as it does not meet the IROPI criteria.

- The applicant seeks to carry out works to and/or to force surface and flood waters through private properties, including our client's. No permissions are in place for this. The purported 'eastern drainage channel' does not exist and there is no direct outfall to Dundalk Bay. The applicant is asking LCC to allow them to pipe surface water and flood waters from the site into private properties with no acceptance of the associated risks, including of not being able to obtain insurance in the future. If permission is granted, it will be challenged on this ground.

- The applicant seeks to carry out works on lands owned by our client for which no consent has been given. Please refer to Section 1.2 of this Planning Objection Report and to Appendix 1. LCC has been repeatedly advised on this concern by their solicitor. LCC raised this issue at pre-planning and the applicant continues to respond by claiming LCC controls land owned by our client. This is not the case.

- The applicant has failed to address the LRD Pre-planning Opinion issued by LCC (see Section 8.0 of this Planning Objection Report). LCC has made clear that the gaps in the previous LRD application will not be accepted, the extent of proposed car trips, for example, cannot be supported under national climate and transportation policies. Further, the

extent of topographical change proposed by way of cut and fill, excavation, road level changes, raising of house levels, digging out of massive attenuation tanks and detention basins, etc. cannot be supported. This type of approach would not be accepted for a single house let alone for an estate of this scale.

- The applicant has failed to fully address concerns to protect birds and bats, and the scheme will likely cause significant adverse impacts on these species, including arising from the scale of excavation works proposed, the tree losses proposed, etc.

Arising from the above points, we consider that the scheme would cause **significant adverse and permanent impacts** on:

- The Dundalk Bay SAC and SPA.
- The topography of the site and the area.
- On trees within the site.
- The prevailing traffic and air quality conditions in the area and on the future sustainability of the area in terms of the breakdown of modes of transport. Future CSO data would show a scheme with 73%+ car and van use.
- Our client's property's residential and visual amenities and property value. But also the extra flood risk it would face, etc. It would depreciate the value of their property.
- Future residents of the scheme faced with no facilities and services on site except a creche with insufficient capacity.

There is a need for any proposed scheme's development to represent a fair balance between the right of the applicant to develop their site and the rights of adjoining and surrounding residents to expect their area to be protected and or improved by any new development. Our client does not think a fair balance is achieved here (or any balance at all). **That residential development is permissible on a site does not mean residential development of any scale: without any constraints.**

The zoning of this site provides for residential development that creates a neighbourhood with facilities and services and multi-modal transport links, etc. It is our client's position that any residential development on this scheme must respect the site's zoning and not treat the property as a de facto standard "greenfield site" without any development constraints. The submitted scheme's documentation, especially the AA and NIS read as though they could be applied to any large site in Ireland. The mitigation measures are standard and incomplete. They ask LCC to take risks with the SAC and SPA.

What must be kept in mind is that what is proposed is not a critical piece of nationally required infrastructure or a single building of world class architectural design. What is proposed is simply an over-scaled and over-ambitious 1980s type sprawling housing estate scheme. **In our client's opinion, the proposed compromises regarding negative impacts of the scheme on the area, including on the SAC and SPA, and on adjoining and surrounding residential properties, required in respect of developing this scheme cannot be tolerated. The scheme also cannot be justified when its modal connectivity to the wider area is considered. This is in fact an isolated site despite the applicant's attempts to claim otherwise.**

As much as the applicant has sought to argue that the compromises necessary would be outweighed by the provision of the subject development, this Planning Objection Report illustrates why this is not the case. **This proposal as it comes before LCC would, in our client's opinion, give rise to a number of residual environmental effects of such significance in respect of their adverse impact that they cannot be reconciled with the need for the proposed development.**

What appears key, in the consideration of this proposal, is that the planning application is the culmination of a process – started for the previous SHD scheme - where the consideration of the impacts on the receiving environment have been second to the applicant's own requirements and plans, particularly in respect of negative impacts on the SAC and SPA and our client's property. **The suitability of the site in principle and the ability of the receiving environment to absorb the proposed buildings are two very different considerations and this, in our client's opinion, is where the needs of the applicant and the concerns of our client diverge**.

Where such divergence in vision exists and a large development proposal is made irrespective of its clear and apparent significant and adverse climate, planning, environmental and transportation impacts, there is a need to identify appropriate assessment criteria by which to judge the proposal.

The critical development frameworks for this area, as noted above, are the Adopted Dundalk Local Area Plan 2025-2031 and the LCDP 2021-2027.

The applicant proposals are not permitted at present under the L1 Strategic Reserve zoning which now applies. The applicant has taken legal action over this zoning; however, they cannot alter how the site has been re-zoned. The proposal is a material contravention of the LAP.

It is our client's position that the scheme is non-compliant th LCDP. This Planning Objection Report illustra (now the proposals are non-compliant with:

- The core vision of the LCDP which requires that new development respects its context.
- Section 2.10 'Core Strategy and Strategic Flood Risk Assessment';
- The L1 Strategic Reserve zoning of the site now adopted under the LAP which supersedes the earlier site zonings adopted by LCC;
- Section 10.3 'Flood Risk Management'.
- Table 10.1 'Areas for Further Assessment and their Associated Flood Risk Manag ement Plan'; and
- Table 10.2 'Flood Zone Type'.
- Section 1.7.4 'STRATEGIC FLOOD RISK ASSESSMENT (SFRA)' of the LCDP.
- Table 8.1 Special Areas of Conservation (SACs) County Louth.
- Table 8.2 Special Protection Areas (SPAs) County Louth.
- Section 8.2.2 International, EU and Irish Policy on Biodiversity
- Section 8.3 EUROPEAN SITES IN COUNTY LOUTH.
- Objective NBG 3 which aims 'To protect and conserve Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated under the EU Habitats and Birds Directives'.
- Objective NBG 4 which aims 'To ensure that all proposed developments comply with the requirements set out in the DECLG 'Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities 2010''.
- Objective NBG 5 which aims 'To ensure that no plan, programme, or project giving rise to significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan, either individually or in combination with other plans, programmes or projects'
- Section 8.9 'WETLANDS'.
- Section 11.5 'THE COAST'.
- Section 13.12.1 as it pertains to adequate childcare places in creches for new schemes.
- Strategic Objective SO 4 Transition to a low carbon and climate resilient County.
- Strategic Objective SO 5 Ensure a more sustainable and integrated concept of development with regard to land use, transportation, water services, energy supply and waste management over the lifetime of the Plan.
- Objective Mov 7 which aims: "To support a modal shift away from the private car to more sustainable forms of transport, such as public transport, cycling and walking and the attainment of any national targets relating to modal change published during the life of this Plan".
- Objective MOV 9 which aims: "To support investment in sustainable transport infrastructure that will make walking, cycling or public transport more attractive and appealing, and facilitates accessibility for all, regardless of age, physical mobility, or social disadvantage".

The bottom line is that this scheme shows inadequate respect for our client's area, for the site, for the SAC and SPA and for all applicable planning policies. Inadequate respect for established development parameters in this area or those in the and LCDP. Inadequate respect for adjoining and surrounding residential properties. And, based on the BPS review of the pre-planning process, it is not clear that the submitted scheme shows much respect for LCC's feedback regarding the need to revise the scheme in a manner that does not impact negatively on the area.

There is a responsibility on ACP to do the right thing by this area. This planning application's proposals do not constitute the right thing. The proposed development would significantly and adversely alter the environment. A significant and in some instances profound visual change would occur within and outside the environs of the site.

Cumulatively, the negative impacts of the proposed development on the environment of the site and the surrounding area are such that this scheme cannot be granted in its current form. It would set a negative precedent. Mitigation measures of the extent proposed reflect poorly on the design of this scheme that it needs so many of such to claim to have properly addressed all the very many concerns arising.

5.1 Performance- based plannin grisk assessmentconclus ions

In this era of 'performance-based' standards in respect of the assessment of a proposed scheme, it is necessary to carry out a planning risk assessment in light of the likely performance of this scheme. BPS has carried out this assessment by assessing the scheme in light of its locational and planning context. The conclusions of this exercise are:

- There is a **substantial planning risk** that this scheme is located on lands which are not presently zoned for development. The lands are zoned L1 Strategic Reserve. The proposal is premature pending the re-zoning of the site for residential development as the lands are now Strategic Reserve only.

- There is a **substantial planning risk** that this scheme is premature pending upgrades to the mains foul waste water infrastructure serving this area – especially the Coe's Road Pumping Station not due to be upgraded now until 2030 (up from 2027 when ACP refused the previous LRD) and a 7 year planning permission is not the appropriate planning solution to this problem.

- There is a s[illegible]antial planning risk that this scheme is premature given that the Dundalk WWTP has regular exceedances in effluent discharge limits. The additional load from the development may end up untreated in Dundalk Bay SAC and SPA. The WWTP needs upgrades as does the Coe's Road Pumping Station.

- There is a **substantial planning risk** that this scheme if connected to the Dundalk WWTP would cause it to overflow more regularly into Dundalk Bay SAC and SPA with adverse consequences.

- There is a **substantial planning risk** that the scheme will be flooded regarding the eastern section of the site containing an access road and entrance to the R172 and/or that this will cause flooding and/or exacerbate flooding impacts on adjoining properties and properties to the north.

- There is a **substantial planning risk** that the scheme proponents do not have the necessary permissions in place to carry out areas of the proposed development including forcing surface water flood waters into our client's property, carrying out works within their lands, etc.

- There is a **substantial planning risk** that this planning application proposes a road entrance onto the R172 which would represent a traffic hazard in terms of Garda collision data, limited sightlines for such a large scheme and the speeds at which the road is travelled by vehicles with pedestrians at risk.

- There is a **substantial planning risk** that this planning application proposes parking and traffic levels pertaining to cars and vans which are contrary to national, regional, and local climate, planning, transport and energy policies.

- There is a **substantial planning risk** that this planning application proposes the excessive excavation and topographical changes to the site and the site's entrance and access roads.

- There is a **substantial planning risk** that this planning application will cause significant injury to the Dundalk Bay SAC and SPA which would be contrary to European, national and local planning and environmental policy and the proper planning and sustainable development of the area.

- There is a **substantial planning risk** that this planning application proposes an insufficient mix of uses which will fail to create a sustainable neighbourhood at this location and/or provide future residents with sufficient amenities and facilities such as shops, restaurants, community facilities, etc.

- There is a **substantial planning risk** that this planning application proposes a wholly car-based scheme with no alternative modes of sustainable transportation reasonably available to residents.

Our client submits that following their assessment, the applicant planning application represents too high a risk of causing significant and negative impacts on the area, on the SAC and SPA, on other adjoining properties and on the area and would also risk providing only insufficient amenity to its proposed future residents, for ACP to consider granting planning permission.

6.0 Recommendation

It is the professional opinion of BPS that, having regard to the submitted planning application made to LCC and to the decision of LCC, this planning application should be refused by ACP and the decision of LCC overturned for the reasons given in Section 11.1 of this Planning Appeal Report.

We recommend the reasons for refusal set out in Section 6.1 be applied.

Section 6.2 sets out what needs to occur such that a subsequent planning application could be supported by our client and by ACP.

6.1 Recommended reasons for refusal

Our client submits that the proposed development should be refused for the following reasons:

1. The site was downzoned under the Dundalk Local Area Plan 2025-2031 formally adopted by resolution at a Council Meeting on Thursday, March 6, 2025. It has been available for inspection from Wednesday, April 16, 2025. The Dundalk Local Area Plan 2025-2031 has been adopted as Variation 3 of the Development Plan. Despite the exclusion of these lands arising from ongoing judicial review proceedings, in planning terms, the subject site has been identified by the Louth County Council under the Local Area Plan (2025 – 2031) as L1 – Strategic Reserve. The site zoning policy includes the objective: "To provide a land reserve for the orderly expansion of the settlement into the future". Section 13.21.27 'L1-Strategic Reserve' of the adopted LAP sets out 'Guidance' which states: "These are strategically located lands that will generally not be available for development until after the expiration of this Plan". The proposed development would represent a material contravention of the Local Ardea Plan and would therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Eireann, the Board was not satisfied a sufficiently developed commitment and specific

timeframe has been provided that demonstrates the proposed development would have access to effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency in the capacity of sewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would, therefore, be contrary to the proper planning and sustainable development of the area.

Note: The wastewater connection to the north as proposed by the developer would add flows to the Coe's Road pumping station which does not have capacity for the development. Furthermore, Uisce Eireann estimated this capacity upgrade to be completed in 2030 (up from 2027). The estimated timeframe for the required upgrade is not substantiated by demonstrable commitments from Uisce Eireann and, in the absence of this and there being no realistic alternative proposed by the applicant, the proposed development would be premature by reference to the existing deficiency in pumping station capacity.

3. Dundalk Bay SAC and SPA are designated European sites as set out in the Louth County Development Plan 2021-2027. The area is documented as a habitat for several protected species and maintains conservation objectives. The proposed development would cause serious injury to a designated conservation area and would be contrary to both national planning policy and the current Dublin City Development Plan and the proper planning and sustainable development of the area.

4. The proposed development would cause overloading of the Coe's Road Wastewater Pumping Station and the Dundalk Waste Water Treatment Plant. Uisce Eireann has confirmed in its Annual Report that the WWTP discharges into Dundalk Bay SAC and SPA arising from overloading including during high rainfall and storm events. The proposed development would potentially and adversely further impact on these receiving waters in the absence of infrastructural upgrades. The proposed development is therefore, with or without a Combined Approach Assessment likely to adversely impact the European sites and prejudice public health contrary to the proper planning and sustainable development of the area.

5. The parking, traffic and transport proposals are contrary to national climate policy, including the Climate Action Plan 2023 and the National Sustainable Mobility Policy (2022), as this is a car-based scheme dependant on an excessive quantum of unsustainable trips by car to as such as 73% of all trips by car for the proposed 502 units which are served by as many as 861 parking spaces. The proposals would be contrary to the proper planning and sustainable development of the area.

6. The applicant proposals provide for excessive parking spaces for cars and vans, for excessive trip numbers by car and van and for an unsustainable and energy inefficient scheme which is contrary to Strategic Objective SO 4, Strategic Objective SO 5, Objective Mov 7 and Objective MOV 9 of the Louth County Development Plan 2012-2027. The proposals would be contrary to the proper planning and sustainable development of the area.

7. The proposal fails to provide a safe road entrance onto the R172 and as such would represent a traffic hazard. The entrance is in Flood Zone A and has no adequate northern sightline when a bus is stopped at the bus stop. Insufficient land is available for the entrance to be properly designed and completed. The proposals would be contrary to the proper planning and sustainable development of the area.

8. Notwithstanding the submission of an Appropriate Assessment Screening Report and a Natura Impact Statement, the applicant has failed to demonstrate that, even with the myriad of mitigation measures proposed, the scheme would not significantly and adversely impact on the Dundalk Bay SAC and SPA. A careful review of the proposals finds many areas over which LCC cannot have confidence, while the Dundalk WWTP does not have the current capacity and needs upgrades (there have been many exceedances in effluent discharge limits - the additional load from the development is considered significant in this context), when all other recent grants of permission which will direct their sewage to it are taken into account, to accommodate this scheme in a manner that would not present risks to the SAC and SPA. Further, the proposals for surface water management and flood water management each involve direct discharges of water into the SAC and SPA which are not discharges whose contamination free status can realistically be permanently ensured as this is not a scheme in public ownership and/or one which will be subject to regulatory control into the future. Finally, the area is characterised by a myriad of large planning permissions in recent years all with large lists of mitigation measures such as that submitted in the NIS. The in-combination risks LCC is being asked to take are now at breaking point. The proposals are contrary to Table 8.1 Special Areas of Conservation (SACs) County Louth, Table 8.2 Special Protection Areas (SPAs) County Louth, Section 8.2.2 International, EU and Irish Policy on Biodiversity, Section 8.3 EUROPEAN SITES IN COUNTY LOUTH, Objective NBG 3, Objective NBG 4, Objective NBG 5, Section 8.9 'WETLANDS' and Section 11.5 'THE COAST' of the Louth County Development Plan 2021-2027. The proposals would be contrary to the proper planning and sustainable development of the area.

9. The proposed flood risk management proposal are contrary to Section 10.3 'Flood Risk Management', Table 10.1 'Areas for Further Assessment and their Associated Flood Risk Management Plan'; Table 10.2 'Flood Zone Type' and Section 1.7.4 'STRATEGIC FLOOD RISK ASSESSMENT (SFRA)' of the LCDP. The proposals would be contrary to the proper planning and sustainable development of the area.

10. The applicant seeks to carry out works to and/or to force surface and flood waters through private properties, including our client's. No permissions are in place for this. The purported 'eastern drainage channel' does not exist and there is no direct outfall to Dundalk Bay. The applicant is asking LCC to allow them to pipe surface water and flood waters from the site into private properties with no acceptance of the associated risks, including of not being able to obtain insurance in the future. The proposals would be contrary to the proper planning and sustainable development of the area.

11. The extent of topographical change proposed by way of cut and fill, excavation, road level changes, raising of house levels, digging out of massive attenuation tanks and detention basins, etc. cannot be supported under the Louth County Development Plan 2012-2027. The proposals would be contrary to the proper planning and sustainable development of the area.

12. The proposed development fails to fully address concerns to protect birds and bats and the scheme will likely cause significant adverse impacts on these species, including arising from the scale of excavation works proposed, the tree losses proposed, etc. The proposals would be contrary to the proper planning and sustainable development of the area.

13. The proposed development fails to fully address Section 13.12.1 as it pertains to adequate childcare places in creches for new schemes and to site the proposed creche in an appropriate location away from a sewage pumping station and on A1 zoned lands. The proposals would be contrary to the proper planning and sustainable development of the area.

14. The development proposes a substandard quality of public and communal open space arising from the quantum, of attenuation and detention basin measures which is contrary to the policies and objectives of the current Louth County Development Plan and would, in itself and by the precedent established for substandard provision of public open space, cause serious injury to the residential amenities of the area and, therefore, would be contrary to the proper planning and sustainable development of the area.

6.2 Revisions required to the zoning and the proposals in a new planning application

In light of the above, BPS notes that the following revisions to the scheme would be required in any new planning application:

1. The lands need to be re-zoned. It is presently Strategic Reserve only and there are better sited and serviced sites available in Dundalk for a planning application of this scale within he lifetime of the CDP and LAP.

2. Confirmation is required from Uisce Eireann that all necessary foul water infrastructure upgrades have been completed.

3. A revised EIAR for a new scheme is required.

4. Permissions for all works on lands not owned by the applicant should be provided.

5. A reduction in density given the surface water attenuation and flood risk concerns,

6. No surface, storm, or flood waters should pass from the scheme into our client's property including via any purported route which could forcibly pass through their property.

7. The entrance to the scheme should be relocated out of Flood Zones A and B.

8. The scheme should provide concrete evidence that no more than 45% of trips will be taken by car. This may mean allowing only 1 parking space or less per unit.

9. All construction stage reports need to be complete and fully detailed as to all measures given the need to protect the SAC and SPA. An independent assessment is needed regarding Appropriate Assessment. Reasons why Stage 4 should not apply needs to be discussed.

10. Full consultation with the NPWS is required.

11. Less trees should be removed.

12. Bats and birds should be better protected.

6.0 Finally

If you require any further information, please contact BPS using the details on this letterhead.
With best wishes,

Brendan Buck

Brendan Buck MIPI
Managing Director
BPS Planning Consultants Ltd

BPS
Planning & Development
Consultants

LRD - Third Party Planning Appeal Check List

1. The appeal observation must be in writing (e.g. not made by electronic means): Attached.

2. Name of the observer: Aoife and John Henry.

3. Address of the observer: Mountain View, Haggardstown, Blackrock, Dundalk, County Louth.

4. If an agent is involved, state the name of the agent: Brendan Buck MIPI.

5. Address of the agent: BPS Planning Consultants Ltd., PO Box 13658, Dublin 14, D14Rw01.

6. State the Subject Matter of the appeal observation: Third Party planning appeal in respect of the decision of Louth County Council to issue Notification of Intention to Grant Planning Permission for a Large-Scale Residential Development, planning application, reg. ref. LRD 2560319.

7. Brief description of the development: The proposal comprises of: '7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising: 40 no. 1 bed maisonettes, 147 no. 2 bed mid-terrace 2 storey houses, 276 no. 3 bed end of terrace and semi-detached 2 storey houses, 1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses, 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking. New access off Blackrock Road … and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol. Infrastructure and services … a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172) and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network … excavation, cut and fill, reprofiling of existing ground levels and removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded" at lands at Haggardstown, Blackrock, Dundalk, County Louth.

8. Location of development: At lands at Haggardstown, Blackrock, Dundalk, Co Louth.

9. Name of planning authority: Louth County Council.

10. Planning authority register reference number: LRD 2560319.

11. Attach, in full, the grounds for appeal and the reasons, considerations and arguments on which it is based. Please find a planning appeal letter attached.

12. Copy of acknowledgement letter received from the local authority: Attached receipts from the Local Government Online Planning Portal.

13. Enclose/Pay the correct fee for the **Third** Party appeal: €220.

14. Ensure that the APPEAL is received by An Bord Pleanála in the **correct manner** and in **time**. The LCC decision was made on 3/12/2025. The final date for submission of an appeal to ACP is set out on your website as the 8th of January 2024. This appeal is therefore lodged on or prior to this date.

BPS
Planning & Development
Consultants

From: OnlinePlanning <onlineplanning@planning.localgov.ie>
Sent: 06 November 2025 12:10
To: Info | BPS Planning <info@bpsplanning.ie>
Subject: Acknowledgement of receipt ofsubmission on a planningapplication

Submission No.: 150000036706

Rialtas Áitiúil Éireann
Local Government Ireland

Date of Issue: 06/11/2025 12:08pm

THISIS AN IMPORTANT DOCUMENT

KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO PRODUCE THIS ACKNOWLEDGEMENT TO AN COMISIÚN PLEANALA IF YOU WISH TO APPEAL THE DECISIONOF THE PLANNING AUTHORITY. IT IS THE ONLY FORM OF EVIDENCE WHICHWILL BE ACCEPTED BY AN COIMISIÚN PLEANÁLA THATA SUBMISSION OR OBSERVATION HASBEEN MADETO THE PLANNING AUTHORITY ON THE PLANNING APPLICATION.

LouthCounty Council

PLANNINGAPPLICATION REFERENCE No: 256039

A submission/observationin writing,has been received from Brendan Buck on06/11/2025 in relation to the above planning application.

The appropriatefee of €20 hasbeen paid. (Fee notapplicable toprescribed bodies)

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001 and will be taken into account by the planning authority in its determination of the planning application.

Yours faithfully,
Louth County Council

IS DOICIMÉAD TÁBHACHTACH É SEO

COINNIGH AN DOICIMÉAD SEO SLÁN. BEIDH ORT AN ADMHÁIL SEO A CHUR AR FÁIL DON BHORD PLEANÁLA MÁS MIAN LEAT ACHOMARC A DHÉANAMH IN AGHAIDH CHINNEADH AN ÚDARÁIS PHLEANÁLA. IS É SEO AN tAON FHIANAISE AMHÁIN ATÁ ANN A NGLACFAIDH AN COIMISÚN PLEANÁLA LEIS GUR CUIREADH AIGHNEACHT FAOI BHRÁID AN ÚDARÁIS PHLEANÁLA MAIDIR LEIS AN IARRATAS.

Louth County Council

UIMHIR THAGARTHA AN IARRATAIS PHLEANÁLA: 2560319

Maidir leis an iarratas pleanála thuasluaite fuarthas aighneacht/tuairim i scríbhinn ó Brendan Buck ar 06/11/2025.

Íocadh an táille chuí de €20. (Ní chaithfidh comhlachtaí forordaithe aon táille a íoc)

Tá an aighneacht/tuairim ag teacht leis na forálacha cuí atá i Rialacháin Phleanála agus Forbartha 2001 agus cuirfidh an tÚdarás Pleanála sin san áireamh agus é ag déanamh cinneadh ar an iarratas pleanála.

Is mise le meas,
Louth County Council

********** This message is intended only for the use of the person(s) to whom it is addressed. It may contain information which is privileged and confidential within the meaning of applicable law. If you are not the intended recipient, please contact the sender as soon as possible. The views expressed in this communication may not necessarily be the views held by LGMA (Local Government Management Agency). Any attachments have been checked by a virus scanner and appear to be clean. Please ensure that you also scan all messages, as LGMA does not accept any liability for contamination or damage to your systems. ********** Is faoi rún agus chun úsáide an té a sheoltar an ríomhphost seo agus aon comhad atá nasctha leis. Má bhfuair tú an

BPS
Planning & Development
Consultants

From: OnlinePlanning <onlineplanning@planning.localgov.ie>
Sent: 06 November 2025 10:12
To: Info | BPS Planning <info@bpsplanning.ie>
Subject: Your submission has been sent

Dear Brendan Buck,

Thanks for sending your submission regarding application 256031.

Your submission has been assigned with Online Reference Number: 150000036706.

Your submission will be reviewed by Louth County Council and will be acknowledged if the planning authority considers that it complies with regulation.

You are advised that no fees shall be payable if a submission or observation is accompanied by a copy of the acknowledgement from the Planning Authority of the original submission/observaton. **Failure to furnish a copy of either the signed acknowledgement or the appropriate fee will result in your submission/observation being deemed invalid and returned to you** (No fee payable if a Prescribed Body)

Your submission will be returned if the planning authority considers that it does not comply.

Yours faithfully,
Louth County Council

A Chara,

Gorai bh maith agat as d'aighneacht maidir le hiarratas 256031 9 a chur chugainn.

Tugadh an Uimhir Thagartha Ar Líne seo do d'aighneacht. 1 500000367 06.

Déanfaidh Louth County Council athbhreithniú ar d' áighneacht agus admhófar sin má mheasann an tÚdarás Pleanála go bhfuil sé ag cloíleis na rialacháin.

BPS
Planning & Development
Consultants

M 087 261 5871
T 01 539 4960
E info@bpsplanning.ie
W www.bpsplanning.ie

PO Box 13658
Dublin 14

Lodged via the Local Government online portal

The Secretary,
Planning Department,
Louth County Council,
County Hall,
Millennium Centre,
Dundalk, A91 KFW6.

2 July 2025

Dear Sir/Madam,

Third Party planning objection in respect of a Large-Scale Residential Development, planning application, reg. ref. LRD 2560319, which has been submitted to Louth County Council. The proposal comprises of '7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising: 40 no. 1 bed maisonettes,147 no. 2 bed mid-terrace 2 storey house, 276 no. 3 bed end of terrace and semi-detached 2 storey houses ,1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses, 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking. New access off Blackrock Road … and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol. Infrastructure and services … a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172) and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network … excavation, cut and fill, reprofiling of existing ground levels and removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded" at lands at Haggardstown.

BPS Planning Consultants Ltd, a firm of Irish Planning Institute accredited town planning consultants, has been instructed by Aoife & John Henry of Mountain View, Haggardstown, Blackrock, Dundalk, County Louth [hereafter "client" or "clients"] to prepare and to lodge to Louth County Council [hereafter "LCC"] the attached planning objection containing Grounds for Objection regarding proposed Large-Scale Residential Development, planning application, reg. ref. LRD 2560319, at Haggardstown and Marshes Upper, including works on Blackrock Road (R172) and Hardy's Lane, Dundalk, Co. Louth which is described in the public notices as:

> *7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising:40 no. 1 bed maisonettes,147 no. 2 bed mid-terrace 2 storey house ,276 no. 3 bed end of terrace and semi-detached 2 storey houses ,1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses, 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking. New access off Blackrock Road providing for vehicular, pedestrian and cycle access and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol. Infrastructure and services for the proposed development including surface water infrastructure, water mains and a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172) and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network. Associated public and private open space, landscaping and amenity areas including a large central park of c.2.7ha, public art, boundary treatments, public lighting, roads, cycleways, footpaths, car and cycle parking, infrastructure and services and all associated site and development works. To facilitate the proposed development, excavation, cut and fill, reprofiling of existing ground levels and removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded.*

Our client's property is sited alongside the applicant site – please refer to the attached Objection Report to view the proximity of the scheme to their boundary.

The attached Planning Objection Report represents the concerns and objections of our clients who have worked with BPS to produce and to submit this Third Party planning objection.

Theapplicant proposals are set out on the LCC website[1].

This planning application was lodged to LCC on 30/05/2025. **The final date for submission of an objection is set out on the LCC website as 3/07/2025.** This objection is therefore lodged on or prior to this date.

For the purposes of validation of this objection, please find attached:

(1) The €20 statutory fee payable for a 3rd party objection;
(2) A completed planning objection checklist form; and
(3) A report setting out our clients' Grounds for Objection.

We confirm that we act as agent for our client in respect of this matter. All correspondence should be sent to BPS at the address provided on this letterhead.

If you require any further information, please contact BPS using the details on this letterhead.

With best wishes,

Brendan Buck

Brendan Buck MIPI
Managing Director
BPS Planning & Development Consultants Ltd

[1] https://www.eplanning.ie/LouthCC/AppFileRefDetails/2560319/0

BPS
Planning & Development
Consultants

Third Party LRD Planning Objection Check List

1. Name and address of the objector: This planning objection is lodged by Aoife & John Henry of Mountain View, Haggardstown, Blackrock, Dundalk, County Louth.

2. If an agent is involved, state the name of the agent: Brendan Buck MIPI.

3. Address of the agent: BPS Planning Consultants LTD., PO BOX 13658, Dublin 14.

4. State the Subject Matter of the objection: Planning objection in respect of a Large-Scale Residential Development, planning application, reg. ref. LRD 2560319, which has been submitted to Louth County Council. The proposal comprises of '7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising: 40 no. 1 bed maisonettes,147 no. 2 bed mid-terrace 2 storey house, 276 no. 3 bed end of terrace and semi-detached 2 storey houses ,1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses, 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking. New access off Blackrock Road ... and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol. Infrastructure and services ... a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172) and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network ... excavation, cut and fill, reprofiling of existing ground levels and removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded" at lands at Haggardstown.

5. Location of development:'Lands at Haggardstown, Blackrock, Dundalk, Co Louth.

6. Local authority area: Louth County Council

7. Planning authority register reference number: reg. ref. 2560319.

8. Attach, in full, the grounds for appeal objection and the reasons, considerations and arguments on which they are based. Please find a Planning Objection Report and cover letter attached setting out the grounds for objection and the reasons, considerations and arguments on which they are based.

9. Enclose/Pay the correct fee for the third party objection: €20.

Ensure that the OBJECTION is received by Louth County Council in the **correct manner** and in **time**. This planning application was lodged to LCC on 30/05/2025. The final date for submission of an objection is set out on the LCC website as 3/07/2025. This objection is therefore lodged on or prior to this date.

BPS
Planning & Development
Consultants

LRD Planning Objection Report

Planning Objection Report in respect of a Large-Scale Residential Development, planning application, reg. ref. LRD 2560319, which has been submitted to Louth County Council. The proposal comprises of '7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising: 40 no. 1 bed maisonettes,147 no. 2 bed mid-terrace 2 storey house, 276 no 3 bed end of terrace and semi -detached 2 storey houses ,1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses, 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking. New access off Blackrock Road ... and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol. Infrastructure and services .. a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172)and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network ... excavation, cut and fill, reprofiling of existing ground levels and removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded" at lands at Haggardstown.

This Planning Objection Report has been produced by BPS Planning Consultants LTD on behalf of Aoife & John Henry of Mountain View, Haggardstown, Blackrock, Dundalk, Co untyLouth.

Document Control Sheet

Project	Planning objection respect of a Large-Scale Residential Development, planning application, reg. ref. LRD 2560319.
Project No.	2025– 255
Document title	Planning Objection Report.

Contents	No. of pages
Cover page	1
Control sheet	1
Table of contents	3
Text	154
Total No. of Pages	159 (excluding Appendix 1)

Rev.	Distribution	Author	Checked	Approved	Day	Month	Year
1	Client	BB	FB	EB	26	6	2025
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2 July 2025

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9.3 Ground 3: No permission(s) given for works on or under client lands

9.3.1 No permission given for surface works to the front of client property
9.3.2 No permission given to direct surface/flood water into client property

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1.0 Introduction

BPS Planning Consultants Ltd, a firm of Irish Planning Institute accredited town planning consultants, has been instructed by Aoife & John Henry of Mountain View, Haggardstown, Blackrock, Dundalk, County Louth [hereafter "client" or "clients"] to prepare and to lodge to Louth County Council [hereafter "LCC"] a planning objection containing Grounds for Objection regarding proposed Large-Scale Residential Development, planning application, reg. ref. LRD 2560319, at Haggardstown and Marshes Upper, including works on Blackrock Road (R172) and Hardy's Lane, Dundalk, Co. Louth which is described in the public notices as:

> *7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising:40 no. 1 bed maisonettes,147 no. 2 bed mid-terrace 2 storey house ,276 no. 3 bed end of terrace and semi-detached 2 storey houses ,1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses, 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking. New access off Blackrock Road providing for vehicular, pedestrian and cycle access and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol. Infrastructure and services for the proposed development including surface water infrastructure, water mains and a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172) and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network. Associated public and private open space, landscaping and amenity areas including a large central park of c.2.7ha, public art, boundary treatments, public lighting, roads, cycleways, footpaths, car and cycle parking, infrastructure and services and all associated site and development works. To facilitate the proposed development, excavation, cut and fill, reprofiling of existing ground levels and removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded.*

Our client's property is sited alongside the applicant site – please refer to Section 4.1 of this Planning Objection Report.

This Planning Objection Report represents the concerns and objections of our clients who have worked with BPS to produce and to submit this Third Party planning objection.

The applicant proposals are set out on the LCC website[1].

This planning application was lodged to LCC on 30/05/2025. **The final date for submission of an objection is set out on the LCC website as 3/07/2025.** This objection is therefore lodged on or prior to this date.

Our client acknowledges that, planning discussions were again undertaken between the applicant and LCC prior to any Third Party planning objections being lodged. The first pre-planning opinion of LCC was issued again prior to the submission of our client's planning objection. The result of this is that it has not been possible for our client to:

- Confirm that areas of the applicant site are owned by them (see Section 1.2 of this Planning Objection Report and Appendix 1). A legal submission in this regard was made to Louth County Council by our client's solicitor during the validating of this planning application; however, notwithstanding Article 22(1)(d) (which requires the applicant to: "state the legal interest of the applicant in the land or structure and, if the applicant is not the owner, state the name and address of the owner"), our client's lands remain included in this planning application without their consent.

- Inform any substantive design of a scheme and to ensure all environmental and other concerns are addressed such that this objection is unnecessary. The pre-planning feedback issues by LCC reflects its own pre-planning feedback but does not fully reflect these Grounds for Objection now lodged by our client.

Our client considers that they have no alternative but to lodge a planning objection as the applicant has again failed to address their concerns.

Section 9.0 of this report sets out the specific grounds for our client's objection; however, this entire report and the attached planning objection form and covering letter should be taken to represent our client's complete objection.

[1] https://www.eplanning.ie/LouthCC/AppFileRefDetails/2560319/0

1.1 Validation

For the purposes of validation of this planning objection, please find attached:

(1) The e20 fee payable for a 3rd party planning objection;

(2) A completed planning objection checklist form;

(3) This Planning Objection Report setting out our client's grounds for objection; and

(4) A covering letter.

1.2 No permissions and/or consent given by client

Our client wishes to note they have not given any permissions to the applicant in respect of the proposed development such that any works can take place on or under their lands.

The current planning application is the third to be lodged in respect of the subject site. The other two are:

- LRD planning application, reg. ref. LRD 2360476 and An Bord Pleanála case reference: LH15.319077 for 'Permission for a Large-scale Residential Development (LRD) Application (10 Year) inc. EIAR & NIS - (see www.haggardstownlrd.ie) for: (1) 502 no. residential units; 1 no. 3-bedroom bungalow [111.5sqm GFA]; 214 no. 2-bedroom houses [73.6sqm GFA each]; and 52 no. 1-bedroom maisonettes ...; (2) A 2-storey creche [c.570.7sqm GFA] ... ; (3) Public open space ... and private open space; (4) ... construction of new dedicated entrance to the R172 Blackrock Road ...; (5)762 no. car parking spaces ...; [etc.] 1 no. Type 3 Wastewater Pumping Station and associated 24hr underground emergency storage tank; and (20) All other site excavation, infrastructure and development works above and below ground, including changes in level, cut, fill and the infilling of lands, retaining features, resurfacing and site servicing [foul and surface water drainage and water supply]'. This planning application was refused by ABP on 07/06/2024.

- There has been a previous large scale residential proposal (a "Strategic Housing Development") for this site (see reg. ref. 19590 / TA15.304782 Haggardstown, Dundalk, Co. Louth. On 17 October 2019, An Bord Pleanála issued a decision to grant permission subject to 24 no. conditions). Our client did not give any permissions for this either.

At no point have they given any indication the proposed development as now submitted would be acceptable to them. Our client is opposed to this scheme, as submitted, for the reasons set out in this Planning Objection Report and for those over which ABP refused LRD planning application, reg. refs. LRD 2360476 and LH15.319077.

As the subject lands have now been downzoned from 'New Residential' to 'L1 Strategic Reserve', our client is opposed in principle to the development of the site.

Also, they consider its development unrealistic given ground and surface water issues and the direct hydrogeological and hydrological links to the SPA and SAC. They consider what has been proposed to not in the best interest of the area, the environment, and their adjoining property.

They strongly object to the proposal to alter the unnamed watercourse along the eastern boundary of the site adjacent to the R172 Blackrock Road and to use this as an outfall for its surface and flood waters. This watercourse flows northwards through our client's private property prior to crossing beneath the R172 and discharging in a north-easterly direction towards the Irish Sea – Dundalk Bay SAC and SPA. Our client owns the lands through which the water course must flow to reach the sea and they have not given permission for this. Indeed, they are wholly opposed as it places flood risk onto their property and threatens the SAC and SPA.

They object to any proposals to alter their entrance onto the R172 and/or this section of that road which they own.

They have not given permission for a paladin fence to replace their rear (western) boundary.

Our client was approached, prior to the submission of the previous LRD planning application (ref. 2360476) in 2019, by the project team to give permission for a bus stop on the eastern side of the R172. This land is within the Dundalk Bay SAC. This permission was not given, yet the Appropriate Assessment Screening Report for the previous LRD stated: "The potential bus stop along the eastern side of the R172 will be located along the road verge that is technically within the SAC/SPA boundary". The current Appropriate Assessment report states: "The construction of the ... potential bus stop to the east of the site, have the potential to cause contamination of the SAC/SPA in the absence of mitigation. This

esents a direct impact pathway between the Proposed Development and the European sites located in Dundalk Bay and therefore requires further assessment." Their lands are treated as part of the site. This is not acceptable.

Our client notes the applicant is clearly aware that the proposed development raises local objections, including for the reasons set out in in this report.

They emphasise how the elected members of Louth County Council voted for rezoning these lands to Strategic Reserve and not only because these lands are not currently serviced, which means that the policy and objective in the Development Plans, Guidelines for Planning Authorities (2022) against de-zoning serviced lands did not apply.

Despite the above facts and how the site has been refused recently for much the same scheme and is no longer currently zoned for development, the applicant has proceeded to re-lodge essentially the same scheme (the previously refused "LRD") just at a greater residential density that the earlier SHD scheme which will impact significantly, negatively, and permanently on the area.

1.2.1 Response to applicant letter purporting not to require client's consent

Our client's solicitor has repeatedly written to LCC to raise concerns that the proposed red line boundary of this scheme includes lands owned by our client for whose proposed development no consent has been provided from them.

The applicant claims ownership of all the lands except those controlled by LCC The letter shown in Fig 1 is repeatedly issued within the applicant planning application and purports to address this matter.

This is not correct, and the matter has been properly addressed in three legal submissions made to LCC by our client (see Appendix 1 of this report). The applicant does not have their consent to:

- Carry out road works, and/or works alongside, on or over, any road within lands in their ownership.
- To install any surface water or mains water infrastructure on or over lands in their ownership.
- To direct any surface, storm, or flood waters into their property or lands.

Should LCC have any question regarding our client's legal standing in this matter, it is asked to contact their solicitor using the details repeatedly submitted to the planning authority.

DONNACHADH O'BRIEN
& ASSOCIATES CONSULTING ENGINEERS

Unit 5C, Elm House
Millennium Park
Naas
Co. Kildare
W91 P6P6

12 May 2025
Planning Department,
Louth County Council,
Crowe Street,
Dundalk
Co. Louth

Our Ref: Lands at Haggardstown, Blackrock, Dundalk Co. Louth | Proposed Works under licence to Statutory Undertakers on Lands in charge of Louth County Council

To whom it concerns,

We, Donnachadh O'Brien & Associates Consulting Engineers Ltd (DOBA), have been instructed by the Applicant, Maeve Dwyer Ltd, to prepare a letter to Louth County Council outlining works proposed as part of the planning application to be carried out within the public road lands or lands in charge of Louth County Council by or by licence to the relevant statutory undertaker. The extent of works proposed include the following;

1. Proposed surface water infrastructure as illustrated on the DOBA Engineering drawing series DR-C-0300 is to be constructed within the public road and/ or lands in charge of Louth County Council under licence to Louth County Council as the statutory undertaker.
2. Proposed wastewater rising main infrastructure as illustrated on the DOBA Engineering drawing series DR-C-0300 is to be constructed within the public road and/ or lands in charge of Louth County Council under license to Irish Water/ Uisce Eireann as the statutory undertaker.
3. Proposed watermain infrastructure as illustrated on the DOBA Engineering drawing series DR-C-0400 is to be constructed within the public road and/ or lands in charge of Louth County Council under license to Irish Water/ Uisce Eireann as the statutory undertaker.
4. Proposed works to the public road including the R172 Blackrock Road, as illustrated on the DOBA Engineering drawing series DR-C-0500 is to be constructed within the public road and/ or lands in charge of County Council under license to Louth County Council as the statutory undertaker.

We trust the above is in order

Yours sincerely,

Paul Doyle
Associate Director
Donnachadh O'Brien & Associates Consulting Engineers

Maeve Dwyer Ltd
Lands at Haggardstown, Blackrock, Dundalk, Co. Louth
Works to Public Roads and/ or Lands in Charge of Louth County Council

Page 1 of 1

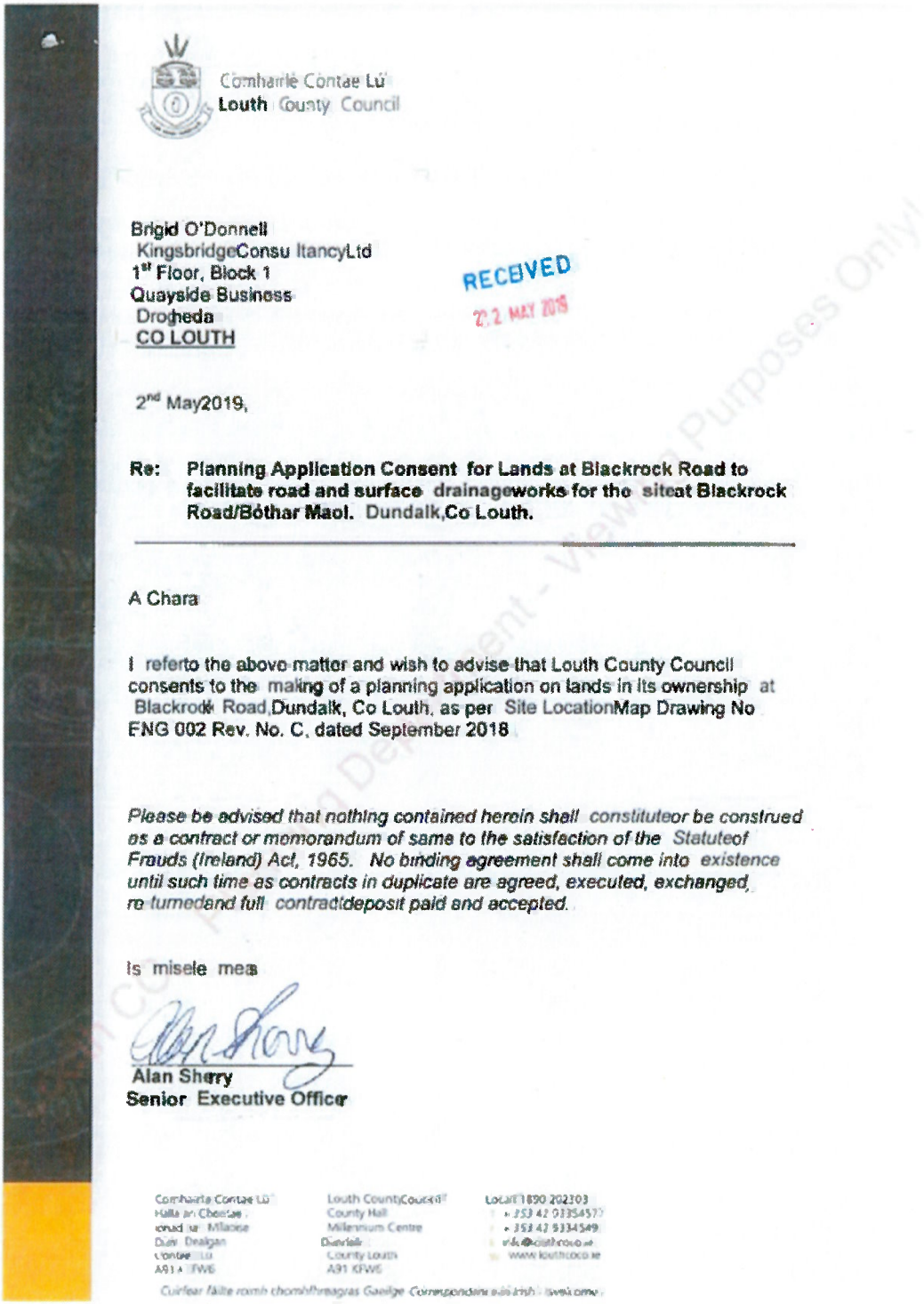
Fig. 1A: Letter to LCC from the applicant regarding inter alia client lands

1.2.2 LCCclaimed ownership of these lands in 2019

Our client asks LCC to clarify the ownership status of the applicant site which up to the 2nd of May 2019 appears (from the letter and map provided in Figs. 1B and 1C) to be in the ownership of LCC.

The lands shown do not include lands owned by our client.

It is not clear at what point the ownership of these lands passed from LCC to the applicant. These lands are now stated to be in the whole ownership of the applicant excepting lands at Blackrock Road.



Comhairle Contae Lú
Louth County Council

Brigid O'Donnell
KingsbridgeConsu ltancyLtd
1st Floor, Block 1
Quayside Business
Drogheda
CO LOUTH

RECEIVED
22 MAY 2019

2nd May2019,

Re: Planning Application Consent for Lands at Blackrock Road to facilitate road and surface drainageworks for the siteat Blackrock Road/Bóthar Maol. Dundalk,Co Louth.

A Chara

I referto the above matter and wish to advise that Louth County Council consents to the making of a planning application on lands in its ownership at Blackrock Road,Dundalk, Co Louth, as per Site LocationMap Drawing No ENG 002 Rev. No. C, dated September 2018

Please be advised that nothing contained herein shall constituteor be construed as a contract or memorandum of same to the satisfaction of the Statuteof Frauds (Ireland) Act, 1965. No binding agreement shall come into existence until such time as contracts in duplicate are agreed, executed, exchanged, returnedand full contractdeposit paid and accepted.

Is misiele mea

Alan Sherry
Senior Executive Officer

Comhairle Contae Lú
Halla an Chontae
Dún Dealgan
A91 X7W8

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County Hall
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Dundalk
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www.louthcoco.ie

Cuirfear fáilte roimh chomhfhreagras Gaeilge Correspondence welcome in Irish

Fig. 1 B: Letterfrom LCC from the applicant regarding the ownership of the entire site

Fig. 1C: Map attached to a letter from LCC from the applicant regarding the ownership of the entire site

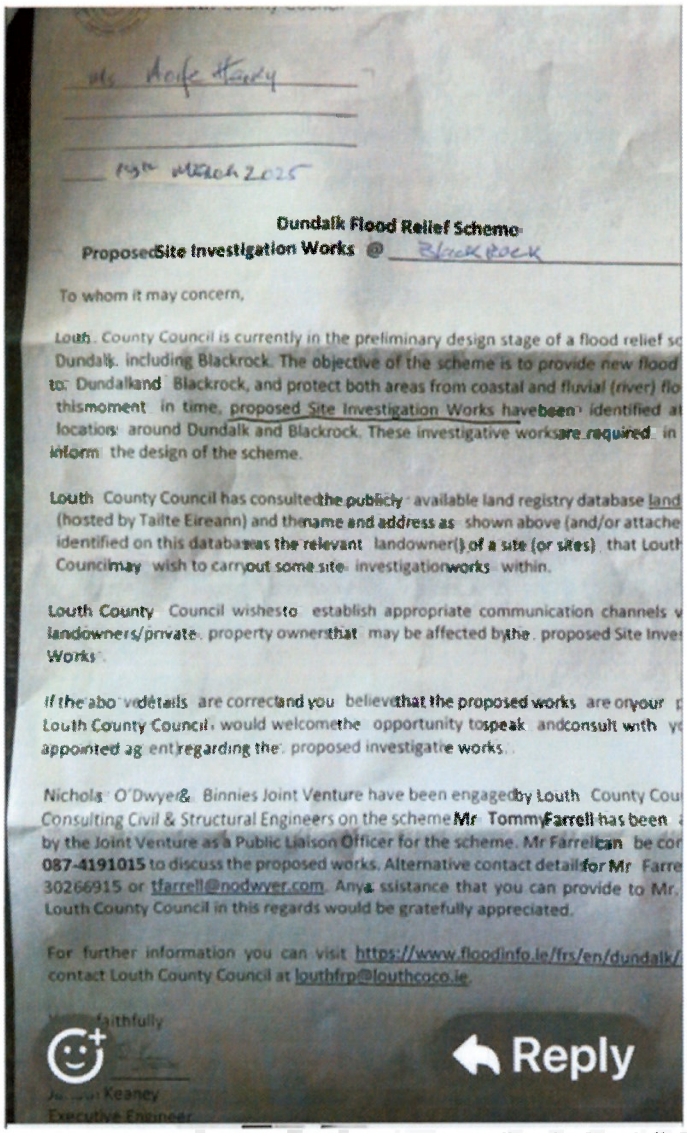
1.2.3 Client consent for survey work to the emerging Dundalk flood defence scheme

Our client was recently contacted by Louth county council as a new ***Dundalk Flood Relief Scheme*** is in process and that project team needs to carry out investigative works as part of their plan. These details were presented to our client as a landowner. This being a public scheme, they gave permission for a trial pit and bore hole on their land as marked on the map in Fig. x. Their permission pertains to this project alone. This survey work is located on the other side of Blackrock Road from the applicant's proposed entrance and from our client's home.

LCC is asked to note that your own project team deemed that consent was required from our[illegible]nt to undertake these survey works.

They ask LCC to clarify whether or not it is a contradiction to be planning / investigating flood defences within the flood zone as shown and then assessing a proposal for an entrance to a housing development for 502 houses directly opposite?

It is unclear how the applicant claims to have carried out survey works within our client's lands. Our client notes that this permission given to LCC is the only permission given by them to carry out survey work on their lands. Claims made within the applicant project documentation to have surveyed their site can only refer to desk-based survey or possibly satellite or done based surveying as no member of the applicant project team has ever received permission to carry out a survey within their lands and property. This is why the applicant can provide no photographs taken therein. Enviroguide's photos are taken along Blackrock Road, and the project engineer has taken some photos of the wetland sited to the south of the proposed entrance.



Dundalk Flood Relief Scheme
Proposed Site Investigation Works @ Blackrock

To whom it may concern,

Louth County Council is currently in the preliminary design stage of a flood relief sc
Dundalk, including Blackrock. The objective of the scheme is to provide new flood
to Dundalk and Blackrock, and protect both areas from coastal and fluvial (river) flo
this moment in time, proposed Site Investigation Works have been identified at
locations around Dundalk and Blackrock. These investigative works are required in
inform the design of the scheme.

Louth County Council has consulted the publicly available land registry database land
(hosted by Tailte Eireann) and the name and address as shown above (and/or attache
identified on this database as the relevant landowner(s) of a site (or sites) that Louth
Council may wish to carry out some site investigation works within.

Louth County Council wishes to establish appropriate communication channels v
landowners/private property owners that may be affected by the proposed Site Inve
Works.

If the above details are correct and you believe that the proposed works are on your p
Louth County Council would welcome the opportunity to speak and consult with yo
appointed agent regarding the proposed investigative works.

Nichols O'Dwyer & Binnies Joint Venture have been engaged by Louth County Cou
Consulting Civil & Structural Engineers on the scheme Mr Tommy Farrell has been
by the Joint Venture as a Public Liaison Officer for the scheme. Mr Farrell can be cor
087-4191015 to discuss the proposed works. Alternative contact details for Mr Farre
30266915 or tfarrell@nodwyer.com. Any assistance that you can provide to Mr.
Louth County Council in this regards would be gratefully appreciated.

For further information you can visit https://www.floodinfo.ie/frs/en/dundalk/
contact Louth County Council at louthfrp@louthcoco.ie.

faithfully

Keaney
Executive Engineer

Reply

Fig. 1D: Letter received by client from LCC regarding the Dundalk Flood Relief Scheme

Fig. 1E: Letter received by client from LCC regarding the Dundalk Flood Relief Scheme – location of proposed survey works

2.0 Rationale for this planning objection

Our client cannot support this LRD planning application. There is a growing list of reasons why not. These include:

- They have not given consent for this planning application: (1) To be made partly on lands which are in their ownership (see Section 1.2 of this Planning Objection Report); and (2) To propose surface/flood water drainage from the scheme and through their property. The planning application fails to comply with Article 22(1)(d) of the Planning and Development Regulations 2001 (as amended) and with the rights to private property guaranteed under the constitution. No Compulsory Purchase Order has been advertised, and no easement or wayleave exists to give the applicant or LCC any power to force development into, over, or through our client's property and lands.

- The elected members of Louth County Council have voted for rezoning these lands to Strategic Reserve. The re-zoning of the site means that the proposal can no longer be considered permitted in principle. The Section 247 Pre-Planning meeting held on 27th November 2024 discussed this matter. The only point of relevance is that the lands are now zoned "L1 Strategic Reserve". These lands have been downzoned.

- Louth County Council has confirmed that these lands are not currently serviced,

- On 07/06/2024, ABP refused LRD planning application, LCC reg. ref. LRD 2360476 and An Bord Pleanála case reference: LH15.319077. because:

  Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Eireann, the Board was not satisfied a sufficiently developed commitment and specific timeframe has been provided that

demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency in the capacity of sewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board noted in the correspondence from Uisce Eireann that the wastewater connection "...to the north as proposed by the developer would add flows to the Coe's Road pumping station which does not have capacity for the development." Furthermore, Uisce Eireann estimated this capacity upgrade to be completed in 2027. The Board acknowledged the recommendation of the Inspector to grant the 10-year application with the condition that the proposed development would not commence until the upgrade works are completed. However, on balance and in these particular circumstances, the Board considered the estimated timeframe for the required upgrade was not substantiated by demonstrable commitments from Uisce Eireann and, in the absence of this and there being no realistic alternative proposed by the applicant, the Board decided the proposed development would be premature by reference to the existing deficiency in pumping station capacity.

- The previous SHD scheme granted on this site – **signed by Paul Hyde** - was issued in October 2019. The applicant cannot now implement that planning permission. For some reasons which our client does not understand, after the last LRD was refused, the applicant carried out works on the subject lands. The current planning application's development description refers to: "removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required". As these works did not exist at the time of the last LRD and were not included in its development description, LCC is asked to consider why the applicant may have started work. After an LRD refusal and the re-zoning of these lands to Strategic Reserve, perhaps the only option left was to try to act on that permission.

  As LCC is aware, a planning permission is indivisible – see Horne v. Freeney – one cannot pick and choose which part to build. The incomplete works no longer have any planning permission. They are not substantial works that would have provided the basis to further extend the SHD planning permission (having regard to Frenchurch Properties vs Wicklow County Council [1992] 2 IR 268; ESB vs Cork County Council 28 June 2000, unreported High Court; Lennon v Kingdom Plant Hire 13 December 1999 unreported High Court; and others). The applicant's attempt to retain a tenuous link between the current LRD planning application sited on Strategic Reserve lands and the earlier SHD planning permission is no accepted as reasonable by our clients.

  This is a wholly new planning application, and it must be assessed as such. The previous SHD decision has no 'standing' regarding the current planning application's assessment. The applicant Planning Statement notes how: "This planning permission has not yet been implemented owing to issues around the viability of the development, particularly apartments". Our client submits that any further scheme on the applicant site could also be further delayed. This is placing unjustified stress on them and on the residents of the area. The applicant's planning application effectively asks that the previous SHD scheme 5 year permission be converted into a 7 year permission (just many years after the SHD scheme should have been assessed as premature).

- They do not consider these new LRD proposals to represent an acceptable interpretation of national, regional and local planning policy as it pertains to this site and to how any development on this site should respond to its context and to the local environment. Regarding this site, there is no part of the LCDP which could lead "a reasonably intelligent person having in expertise in law or town planning"[2] to determine that it would be acceptable on this site.

- They do not consider the stretch of road on which the scheme's main entrance is located to be suitable for this scheme. The area is located in Flood Zones A and B and the road is on a dangerous stretch of road (according to Gardai Collision Data not provided by the applicant). This entrance is not acceptable on any grounds.

- They do not consider the site to be accessible. Proposed as a scheme which is public transport accessible, the local bus service is found to offer 1 bus per hour from approx. 9:30am to 5:30pm. This is not a bus service for commuter or for school children. The general (empty) capacity of the bus used by the service is not provided nor is the available capacity provided (at the point where it stops closest to the scheme in each direction).

[2] Tennyson v Dun Laoghaire Corporation [1991] 2 I.R. 527 at 535; see also Finn v Bray Urban District Council [1969] I.R. 169; In Re XJS Investments Ltd [1986] I.R. 750; Attorney General (McGarry) v Sligo County Council [1991] 1 I.R. 99 and Keogh v Galway County Council (No.1) [1995] 3 I.R. 457.

ently, under Clane Community Council v An Bord Pleanàla & Ors (Approved) [2023] IEHC 467 (28 July 2023), Judge Humphries raised concerns over applicants returning to pre-planning for schemes quashed by Judicial Review with mostly the same scheme. In the current case, the applicant seeks to argue that the granting of the previous SHD scheme by ABP (pre-dating the most recent LRD scheme refusal) means that the current scheme need only be 'rubber stamped' despite that refusal, the increased density of the scheme relative to the SHD grant, and the concerns raised by our client (see in Section 9.0 of this Planning Objection Report).

Since the SHD decision there has been a new LCDP 2021-2027 and the best scientific evidence available regarding the local area's sensitivity to a residential development of the previous and current scale has changed. SHD reg. ref. 19590 / TA15.304782 was also granted by ABP during a time, as anyone with any access to media now understands, the decision-making capacity of the institution had become flawed. These matters are now, our client understands, addressed. A more credible decision arose under the previous LRD decision.

Concerns arise that the applicant's new LRD planning application fails to properly reflect planning, infrastructure prematurity, and environmental policy. These matters may again end up in the courts unless addressed by LCC. In Kenny v Dublin City Council, Fennelly J[3] stated (at para.26) that "It follows from the principle of objective interpretation that the correct interpretation is a matter of law and can ultimately be decided only by the Court."

Previous objections lodged by our client in respect of the original SHD scheme were mostly ignored by the applicant and by LCC and ABP despite how our client had raised infrastructural prematurity concerns. Their objections to the last LRD scheme were, excepting the issue of infrastructure prematurity as regards foul water drainage, again mostly ignored by LCC and ABP. This is despite how they consider there to be significant areas of non-compliance with the LCDP 2021-2027.

Since the last LRD refusal, a great deal has changed for LCC as regards the subject site. The lands are now zoned Strategic Reserve, and the current planning application seeks to obtain planning permission when the elected members of LCC have confirmed the proposed development is both premature having regard to the new zoning and having regard to available infrastructure.

A development plan must be considered as a whole, and it is important to read the document as a whole to ensure that the correct meaning is attributed to any given section. In Wicklow County Council v Forest Fencing Limited & Anor[4]. Charleton J. held that the development plan should be 'considered in the round' and that "no section should be considered in isolation from the entire document". The development plan is a stand-alone document and unless expressly or inextricably linked should not be interpreted in light of extraneous documentations or plans. Under the Adopted Dundalk Local Area Plan 2025-2031, the site is not currently serviced and even the Office of the Planning Regulator has written to LCC to express how it would like to see the site's zoning reviewed under the "upcoming review of the Louth County Development Plan 2021-2027".

It is important to note that the OPW failed the site on the Justification Test set out in 'The Planning System and Flood Risk Management - Guidelines for Planning Authorities' (Nov 09) – see Fig. 1B. LCC is asked to review the OPW's submission made to the drafting of the Dundalk LAP 2025 as the applicant claims that by various engineering measures, they can make the areas of the site's ground change from being Flood Zones A and B to C and that all parts of the Justification Tests are passed. The OPW recommended the site be rezoned **"for usage appropriate to the level of flood risk"** [emphasis added].

The OPW's submission to the Dundalk LAP 2025 aligns with ABP's original SHD scheme concerns on flood risk. These concerns have never been satisfactorily addressed. The current LRD again asks LCC to take a chance on the issue of flood risk.

[3] [2009] IESC 19.
[4] Wicklow County Council v Forest Fencing Limited & Anor. [2007] IEHC 242.

OPW Oifig na nOibreacha Poiblí Office of Public Works

Forward Planning Section,
Louth County Council,
Town Hall,
Crowe Street,
Dundalk,
Co. Louth
A91 W20C

02/09/2024

RE: Draft Dundalk Local Area Plan 2024 - 2030

Fig. 1B: The OPW's submission to the Dundalk LAP 2025 (Source: Online LCC Consultation Portal)

Blackrock

Areas of undeveloped land in Blackrock which overlap with Flood Zones A and B, including adjacent to Coast Road and west of Dublin Road, have been zoned highly vulnerable Existing Residential and less vulnerable General Employment. These lands have, as Site 16, been assessed against the criteria of the Plan Making Justification Test, and have been found not to have satisfied part 2. As set out above, if undeveloped lands have not satisfied the Justification Test, following the sequential approach substitution might be used to rezone the lands for usage appropriate to the level of flood risk.

Fig. 1C: The OPW's submission to the Dundalk LAP 2025 (Source: Online LCC Consultation Portal)

An Bord Pleanála

Record of Meeting
ABP-303256-18

Case Reference / Description	10year permissionfor 485 no. residential units (260 no. houses, 225 no. apartments) two new vehicular access points and associated site works. Blackrock Road, Blackrock Dundalk Co Louth.		
Case Type	Section 5Pre-Application Consultation Request		
1st/2nd/3rd Meeting	1st Meeting		
Date:	31st January, 2019	**Start Time**	11.30 am
Location	Offices of Louth County Council	**End Time**	12.30 pm
Chairperson	Rachel Kenny	**Executive Officer**	Cora Cunningham

4. Surface water management to include risk of flooding and AA considerations

ABP sought further elaboration/discussion on:

- Potential for displaced waters on adjoining lands in terms of surface water management/flood risk
- Risk of flooding at the proposed entrances
- Flood risk in the context of EIAR and potential impacts on human health and population

Fig. 1D: The OPW's submission to the Dundalk LAP 2025 aligns with ABP's original SHD scheme concerns on flood risk (Source: ABP Planning file for the SHD)

Beyond the principle of development on Strategic Reserve lands and concerns over servicing the site with wastewater infrastructure, an example of non-compliance with the LCDP is that it is our client's opinion that applicant's Appropriate Assessment and Natura Impact Assessment Reports do not meet the minimum requirements for preparing these documents. Our client's concerns must be addressed by the applicant. The previous LCC LRD Planner's Report mostly ignored these concerns (and many others) because, it seems, beyond summarising our client's objection in a list of objector's concerns within this report, those concerns were not given any equivalent material weight to the submissions made by the applicant. In Sandyford Environmental Planning and Road Safety Group Ltd. v Dun Laoghaire Rathdown County Council, it was held by McKechnie J.[5] that no formula or method is required by which the submissions and observations are to be summarised. The question is whether the

[5] 70 [2004] IEHC 133.

submissions and observations were sufficiently outlined in their substance and materiality. This was recently affirmed by Baker J. in Byrnes v Dublin City Council[6].

This Planning Objection Report shows how the applicant proposals may adversely impact the local environment and our client's property. The scheme's environmental and surface water drainage proposals may not be fit for purpose. In Kerry County Council v An Bord Pleanála [2014] IEHC 238, a challenge was made to the decision of the Board to refuse consent in respect of a road scheme. One ground of challenge was that the Board had failed to have regard to the needs of road users, both as provided for under the Roads Act 1993 and by policy and objectives of the Government. The High Court held that in quashing the decision that the Board had failed "to consider the needs of cyclists and pedestrians" and that there was "no evidence which supports the contention that regard was had by An Bord Pleanála to the strategy of the Government in regard to cyclists, as expressed in legislation or of the responsible plans of statutory bodies". In the current case, there is a need to consider our client's concerns which were not addressed under the previous residential schemes lodged as both an SHD and later as an LRD.

The current development is a significant departure from the vision of the previous LCDP 'and' is characterised by the design of the previous SHD and LRD schemes.

Our client does not understand how the previous proposals could be granted by ABP or how this new denser scheme can now have been lodged twice. They consider that a scheme of much greater environmental sensitivity would be more planning policy compliant and in line with the OPW's recommendation in Fig. 1B. Balz v. An Bord Pleanála [2019] IESC 90 states:

> *It is a basic element of any decision-making affecting the public that relevant submissions should be addressed and an explanation given why they are not accepted, if indeed that is the case. This is fundamental not just to the law, but also to the trust which members of the public are required to have in decision making institutions if the individuals concerned ...*

In all, our client submits that the previous SHD scheme grant, signed by Paul Hyde, should not cause prejudgment in this case. There should be no hint of bias in the sense that the previous SHD decision could influence LCC's decision. This is especially as the last LRD scheme was refused and the lands are now re-zoned. In Nurendale Ltd t/a Panda Waste Services v Dublin City Council certain public comments made by officials of a local authority gave rise to a reasonable apprehension of bias. In the High Court. McKechnie J said: "[T]he ultimate question must always be: "**would a reasonable person have a reasonable apprehension of bias on the part of the decision-making body**" [emphasis added]. In the current case, pre-planning feedback focused on revising the refused LRD scheme to address ABP's reasons for refusal rather than on encouraging a new scheme.

Section 6.0 of this Planning Objection Report sets out a list of areas where the applicant has provided insufficient and inadequate information. In such instances, it is normally the proper course for the planning authority to refuse the planning application (see O'Connor's Downtown Properties Limited v Nenagh UDC[7]).

We note how LCC is:

- confined to consideration of statutory planning zonings and objectives[8] and should not be unduly influenced by any guidelines including Ministerial Guidelines. That LCC is not required to "rigidly comply with the guidelines' recommendations" was accepted under McEvoy and Smith v Meath County Council[9] and the new LCDP 2022-2028 post-dates the introduction of SPPRs; and
- not permitted to be bound or influenced by the pre-application consultation stage (see O'Callaghan v. An Bord Pleanála, Manley Homes Ltd v. An Bord Pleanála [2022] I.E.H.C. 147, and Redmond v. An Bord Pleanála [2020 I.E.H.C. 151]). The previous LRD refusal, the re-zoning of these lands, and the difficulties in servicing this site with foul drainage must reasonably support a decision to refuse planning permission. While pre-planning discussions have taken place with LCC, Subsection 6(9) of the 2016 Act expressly precludes any reliance being placed on the pre-application stage in the determination of a planning application.
- required to respect referral submissions made by prescribed bodies such as the OPW (see Fig. 1B).

Given this planning application is framed by the applicant as updates to the previous LRD scheme (and the previous SHD scheme is even mentioned in the development description issued on the statutory notices), concerns arise as to whether the applicant has fully environmentally assessed and/or whether LCC has sufficient and sufficiently updated evidence-based reports to Appropriately Assess and to

[6] 71 [2017] IEHC 19.
[7] [1993] 1 I.R. 1.
[8] McCaughey Developments Limited v Dundalk Town Council [2011] IEHC 193.
[9] [2003] 1 I.R. 208.

Environment Impact Assess this new LRD scheme. Any LCC decision is subject to the limitations set out by the CJEU in Holohan and decisions such as Sliabh Luachra Against Ballydesmond Windfarm Committee v An Bord Pleanála [2019] IEHC 888 and Donnelly v An Bord Pleanála [2021] IEHC 834.

It is of note that LCC registered a range of concerns at pre-planning stage as regards both the current and the previously refused LRD scheme. These concerns include that these lands are now zoned Strategic Reserve. These have not been fully addressed by the applicant. This raises much the same concerns assessed by the Supreme Court under Friends of the Irish Environment v. Ireland [2022] IESC 42.

It is our client's opinion that the applicant has failed to address:

- ABP's reasons for refusal issued under the previous LRD.
- LCC's reasons for refusal issued under the previous LRD which was later appealed to ABP.

The planning application is deficient in these regards and is contrary to planning law.

Our client asks that LCC refuse permission to protect their property and to protect the receiving environment.

There are areas of this scheme which would be of value to the community; however, as currently submitted for assessment by LCC, the scheme would impose overdevelopment impacts on our client's property, on the area and on the local environment (including birds, bats and the SPA and SAC).

2.1 Review of whether the applicant has addressed ABP's refusal reasons

In refusing the previous LRD, ABP's decision was very specific as to its concerns:

- **ABP Concern**: "The Board was not satisfied a sufficiently developed commitment and specific timeframe has been provided that demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency in the capacity of sewerage facilities ..."

  What has changed?

  The answer is that not much has changed.

  On the issue of capacity of sewerage facilities

  Uisce Eireann has again issued Confirmation of Feasibility (this time around it is Ref. CDS24010739) as it has done before for this and other proposed developments in Dundalk. Uisce Eireann states only that a connection is feasible "subject to upgrades" and then only if all other planning permissions granted in the wider area do not seek connections at the same time.

  The issue is not whether a connection is feasible, the issue is whether the existing deficiency in the capacity of sewerage facilities is to be addressed by Uisce Eireann before the proposed development comes online and needs access to an effective wastewater treatment system.

  The applicant's statements on this issue fail to address ABP's concerns. The Planning Statement and Infrastructure Design Report argue that "capacity is available", yet Uisce Eireann is not proposing any upgrade works to address existing deficiencies in the capacity of its sewerage facilities. Further, the applicant's own calculations confirm that even the claimed available capacity in the existing deficient Uisce Eireann sewerage facilities could only be accessed by limiting flows from the site.

  The Planning Statement's Section 1.1 describes this Confirmation of Feasibility as being: "albeit subject to a pumping schedule with flows over 61m3 to be stored on site during the day and discharged in the night, from 7pm to 7am". One has to read to Section 7.7 'Wastewater' of the Planning Statement to find out what this means. It means that nothing has changed. As per the point at which ABP refused the previous LRD planning application, it remains the case that a new wastewater connection is feasible subject to upgrades (a situation applicable to many undevelopable sites across Ireland). Section 7.7 confirms that the current planning application depends again on "interim proposals" required to address the same deficiencies. The Planning Statement essentially repeats the appeal stage arguments made by the applicant under the previous LRD stating:

  > *Where a connection for the proposed development is required in advance of the upgrade of the Coe's Road upgrade, the CoF confirms that* ***the development can proceed by applying*** *the following* ***interim proposals****:- "****Flows from the pumping station*** *constructed under Phase 1 of the development (serving 200 units)* ***shall not be increased during daytime hours*** *(ie 7am*

> *to 7pm). This would amount to approximately 61m3 total volume pumped in these hours.* ***The remaining balance of flows (serving 303 units) would be stored during the day then discharged in the night (7pm to 7am) Dosing would be required to avoid septicity.*** *This arrangement* ***would be temporary until the Coe's road upgrade project is completed****. Once this is completed the pumping station can operate* ***as normal*** *through out the day* [emphasis added]

Our client respectfully submits that had ABP considered this an acceptable way forward (which its Planning Inspector had mostly recommended it accept), then it would have granted the previous LRD scheme. It did not as ABP does not, in the experience of BPS in areas such as Arklow in County Wicklow and many others, permit developments which rely on "interim" or temporary proposals as regards wastewater treatment or developments which rely on future upgrades of infrastructure for which there is no definitive timeline.

On the issue of a Connection Agreement for 502 units

The applicant is – again – depending on a Connection Agreement between Uisce Eireann and the landowner which dates back to prior to the submission of the SHD scheme. In a context where the most recent LRD refusal on the site pertains to the need for any future development to have access to an effective wastewater treatment system, it is reasonable to expect that a new agreement would have been made since that refusal was issued. This is especially as the current scheme is for 502 residential units and the now somewhat antique Connection Agreement pertains only to 200 units. The current scheme is 2.5 times the size of that on which the agreement was made and essentially includes a second scheme of 200 units and a further scheme of 100 units.

At the Section 247 Pre-Planning meeting held on 27th November 2024, the applicant also stated: "Uisce Éireann confirmed serviceability for 502 units, with a wastewater connection agreement for 200 units already in place". This issue has not been resolved despite now dating back many years.

On the issue of seeking to link the current LRD to the SHD scheme

At all times and especially on the issue of wastewater drainage, the applicant continues to try to link the current LRD planning application to the previous SHD scheme decision signed by Paul Hyde. That decision no longer has any bearing in this matter and its associated documentation as it pertains to (then) Uisce Eireann should be disregarded pending their being wholly updated. The inference in the current planning application is 'if ABP could overlook these concerns for the SHD scheme; why not for the current scheme?'

The current LRD planning application is accompanied by no less than two attempts to try to make it appear that these proposals are only a continuation of the SHD scheme:

1. The applicant is fully aware that the SHD permission (reg. ref. TA15.304782[10]) has lapsed. A 5 year permission only was issued on 7/10/2019. At the time of the previous LRD refusal, it was clear to all parties that there was no time to implement the SHD scheme to achieve substantial works. That permission has now fully lapsed, yet the current LRD planning application repeatedly states: "the applicants have also recently received, and paid for, a Connection Agreement for the first phase of 200 units under the extant SHD permission (ABP Ref: 304782-19) on the subject lands ..." The SHD scheme has no relevance in the current case. It is interesting to note that under the previous LRD, the accompanying Planning Statement stated of the SHD permission: "This planning permission has not yet been implemented owing to issues around the viability of the development, particularly apartments". **Why would the applicant pay to implement a condition on a lapsed planning permission? The answer is obviously to try to keep a lapsed permission alive.**

2. After the LRD scheme refusal was issued by ABP, works were carried out (much to the consternation of our client) on site. The current development description now refers to: "removal of works completed under previously permitted SHD development including the foundations for 5 no. houses ..." **No explanation is provided for the decision to carry out works on the site which could not – in the time available – amount to substantial works on the back of which an extension of duration of the lifetime of that permission could be achieved**. Again, this is an attempt to keep the lapsed SHD permission alive.

Concerns arise that the applicant continues to try to keep the SHD scheme permission alive when it is no long active. As per Horne v. Freeney, the applicant cannot activate only part or parts of a planning permission and not all. Paying for a Connection Agreement pertaining to a lapsed SHD scheme planning condition is not relevant to the current case.

[10] https://www.pleanala.ie/en-ie/case/304782

On the issue of "Design Acceptance"

The applicant argues that Uisce Eireann has issued a Statement of Design Acceptance (SoDA) for the proposed development. This issue is unrelated to capacity in the public sewerage system which is ABP's concern. The ABP concern, articulated in its LRD refusal, is to avoid interim and temporary measures and also to ensure the development is not reliant on

- **ABP Concern:** "the Board noted in the correspondence from Uisce Eireann that the wastewater connection "...to the north as proposed by the developer would add flows to the Coe's Road pumping station which does not have capacity for the development." Furthermore, Uisce Eireann estimated this capacity upgrade to be completed in 2027 ..the Board considered the estimated timeframe for the required upgrade was not substantiated by demonstrable commitments from Uisce Eireann and, in the absence of this and there being no realistic alternative proposed by the applicant, the Board decided the proposed development would be premature by reference to the existing deficiency in pumping station capacity".

What has changed?

The answer again is that not much has changed.

On the issue of the Coe's Road Pumping Station

The applicant refers again to the abovementioned SHD scheme Connection Agreement for 200 no. units to discharge wastewater to the Coe's Road Pumping Station. The most recent ABP LRD decision post-dates this Connection Agreement. Had ABP considered it possible to grant permission on this basis, it would have done so.

LCC is asked to essentially re-visit the previous ABP decision with much the same situation arising as regards the Coe's Road Pumping Station.

Section 8. 'Conclusion' of the Planning Statement argues that: "the entirety of the development can discharge to the Coe's Road Pumping Station even before **the proposed upgrade is completed in Q1 2030**" [emphasis added] and Section 5.2 'Uisce Eireann Pre-Connection Enquiry and Confirmation of Feasibility' of the Infrastructure Design Report argues the same.

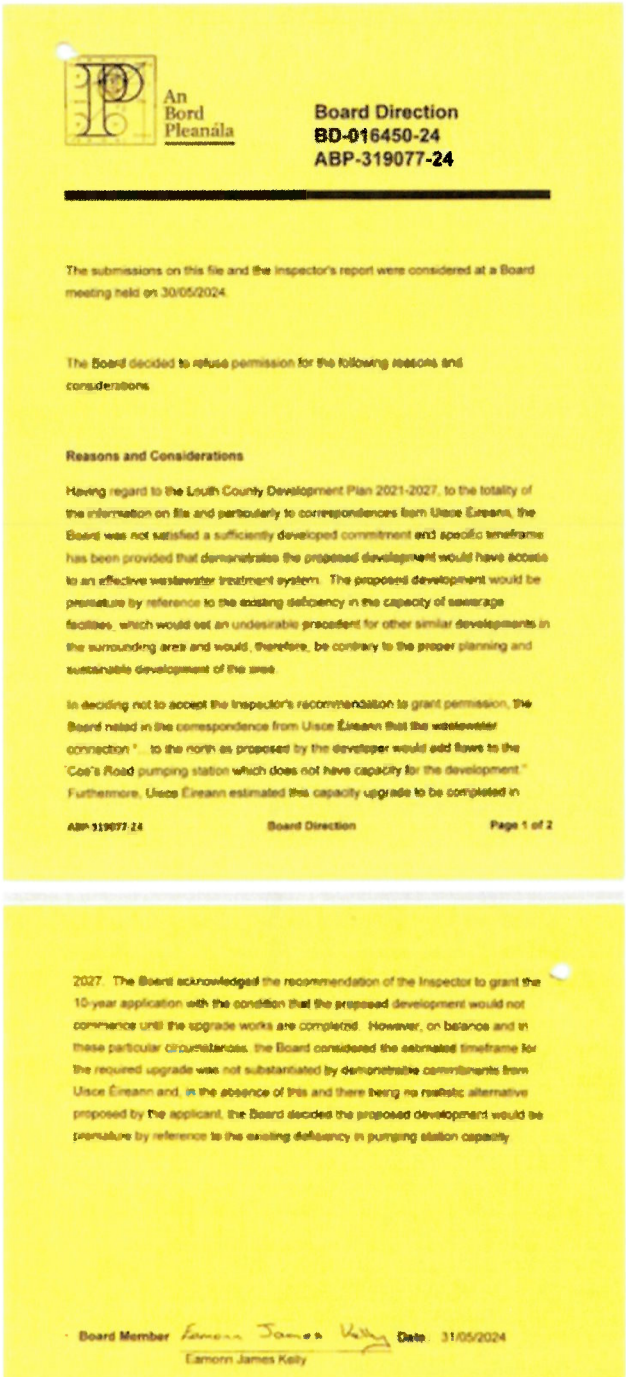
The Uisce Eireann CoF letter (contained in Appendix C of the Infrastructure Design Report in fact states:

> ***Upgrade works are required to increase the capacity of the existing wastewater network.*** *Uisce Eireann currently has a project on our current investment plan which will provide the necessary upgrade and capacity.* ***This upgrade project is scheduled to be completed by Q1 2030*** *(this may be subject to change) and* ***the proposed connection could be completed as soon as possible after these works.*** *Customer to engage at Connection Application stage. Where a connection is proposed in advance of the Coe's Rd project the following interim solution is required to confirm capacity as per below. Flows from the pumping station constructed under Phase 1 of the development (serving 200 units) shall not be increased during daytime hours (ie 7am to 7pm). This would amount to approximately 61m3 total volume pumped in these hours. The remaining balance of flows (serving 303 units) would be stored during the day then discharged in the night (7pm to 7am). Dosing would be required to avoid septicity.* ***This arrangement would be temporary until the Coe's Road upgrade project is completed.*** *Once this is completed the pumping station can operate as normal throughout the day.*

That is, nothing has changed. By relying on "interim" temporary measures of the kind ABP did not previously support, the proposed development could proceed on the basis that the Coe's Road Pumping Station will be upgraded at some point in the future. That point in the future is revealed to have changed (as ABP anticipated in its refusal). Under the previous LRD "Uisce Eireann estimated this capacity upgrade to be completed in 2027" and "The Board considered the estimated timeframe for the required upgrade was not substantiated by demonstrable commitments from Uisce Eireann" (quotes from the ABP Order). The current LRD planning application now refers to the Coe's Road Pumping Station being completed in Q1 2030. This is a considerably longer timeline than was available to ABP when it issued its refusal decision.

ABP did not accept that temporary measures such as on site foul waste storage requiring dosing in close proximity to our client's property would be acceptable for the years up to the opening of the upgraded Coe's Road Pumping Station. Temporary measures such as those proposed by the applicant were proposed in towns such as Arklow for 20 years before the Arklow WWTP was finally commissioned. In Arklow, ABP never accepted temporary measures such as those proposed.

laking foul waste management an on-site matter with temporary storage tanks is something our client cannot possibly support.



An Bord Pleanála

Board Direction
BD-016450-24
ABP-319077-24

The submissions on this file and the inspector's report were considered at a Board meeting held on 30/05/2024.

The Board decided to refuse permission for the following reasons and considerations.

Reasons and Considerations

Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Éireann, the Board was not satisfied a sufficiently developed commitment and specific timeframe has been provided that demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature by reference to the existing deficiency in the capacity of sewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board noted in the correspondence from Uisce Éireann that the wastewater connection "... to the north as proposed by the developer would add flows to the 'Coe's Road pumping station which does not have capacity for the development." Furthermore, Uisce Éireann estimated this capacity upgrade to be completed in

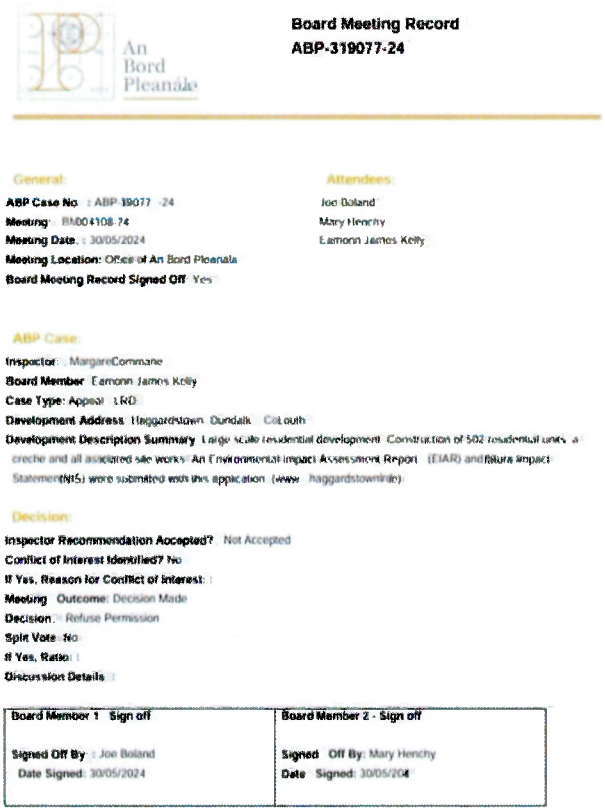
ABP 319077-24 Board Direction Page 1 of 2

2027. The Board acknowledged the recommendation of the Inspector to grant the 10-year application with the condition that the proposed development would not commence until the upgrade works are completed. However, on balance and in these particular circumstances, the Board considered the estimated timeframe for the required upgrade was not substantiated by demonstrable commitments from Uisce Éireann and, in the absence of this and there being no realistic alternative proposed by the applicant, the Board decided the proposed development would be premature by reference to the existing deficiency in pumping station capacity.

Board Member Eamonn James Kelly Date: 31/05/2024

Eamonn James Kelly

Fig. 2: ABP Direction for its unanimous decision to refuse (Source: Online appeal file)



An Bord Pleanála

Board Meeting Record
ABP-319077-24

General:

ABP Case No. : ABP-319077-24
Meeting: BM004108.74
Meeting Date. : 30/05/2024
Meeting Location: Offices of An Bord Pleanála
Board Meeting Record Signed Off Yes

Attendees:

Joe Boland
Mary Henchy
Eamonn James Kelly

ABP Case:

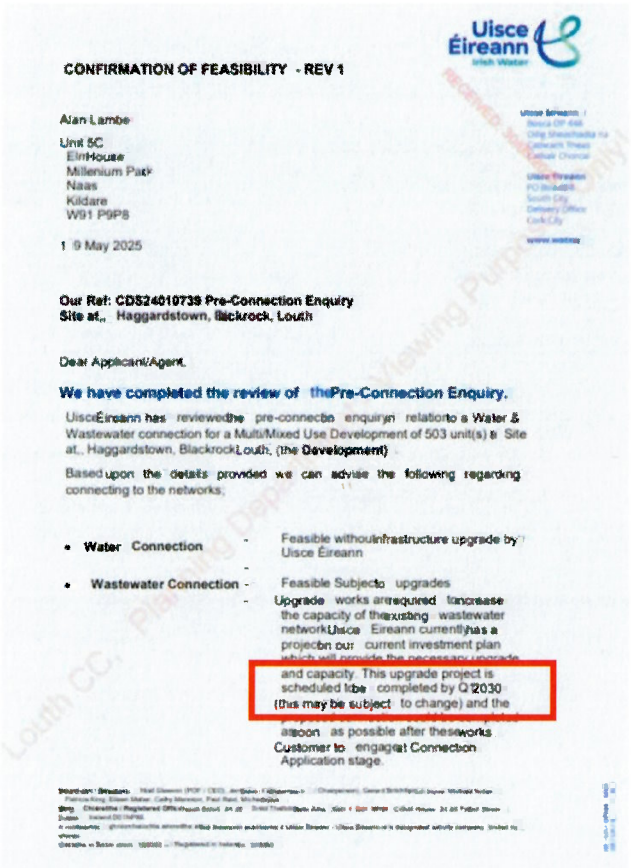
Inspector: MargaretCommane
Board Member Eamonn James Kelly
Case Type: Appeal : LRD
Development Address Haggardstown Dundalk Co.Louth
Development Description Summary Large scale residential development Construction of 502 residential units, a creche and all associated site works. An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement(NIS) were submitted with the application (www. haggardstownlrd.ie).

Decision:

Inspector Recommendation Accepted? Not Accepted
Conflict of Interest Identified? No
If Yes, Reason for Conflict of Interest :
Meeting Outcome: Decision Made
Decision: Refuse Permission
Split Vote: No
If Yes, Ratio: :
Discussion Details :

Board Member 1 - Sign off	Board Member 2 - Sign off
Signed Off By : Joe Boland **Date Signed**: 30/05/2024	**Signed Off By**: Mary Henchy **Date Signed**: 30/05/204

Fig. 3: ABP Board Meeting Record for its unanimous decision to refuse (Source: Online appeal file)



Uisce Éireann
Irish Water

CONFIRMATION OF FEASIBILITY - REV 1

Alan Lambe
Unit 5C
ElmHouse
Millenium Park
Naas
Kildare
W91 P9P8

19 May 2025

Our Ref: CDS24010739 Pre-Connection Enquiry
Site at,, Haggardstown, Blackrock, Louth

Dear Applicant/Agent,

We have completed the review of thePre-Connection Enquiry.

UisceÉireann has reviewedthe pre-connecbn enquiryin relationto a Water & Wastewater connection for a Multi/Mixed Use Development of 503 unit(s) a Site at,, Haggardstown, BlackrockLouth, (the **Development**)

Based upon the details provided we can advise the following regarding connecting to the networks.

- **Water Connection** - Feasible withoutinfrastructure upgrade by Uisce Éireann
- **Wastewater Connection** - Feasible Subjecto upgrades

Upgrade works arerequired tincrease the capacity of theexisting wastewater networkUisce Eireann currenthas a projecbn our current investment plan and capacity. This upgrade project is scheduled tbe completed by Q'2030 (this may be subject to change) and the

asoon as possible after theseworks Customer to engageat Connecton Application stage.

Fig. 4: Uisce Eireann letter dated 19th May 2025 – page 1 (Source: Online planning file)

Where a connection is proposed in advance of the Coe's Rd Project the following interim solution is required to confirm capacity as per below.
Flows from the pumping station constructed under Phase 1 of the development (serving 200 units) shall not be increased during daytime hours (ie 7am to 7pm). This would amount to approximately 61m3 total volume pumped in these hours. The remaining balance of flows (serving 303 units) would be stored during the day then discharged in the night (7pm to 7am)
Dosing would be required to avoid septicity
This arrangement would be temporary until the Coe's road upgrade project is completed. Once this is completed the pumping station can operate as normal through out the day.

This letter does not constitute an offer, in whole or in part, to provide a connection to any Uisce Éireann infrastructure. Before the Development can be connected to our network(s) you must submit a connection application and be granted and sign a connection agreement with Uisce Éireann.

As the network capacity changes constantly, this review is only valid at the time of its completion. As soon as planning permission has been granted for the Development, a completed connection application should be submitted. The connection application is available at www.water.ie/connections/get-connected/

Where can you find more information?

- **Section A** - What is important to know?
- **Section B** - Details of Uisce Éireann's Network(s)

This letter is issued to provide information about the current feasibility of the proposed connection(s) to Uisce Éireann's network(s). This is not a connection offer and capacity in Uisce Éireann's network(s) may only be secured by entering into a connection agreement with Uisce Éireann.

For any further information, visit www.water.ie/connections, email newconnections@water.ie or contact 1800 278 278.

Fig. 5: Uisce Eireann letter dated 19th May 2025 – page 2 (Source: Online planning file)

2.2 Review of whether the applicant has addressed LCC's recommended refusal reasons

BPS notes that LCC's decision (prior to that issued by ABP) under the previous LRD was also a refusal, issued on 07/06/2024, which included refusal reasons as follows:

LCC Reason for Refusal 1 – Foul drainage:

> ***1. Due to the inadequacy of the information provided with the application, particularly in relation to wastewater disposal, surface water drainage, water flow rate calculations and biodiversity, the Planning Authority is unable to carry out a comprehensive environmental impact assessment of the proposed development as required by legislation. Accordingly, to permit the proposed development would be contrary to the proper planning and sustainable development of the area, and in such circumstances the Planning Authority is precluded from granting permission*** [emphasis added].

LCC Concern 1 of Reason for Refusal 1 – Foul drainage:

At the LRD Pre-planning meetings for the current LRD, LCC asked that this issue be addressed. This has not taken place. The above review of the wastewater disposal proposals currently submitted confirms that the applicant has once again placed LCC in a position where it is being asked to permit interim or temporary measures wastewater disposal measures to facilitate a scheme of 502 units when UE has made clear that the earliest possible date for the completion of the necessary upgrade to the Coe's Road Pumping Station by Q1 2030 at the earliest (this date representing a slippage of no less than 3 years on the previous predicted date by which the upgrade would have taken place which raises concerns as to the likely efficacy of UE in this regard).

Review of applicant response to LCC Concern 1:

Appendix A of the Infrastructure Design Report responds in summary form to the previous LRD scheme's LCC Planner's Report. Its response on the issue of wastewater disposal is, for the reasons set out above, insufficient and fails to address LCC's and ABP's concerns.

We note that the UE letter is dated 19th May 2025 which means there is no possibility that LCC had sight of this prior to this planning application being lodged.

LCC Concern 2 of Reason for Refusal 1 – Surface water drainage:

At the LRD Pre-planning meetings for the current LRD, LCC asked that this issue be addressed.

Review of applicant response to LCC Concern 2:

Appendix A of the Infrastructure Design Report responds in summary form to the previous LRD scheme's LCC Planner's Report. Its response on the issue of surface water drainage is selective and incomplete. It fails to include the details and drawings of how surface water is proposed to be directed through our client's property without their consent and without any adequate assessment of the likely impact on their property of this. The figures included are only those which show infrastructure being located along public roads, etc. Claims are made under the heading 'Flow rate calculations' and also in Section 4.2 in the Infrastructure Design Report that: "existing channels / watercourses convey both tidal flows (during high tide) and surface water runoff for the development site and the surrounding area. The channels / watercourses, which are **predominately located within private lands**, have the capacity to take the attenuated flow from the development. The existing channels carry surface water flows at current greenfield rates" [emphasis added].

The applicant argues that no other permissions or consents are required. This is not acceptable. The applicant makes multiple assumptions and asks LCC to do the same. The project engineers have not entered our client's property, have not surveyed the channel/watercourse which passes through their property's front garden, and their surface water design is therefore based on forcing the scheme's surface and flood waters through a private property in areas in Flood Zone A (which may be underwater precisely when the applicant site most needs to discharge surface and flood waters into their private property), through a channel/watercourse which may or may not be suitable for this, and assumes that our client will maintain this channel/watercourse for perpetuity ensuring it never becomes blocked, etc.

LCC would not allow a scheme of 502 units to channel its surface and flood waters into the public drainage system if the relevant area of the system was in Flood Zone A, if it was unsure if that system could accommodate it, or if that system would or could be maintained over time or if that system needed to be upgraded. Why should our client be treated any differently? The applicant must provide its drainage connections to public sewers/drains or obtain consent to pass these waters into private properties. The applicant has no wayleave or easement over our client's property but is essentially asking LCC to assume there is one (in the same way that a housing estate might be built with an underground pipe passing through many properties). The applicant proposals represent proposed interference in our client's property rights guaranteed under the constitution. Our client considers that the proposals would cause an increased risk of flooding within their property – within areas which are already sited in Flood Zone A, and they do not accept the inference that part of their property can be considered public land over which the applicant should have a right to treat it as drainage infrastructure. This would also impact on the value of their property.

Attempts are made, again ,to link the current scheme to the previous SHD scheme. We note that our client was not aware, at that time, of how that scheme included areas of their lands and set out proposals to pass surface water through the front garden of their property.

LCC Concern 3 of Reason for Refusal 1 – Biodiversity

At the LRD Pre-planning meetings for the current LRD, LCC asked that this issue be addressed.

Review of applicant response to LCC Concern 3:

Our client's objections and appeal submissions in respect of the previously refused LRD scheme provided details of the biodiversity which arises within their lands. The Dundalk Bay SAC and SPA are very close with their lands comprising the edge of the settlement as it abuts the SAC. As a result of this siting, their property and lands experience a wide range of biodiversity. The NPWS sets out a list of the species which frequent this area and most have at some point passed into or through their property and lands. Theirs is an ex-situ area for biodiversity with their pond attracting many species. This biodiversity needs to be protected. For the reasons set out in this Planning Objection Report, our client does not share the confidence of the project ecologist that this development would not significantly impact on the SAC and SPA as it is not possible to draw a line and assume species protected under the SAC will not pass outside of these areas and/or their habitats within the SPA and SAC will not be adversely impacted by surface and flood water run-off or foul water discharged from any Dundalk WWTP.

As LCC is aware, Uisce Eireann has admitted that the Dundalk Waste Water Treatment Plant (WWTP), needs planned upgrades to accommodate the development. There have been exceedances in effluent discharge limits. The additional load from the development is considered significant in this context. The Dundalk WWTP continues to impact adversely every year on the SAC and SPA, and it is into this plant

the applicant seeks to directly discharge their sewage. Received sewage in turn often ends up in the bay untreated by way of accidental discharges and overflows arising from issues with the extant WWTP. There is a need to ensure that there are no accidental spillages of foul water from this site due to any temporary measures and/or arising from delays to the Coe's Road Pumping Station's upgrade.

LCC Reason for Refusal 2

> *2. On the basis of the information provided with the application, particularly in relation to waste water disposal, surface water drainage, water flow rate calculations and biodiversity, the Planning Authority cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European sites Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026) or any other European site, in view of the site's Conservation Objectives. Accordingly, to permit the proposed development would be contrary to the proper planning and sustainable development of the area, and in such circumstances the Planning Authority is precluded from granting permission.*

At the LRD Pre-planning meetings for the current LRD, LCC asked that this issue be addressed.

Review of applicant response to LCC Reason for Refusal 2

Our client agrees with LCC that insufficient information was provided by the applicant under the previous LRD and these concerns arise again in this new LRD planning application.

The issues are much the same as those addressed above.

To address these issues, the applicant has essentially re-submitted the previous AA and NIS Enviroguide reports and argued that the ABP refusal decision did not specifically raise concerns as to likely impacts on Natura 2000 sites. The problem with this argument is that LCC must be 100% confident that the applicant can address surface/flood water drainage, foul drainage, and all construction phase works in a manner which does not impact on the Dundalk Bay SAC and SPA, and this is notwithstanding that the entire site is an ex-situ site for wildlife as is our client's property and lands. It is hard to imagine that our client's property and lands experience significant visitations from a wide range of biodiversity, but the adjoining lands the subject of this planning application do not.

Concerns arise as regards both foul and surface/flood water drainage including of foul drainage interim and temporary measures, of surface/flood waters as they would pass from the site into private properties (including an area of our client's property sited in Flood Zone A) and the SAC/SPA areas, and over species which will lose habitat and be threatened by this development.

This Planning Objection Report sets out a range of concerns over the submitted AA and NIS reports.

LCC Reason for Refusal 3

> *Policy Objective HOU 29 of the Louth County Development Plan 2021 – 2027 (as varied), seeks to ensure that "all new residential developments in excess of 20 residential units provide for a minimum of 30% universally designed units in accordance with the requirements of 'Building for Everyone: A Universal Design Approach' published by the Centre for Excellence in Universal Design". The proposed development provides only 11% universally designed units (53 units) and therefore materially contravenes Policy Objective HOU 29 of the County Development Plan, would set an undesirable precedent for other similar developments in the surrounding area and is contrary to the proper planning and sustainable development of the area.*

At the LRD Pre-planning meetings for the current LRD, LCC asked that issues pertaining to the design of the scheme be addressed.

Review of applicant response to LCC Reason for Refusal 3

Our client agrees with LCC that an inadequate design response was provided by the applicant under the previous LRD and these concerns arise again in this new LRD planning application.

2.3 The implications of Clane Community Council v An Bord Pleanàla & Ors

In the case, Clane Community Council v An Bord Pleanàla & Ors (Approved) [2023] IEHC 467[11] (28 July 2023), the High Court granted an order quashing a decision of An Bord Pleanála to grant planning permission for a 'strategic housing development', on the grounds that the development was in material contravention of the relevant development plan, and the Board had failed to establish that the

[11] https://decisis.ie/clane-community-council-v-an-bord-pleanala-ors/

development was of strategic or national importance. The judgement expressed concerns th(he proposal was much the same as a previous proposal when a fully new planning application should nave been lodged.

In the current case, the proposal material contravenes the zoning and is mostly a repeat of an LRD planning application refused by ABP only on 07/06/2024. The applicant knows the lands have been downzoned and that the Coe's Road Pumping Station will not be upgraded until 2023 *up from 2027 when ABP refused permission).

The applicant has lodged a second LRD scheme which effectively seeks to modify – by way of increased density, etc. - a previously permitted, now lapsed, SHD scheme. Our client opposed the ABP SHD decision.

This is a wholly new planning application and must be treated as such. The applicant's attempt(s) to pick and choose those parts of the lapsed SHD decision which they want to retain and those they do not wish to retain is not accepted; neither is the attempt to force additional density into this sensitive site.

Prior to setting out our client's objection, BPS notes that much of the applicant's planning application and relies on the previous SHD application. In this regard, Clane Community Council v An Bord Pleanàla & Ors (Approved) [2023] IEHC 467 (28 July 2023) cannot be ignored.

It is our client's opinion that this planning application should be refused, and these lands only possibly re-zoned in lien with the OPW's recommendation set out in Fig. 1B. The current LRD planning application is essentially the SHD scheme just with some amendments. It is the SHD scheme part III. The previous refused LRD was the SHD part II.

The LCC pre-planning stages and decision rely almost entirely on plans and details which were and are derived from the SHD scheme amended to become the refused LRD scheme.

This current LRD planning application asks LCC to effectively re-assess ABP's refusal decision on the previous LRD.

The applicant did not design an entirely new scheme before initiating a new pre-application consultation - rather it relied on the previously refused scheme.

The pre-consultation procedure carried out under Sections 32A to 32G of the Planning and Development Act 2000 (as amended) is invalid as initial mandatory consultations under section 247 were held as essentially the next stepping stone in the ongoing assessment of the previous LRD planning application.

Section 32B sets out the detailed documentation required to be submitted. The documentation submitted was and is the previous LRD scheme. Section 32C requires the planning authority to hold an LRD meeting within 4 weeks of receipt of the request made to it. The LCC meeting notes confirm that it considered the LRD scheme to essentially be the previous LRD scheme. The Section 32D LRD opinion issued by LCC raises concerns that the subject lands are now re-zoned to Strategic Reserve and they cannot be served as regards wastewater disposal. The previous LRD scheme did not constitute a reasonable basis on which to make this new application. The LRD opinion sets out how the previous LRD scheme should be revised. The LCC LRD opinion has not been addressed.

The applicant has placed unlawful reliance on pre-consultation pertaining to the previous LRD scheme. The applicant has regrafted the refused LRD scheme into a second planning application. This has further resulted in specific deficiencies with the planning application itself.

It is the case that the current LRD scheme raises the same objections from our client as the refused LRD scheme as they are materially the same. This new scheme raises significant environmental and other concerns (see Section 9.0 of this Planning Objection Report). The submitted EIAR and NIS are materially the same as those submitted regarding the refused LRD scheme (over which LCC itself issued a refusal including as regards the likely adverse impact of the scheme on Dundalk Bay SAC and SPA.

3.0 Proposed Development

Planning permission for a Large-Scale Residential Development for:

1. 7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising:40 no. 1 bed maisonettes,147 no. 2 bed mid-terrace 2 storey house ,276 no. 3 bed end of terrace and semi-detached 2 storey houses ,1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses,

2. 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking.

3. New access off Blackrock Road providing for vehicular, pedestrian and cycle access and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol.

4. Infrastructure and services for the proposed development including surface water infrastructure, water mains and a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172) and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network.

5. Associated public and private open space, landscaping and amenity areas including a large central park of c.2.7ha, public art, boundary treatments, public lighting, roads, cycleways, footpaths, car and cycle parking, infrastructure and services and all associated site and development works.

6. To facilitate the proposed development, excavation, cut and fill, reprofiling of existing ground levels.

7. Removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required.

8. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded.

9. 6 no. ESB sub-stations.

10. Undergrounding & diversion of the existing 10kV and 20kV overhead power lines.

3.1 Between 2019 and 2025 the scheme's unit numbers have risen from 483 units to 502

One of the most concerning aspects of this proposed LRD scheme has been its creeping growth in numbers. The previous scheme has submitted to ABP was for 483 units of which 258 were houses. The current scheme is for 502 units of which 236 are houses.

Our client notes this increase in density and how it has manifested itself on the site. For example, concerning parking and traffic issues, the lapsed SHD scheme included 762 parking spaces for just 483 units (an Alternative Design mooted 824 spaces). The previous LRD scheme included 762 spaces for 502 units. The current scheme includes 861 no. spaces for 502 units (817 no. residential spaces, 24 no. visitor spaces, and 20 no. creche spaces). This level of car parking at wholly at odds with the National Planning Framework and with the LCDP 2021-2027 which seek to reduce dependence on cars and limit traffic issues in this area.

There is a need to set some parameters for this site which are based on its history and context, and which are not driven by over-ambition. The applicant appears to have become increasingly focused on providing houses alone and has lost sight of the extent to which the proposals had moved from overdevelopment to extreme overdevelopment.

3.2 Car parking has risen to 861 spaces given the isolated location and car-based design

It is of concern that the EIAR Non-Techynical Summary other reports try to avoid mentioning the number of proposed parking spaces. This is a scheme which is isolated and car-based in design. It is a scheme which has surface water management problems. Yet, with every new scheme parking provision rises. The current planning application proposes 841 parking spaces for 502 units and 20 spaces for the creche. This is a total of 861 parking spaces. Surface car parking areas for 861 formal parking spaces would be built and there would be on street car parking.

The extent of car parking proposed confirms the unsuitability of this site for development.

LCC is being asked to permit a giant car park. To calculate the land required for 861 standard parking spaces in Ireland, one needs to also consider the typical size of a parking space and account for additional space for access roads, manoeuvring areas, and any local regulations.

Step-by-Step Calculation:

Standard Parking Space Size: In Ireland, parking space dimensions are typically based on European standards. A standard car parking space is approximately 2.4 meters wide by 4.8 meters long (as per guidelines similar to those in the UK and EU).

Area per parking space: 11.52m2.

Total Area for 861 Parking Spaces: 9,918.72m2.

If this quantum of parking spaces was set out as a standalone car park it would require approxi ely 19,837 square meters (or 1.98 hectares, or 4.90 acres) of land, assuming a surface parking lot with access roads and manoeuvring space.

Table12 . Development Car Parking (Residentialand Cr eche)

Element	No. units	CLDP Standard (Max)	Provision
3 & 4 bed ho uses	315	630	630
1 & 2 bed units	187	374	187
Visitor Spaces		24	24
TOT AL	**502**	**1028**	**841**
Ratioper unit (exclud ingvisitor spaces)			1.63
Creche	120 spaces	20	20

Fig. 6: The proposed quantum of car parking (Source: Transport Assessment)

4.0 Site de scription and loca tion

The full application site, which includes an area of our client's lands, is c.18.54 hectares in size. The Net Developable Area excluding the site entrance, areas of public road and our client's lands is 13.24ha. in size.

The site is located c.1.3km north of the seaside village of Blackrock, Co. Louth and c.3km south of the centre core of Dundalk. The proposed entrance to the site will be almost within the 50kph speed limit on the northern side of Blackrock village, just off the R172 road which links Blackrock to Dundalk along the coastline.

The R172 runs to the east of the site and a narrow road called Bothar Maol bounds the north of the site. Bothar Maol is gated mid-way, thus prohibiting a connection between the R172 and the N52 road. There are a number of 'one-off' type dwellings located either side of Bothar Maol, as well as bounding the site to the east. The Dundalk Golf Club bounds the site to the west and south.

To the north of Bothar Maol, c.70 metres as the crow flies, lies the Finnabair Industrial Estate. Further north, the Dundalk Retail Park is c.700 metres from the subject site. The Xerox Technology Park and Dundalk Logistics Park are both c.1km to the west of the site, and the Dundalk Institute of Technology Campus is c.600 metres to the northwest.

The site itself is roughly rectangular in shape. The lands are in agricultural use, albeit were somewhat overgrown on the day of the BPS site visit, and primarily comprise two field areas defined by hedgerows and scrub vegetation. There is a cluster of mature trees at the northeast corner of the site, near the junction of Bóthar Maol and the Blackrock Road. The lands are undulating throughout, and slope from the highest point at the southwest corner 23.78 m Above Ordinance Datum (AOD), down to the lowest point at the northeast corner 6.08 m AOD. The site contains several rocky outcrops and is traversed by an ESB powerline.

The European Designated sites, Dundalk Bay SPA (Site Code 004026) and Dundalk Bay SAC (Site Code 000455) are located to the east of the R172 road.

4.1 Si telocation relative to client property

Fig. 1 set out the property folio boundary owned by our client. The applicant has submitted multiple versions of their red line boundary. The OS map (see Fig. 8) is the official red line boundary, and this shows the applicant scheme encroaching into our client's property folio boundary without any permission provided from them to do so.

The applicant planning application adjoins our client's property or what was once our client's property in a number of locations, including:

1. The site adjoins the old northern entrance to our client's property which is no longer in use and/or accessible to our client. The applicant appears to have included the laneway as they claim a right of way over it. A right of way does not confer any right to carry out works on the laneway or to the existing entrance to Bóthar Maol but by including it within the red line 'scheme development' boundary this is what is inferred. Fig. 12 shows the existing old ROW entrance onto Bóthar Maol while Figs. 13 and 14 show the bend on which the entrance is located along Blackrock Road. Finally, we note how the existing right of way laneway maintains mature trees along most of its length.

2. The scheme adjoins the western boundary of our client's property to the rear (west) of their home. This area of interface between the two properties is important because a stream passes from the applicant site into our client's property where it serves a large pond (small lake). There are large mature trees sited on the shared boundary which are to the mutual benefit of both properties.

3. The applicant's red line boundary cuts into and/or adjoins our client's property as it shows proposes works to Blackrock Road and within the site so as to offer a vehicular access to the site. Our client has not given any permission for any works to take place within their folio. The red line boundary is repeatedly shown passing into and/or encroaching onto our client's property. These works have the potential to impact adversely on the eastern – Blackrock Road – entrance to our client's property shown in Fig. 16. The applicant also seeks to create an eastern drainage route through our client's property to the SAC and SPA – no permission is provided for this. These matters are addressed in Sections 1.2, 6.7.1, and 8.0 of this Planning Objection Report.

Fig. 15 provides a Google Earth aerial photograph of the interface between the applicant scheme and our client's property (points 1 to 3 above). The applicant site raises our client's concerns because of how it appears not to have taken adequate account of their property, their overall property folio, the local environmental, the existing historic surface water arrangement and so on. These issues are addressed in detail in Sections 1.2, 6.7.1, 8.0 and 9.4 of this Planning Objection Report.

Fig. 7: Property folio owned by client

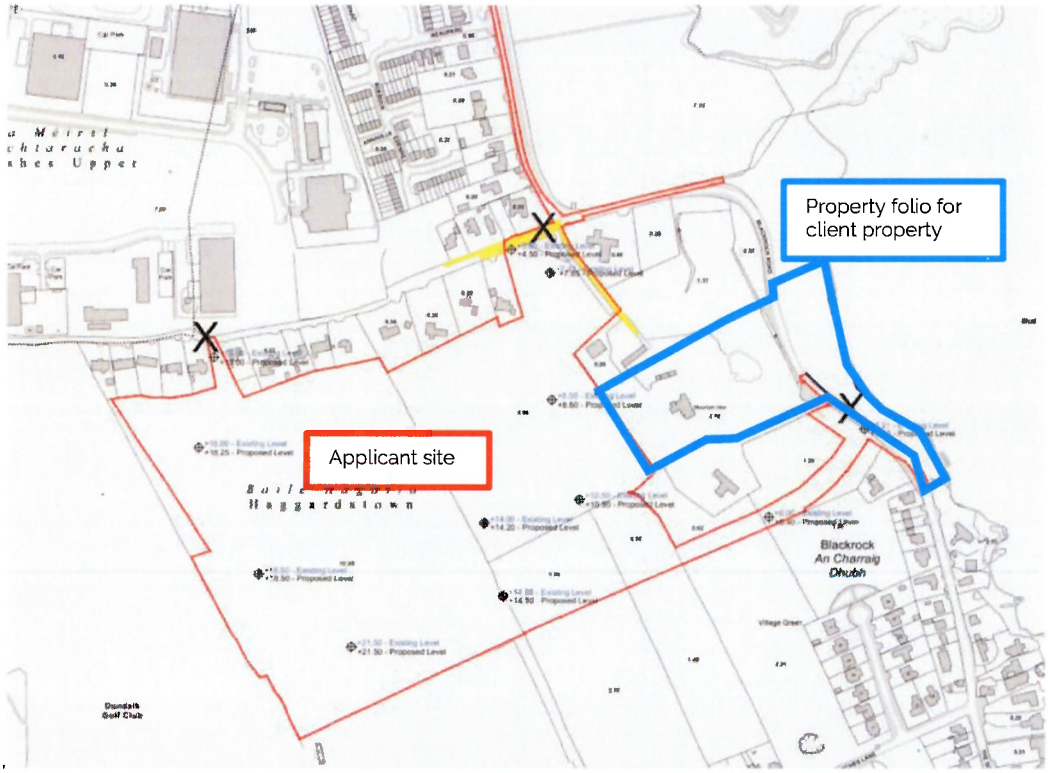


Fig. 8: Applicant site as it adjoins client property (Source: applicant OS Map)

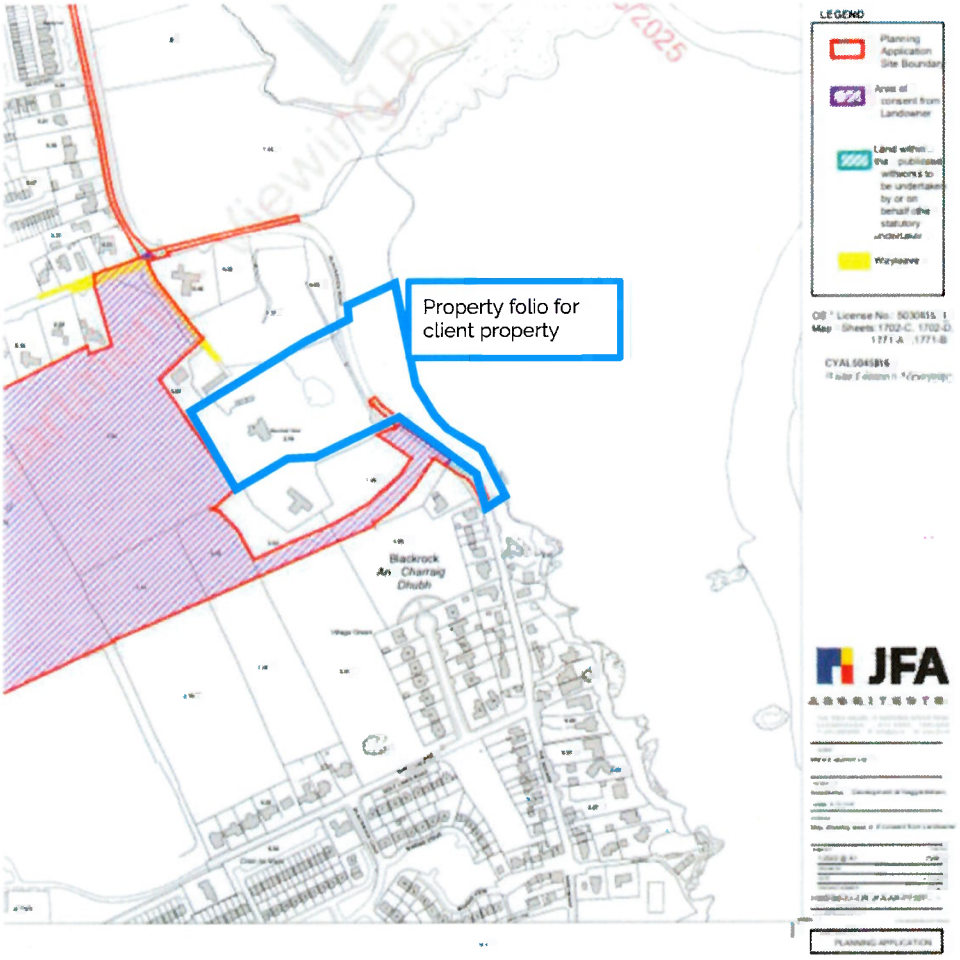


Fig. 9: Applicant map showing area of consent from one landowner and not from Mr & Mrs Henry whose land ownership folio is applied approximately to the map (Source: Planning file)

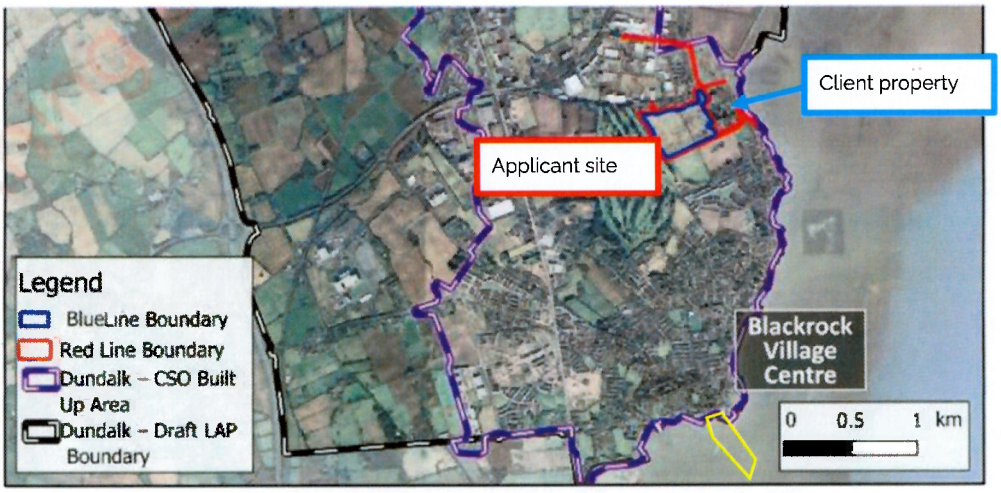


Figure 2-1 Site Context Map (MHP GIS Team)

Fig. 10: Applicant site as it adjoins client property (Source: Fig. 2.1 of Applicant Planning Report)

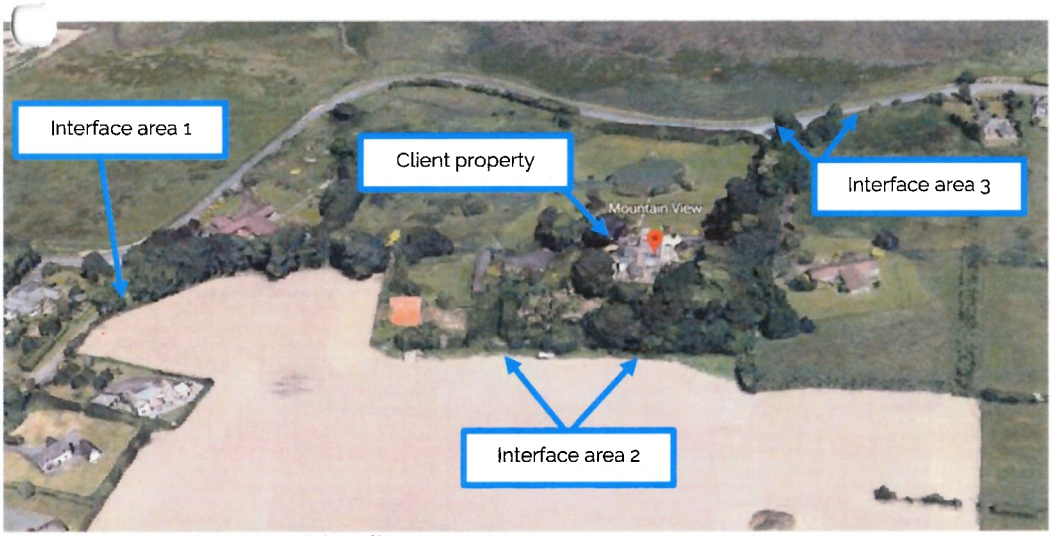


Fig. 11: Applicant site as it adjoins client property

Fig. 12A: Old ROW client lane entrance onto Bóthar Maol – Google Streetview (the old entrance is now our client's neighbour's gateway)

Fig. 12B: Old ROW client lane entrance onto Bóthar Maol – Google Streetview (the old entrance is now our client's neighbour's gateway)

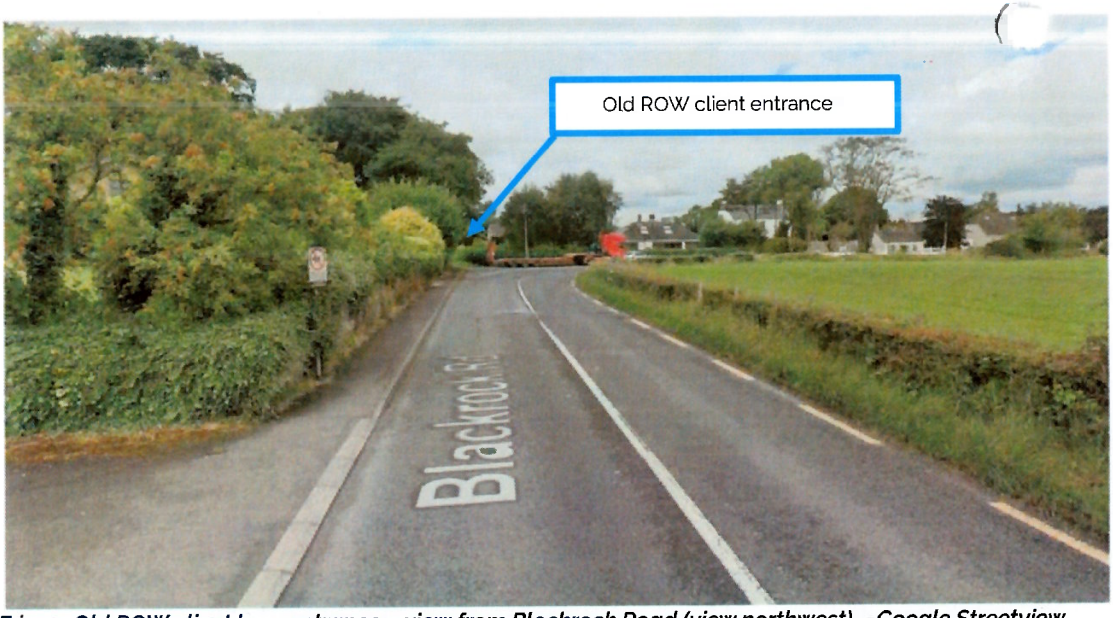


Fig. 13: Old ROW client lane entrance – view from Blockrock Road (view northwest) – Google Streetview

Fig. 14: Old ROW client lane entrance – viewfrom Blockrock Road (view so uth)– Google Streetview

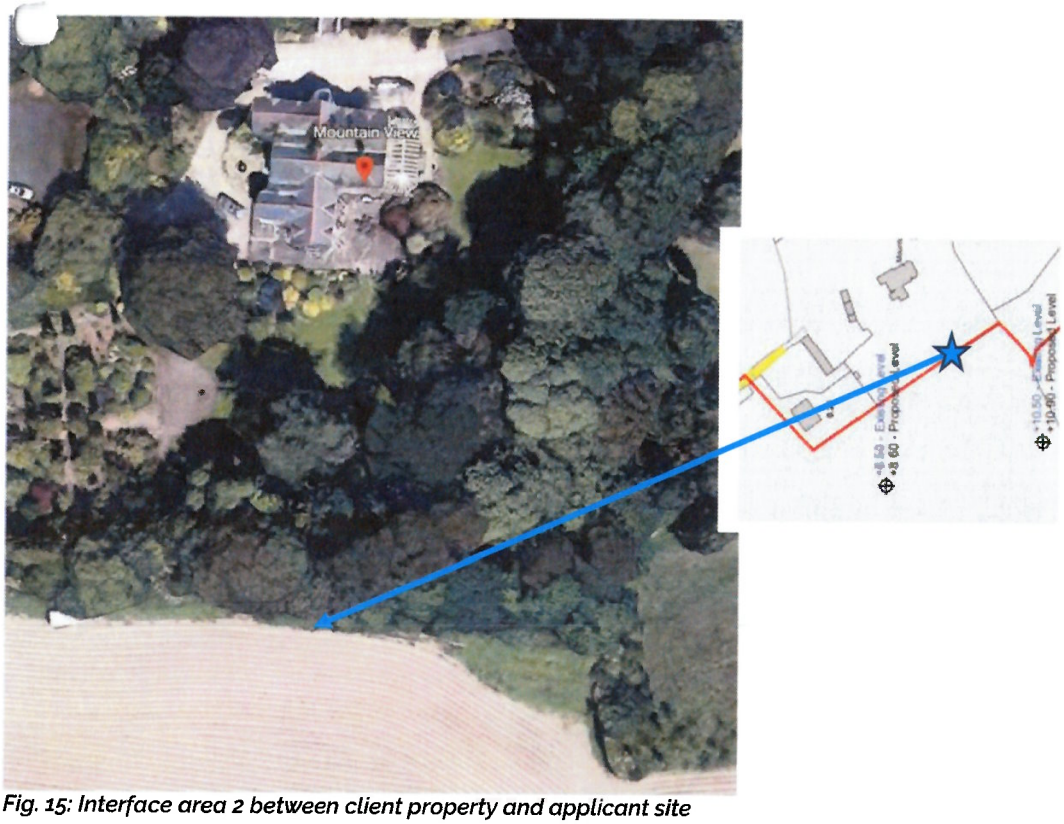


Fig. 15: Interface area 2 between client property and applicant site

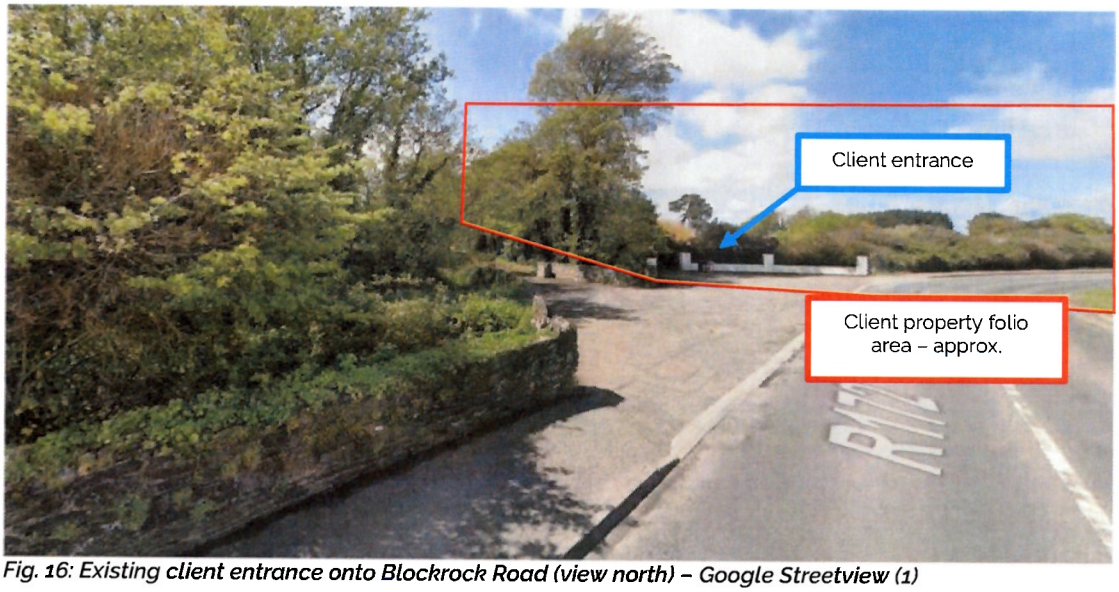


Fig. 16: Existing client entrance onto Blockrock Road (view north) – Google Streetview (1)

Fig. 17: Existing client entrance onto Blockrock Road (view north) – Google Streetview (2)

5.0 Relevant zonings and designations

5.1 Site is zoned L1 – 'Strategic Reserve'

The applicant site has been rezoned under the Dundalk Local Area Plan 2025-2031 which was formally adopted by resolution at a Council Meeting on Thursday, March 6, 2025. It has been available for inspection from Wednesday, April 16, 2025.

The Dundalk Local Area Plan 2025-2021 supersedes the Louth County Development Plan 2021-2027 as regards the zoning of the subject lands.

In planning terms, the subject site has been identified by the Louth County Council under the Local Area Plan (2025 – 2031) as L1 – Strategic Reserve.

The site zoning policy includes the objective: "To provide a land reserve for the orderly expansion of the settlement into the future".

Section 13.21.27 'L1- Strategic Reserve' of the adopted LAP sets out 'Guidance' which states: "**These are strategically located lands that will generally not be available for development until after the expiration of this Plan**".

The applicant's proposed eastern entrance is located in Flood Zone A and most of our client's property is also.

Our client's property (full folio) is zoned part A1 'Existing Residential' and part H1 'Open Space'. The eastern half of the residential property is sited within Flood Zone A.

Section 9.0 'Grounds for Objection' of this Planning Objection Report sets out areas of the development proposed are not in accordance with the zoning of the site.

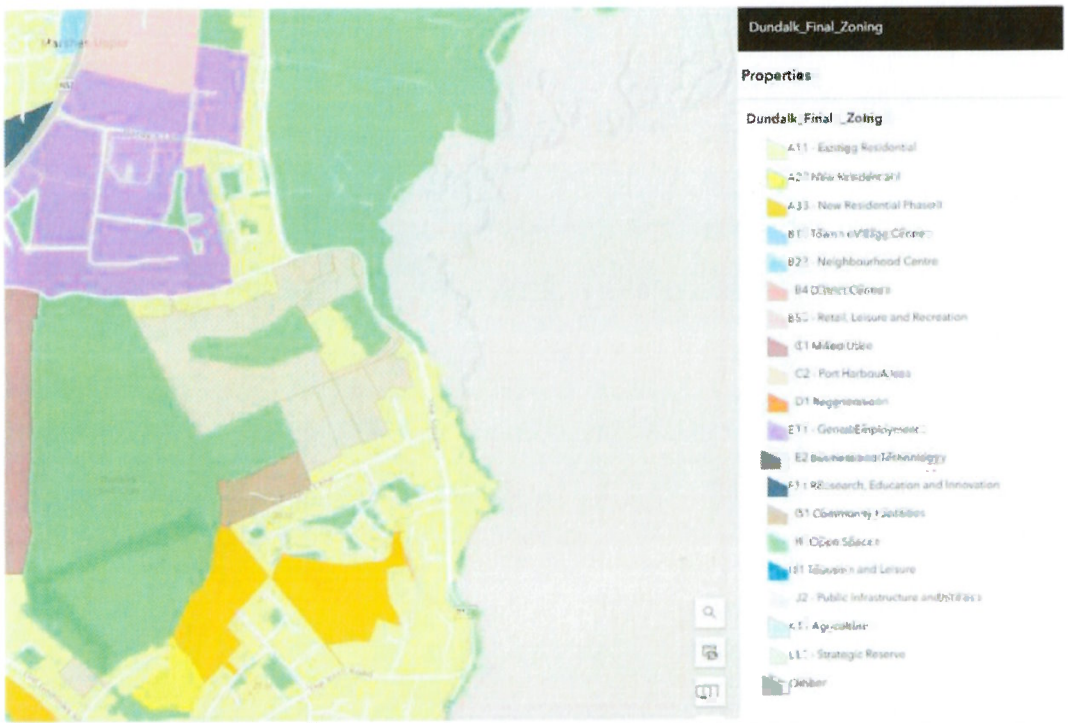


Fig.18: Site's and client's zoningsand designations under the adopted Dundalk Local Area Plan 2025-2031 (Source: Applicant Design Statement)

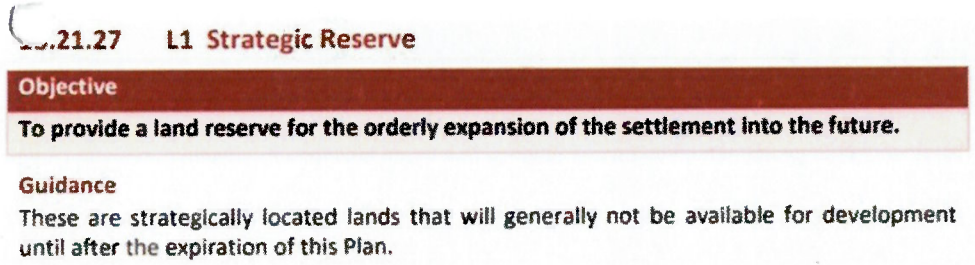


Fig. 19: Section 13.21.27 'L1- Strategic Reserve' of the adopted Dundalk Local Area Plan 2025-2031 (Source: Applicant Design Statement)

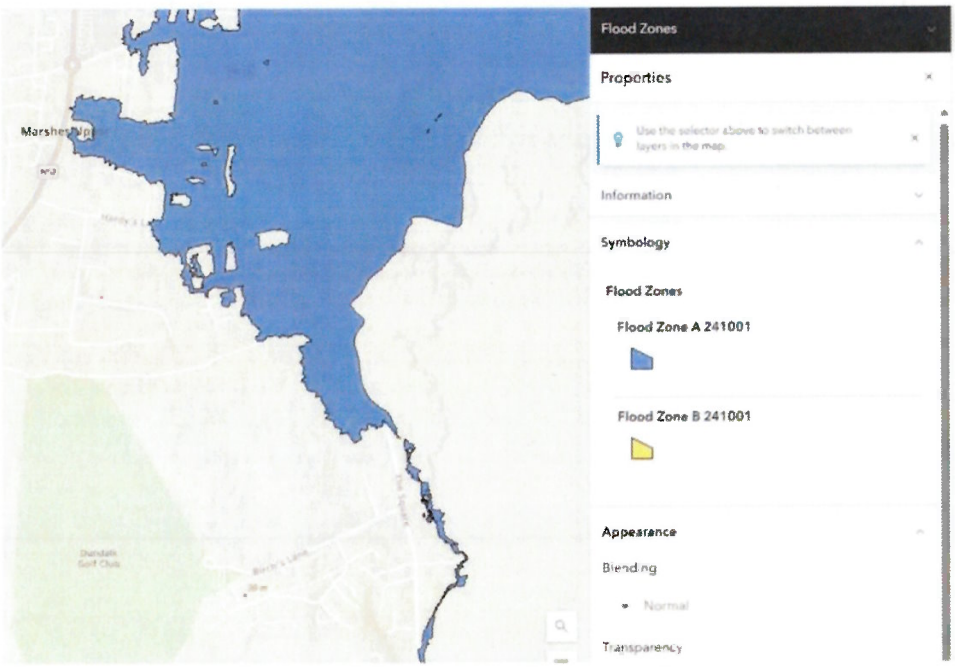


Fig. 20: The location of the subject site relative to Flood Zone A (Source: www.arcgis.com/apps/mapviewer/index.html?layers=786536e74851428da0c1750ab49523a3)

5.1.1 The applicant's presentation of the zoning of the site is incorrect

The applicant is fully aware that the subject site has been downzoned to L1 – 'Strategic Reserve' in the Dundalk Local Area Plan 2025-2031. For some reason, Section 6.4.2 of the submitted Planning Statement refers to the years 2024-2027. BPS can confirm, as acknowledged by the Office of the Planning Regulator in its letter to LCC dated the 17th of April 2025, that the reasons of the elected members for rezoning the lands to Strategic Reserve is because these lands are not currently serviced, which means that the policy and objective in the Development Plans, Guidelines for Planning Authorities (2022) against de-zoning serviced lands does not apply:

> *The Office of the Planning Regulator (the Office) acknowledges the adoption of the Dundalk Local Area Plan 2025-2031 (Local Area Plan) by Louth County Council (the Planning Authority) on the 6th March 2025 … The Office has, however, fully considered the reasons of the elected members for rezoning the lands to Strategic Reserve, and in particular the reason that these lands are not currently serviced, which means that the policy and objective in the Development Plans, Guidelines for Planning Authorities (2022) against de-zoning serviced lands does not apply.*

The decision of the elected members of LCC to do so in the adopted LAP arises from the decision of ABP issued under the previous LRD appeal decision which found that the site cannot reasonably be serviced for foul water drainage the lifetime of the Louth County Development Plan 2021-2027.

ABP's reason for refusal reads:

> *Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Eireann, the Board was not satisfied a sufficiently developed commitment and specific timeframe has been provided that demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency in the*

capacity of sewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would, therefore, be contrary to the proper planning and sustainable development of the area.

The OPR has not challenged the downzoning as it cannot do so. The reason for the downzoning is justified and allowed for under the guidelines, the Regulations and the Planning Acts.

The elected members' decision (and the decision of ABP) is further justified by the current Confirmation of Feasibility letter issued by Uisce Eireann which confirms that the 2027 prediction for the completion of upgrade works to the Coe's Road Wastewater Pumping Station (WWPS) on which ABP was asked to grant planning permission under the previous LRD is no longer possible. Uisce Eireann now states: "Upgrade works are required to increase the capacity of the existing wastewater network. Uisce Eireann currently has a project on our current investment plan which will provide the necessary upgrade and capacity. This upgrade project is scheduled to be completed by Q1 2030 (this may be subject to change) and the proposed connection could be completed as soon as possible after these works".

The applicant's Section 6.4.2 'Dundalk Local Area Plan 2024-2027', Land Use Zoning' seeks to challenge the decision of the LCC elected members and the adopted LAP stating of this democratic decision: "The Dundalk Local Area Plan purports to zone the subject lands as 'L1 Strategic Reserve'". The LAP does not "purport" to do anything. The subject lands were downzoned.

The LAP was adopted after the Louth County Development Plan 2021-2027 and supersedes it as regards the zoning of the subject site. The applicant Planning Statement argues that Section (4) (a) of the Planning and Development Act 2000 (as amended) confirms a Development Plan has precedence at all times over an LAP. LCC is invited to read this section of the Act. Section 4(b) confirms that when a Development Plan is adopted or varied an LAP remains in place except in areas where it conflicts with the CDP. In the current instance, the LAP post-dates the adoption of the CDP and any variation(s) made to it since that adoption .Section 4 (b) does not apply.

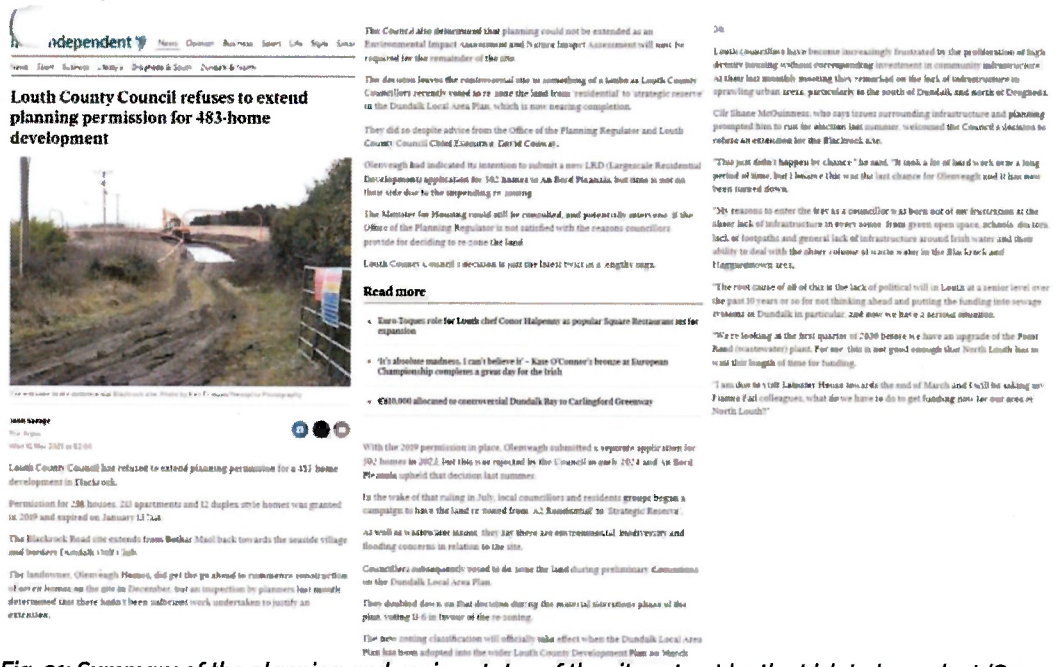
4. (a) A local area plan prepared under this section shall indicate the period for which the plan is to remain in force ... (b) A local area plan may remain in force in accordance with paragraph (a) notwithstanding the variation of a development plan or the making of a new development plan affecting the area to which the local area plan relates except that, where any provision of a local area plan conflicts with the provisions of the development plan as varied or the new development plan, the provision of the local area plan shall cease to have any effect.

The applicant Planning Statement argues: "This conflicts with the County Development Plan". This is not the case. It is not unusual for the more nuanced and locally detailed LAP to alter the zonings of lands previously zoned under a Development Plan. The LAP can reasonably also be viewed as an update or amendment to the Development Plan. If it were not possible for LAPs to alter CDPs (county wide policy documents) there would have been no point to the Oireachtas including LAPs in the Planning Act 2001 (as amended).

The applicant Planning Statement argues that Policy Objective DM3 essentially over-rules the LAP's zonings. This is not the case.

The lands have ceased to be zoned as "A2 New Residential Phase 1" under the CDP. The LAP amended the site's zoning for all of the county.

While the applicant would have supported the continued zoning of the lands, supported a more attractive zoning of the lands, or even a Specific Local Objective encouraging precisely the submitted LRD scheme's content, they do not support local democracy in planning when it does not benefit them.



Louth County Council refuses to extend planning permission for 483-home development

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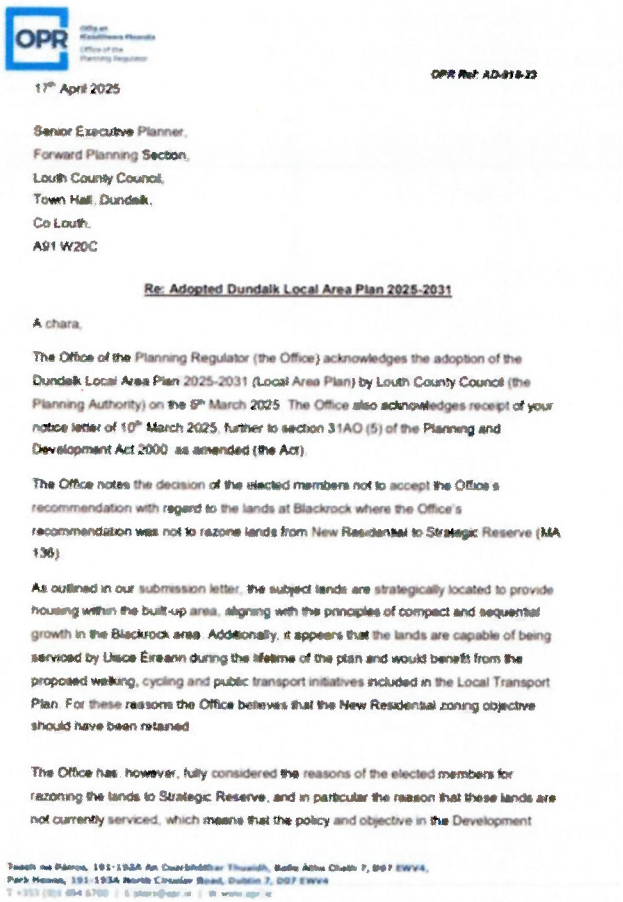
Fig. 21: Summary of the planning and zoning status of the site set out by the Irish Independent (Source: Irish Independent[12])



OPR Ref: AD-018-25

17th April 2025

Senior Executive Planner,
Forward Planning Section,
Louth County Council,
Town Hall, Dundalk,
Co Louth,
A91 W20C

Re: Adopted Dundalk Local Area Plan 2025-2031

A chara,

The Office of the Planning Regulator (the Office) acknowledges the adoption of the Dundalk Local Area Plan 2025-2031 (Local Area Plan) by Louth County Council (the Planning Authority) on the 5th March 2025. The Office also acknowledges receipt of your notice letter of 10th March 2025, further to section 31AO (5) of the Planning and Development Act 2000, as amended (the Act).

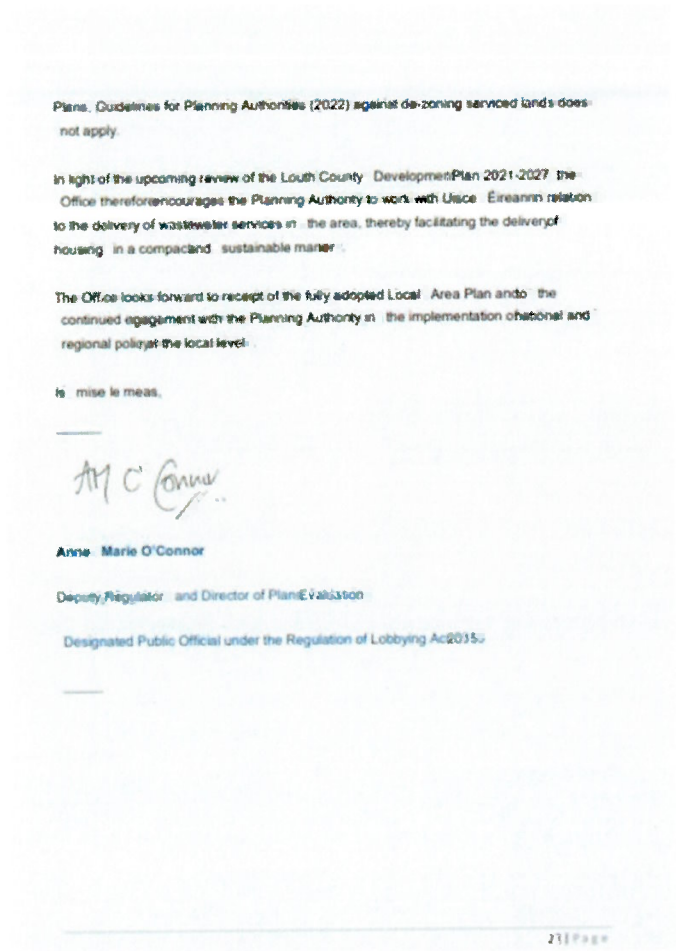
The Office notes the decision of the elected members not to accept the Office's recommendation with regard to the lands at Blackrock where the Office's recommendation was not to rezone lands from New Residential to Strategic Reserve (MA 136).

As outlined in our submission letter, the subject lands are strategically located to provide housing within the built-up area, aligning with the principles of compact and sequential growth in the Blackrock area. Additionally, it appears that the lands are capable of being serviced by Uisce Éireann during the lifetime of the plan and would benefit from the proposed walking, cycling and public transport initiatives included in the Local Transport Plan. For these reasons the Office believes that the New Residential zoning objective should have been retained.

The Office has, however, fully considered the reasons of the elected members for rezoning the lands to Strategic Reserve, and in particular the reason that these lands are not currently serviced, which means that the policy and objective in the Development

Fig. 22A: Letter from the OPR to LCC confirming the downzoning of the subject site to L1 – Strategic Reserve on appropriate grounds (Source: https://www.opr.ie/wp-content/uploads/2025/04/2025.04.17-OPR-Acknowledgement-of-Adoption-Dundalk-Local-Area-Plan.pdf

[12] https://www.independent.ie/regionals/louth/dundalk-news/louth-county-council-refuses-to-extend-planning-permission-for-483-home-development/a699349115.html



Plans, Guidelines for Planning Authorities (2022) against de-zoning serviced lands does not apply.

In light of the upcoming review of the Louth County Development Plan 2021-2027 the Office therefore encourages the Planning Authority to work with Uisce Éireann in relation to the delivery of wastewater services in the area, thereby facilitating the delivery of housing in a compact and sustainable manner.

The Office looks forward to receipt of the fully adopted Local Area Plan and to the continued engagement with the Planning Authority in the implementation of national and regional policy at the local level.

Is mise le meas,

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluation

Designated Public Official under the Regulation of Lobbying Act 2015.

2 | Page

Fig. 22B: Letter from the OPR to LCC confirming the downzoning of the subject site to L1 – Strategic Reserve on appropriate grounds (Source: https://www.opr.ie/wp-content/uploads/2025/04/2025.04.17-OPR-Acknolwedgement-of-Adoption-Dundalk-Local-Area-Plan.pdf

5.1.2 The applicant's legal challenge to the Strategic Reserve downzoning is irrelevant

Our client supports the democratic decision of the elected members. However, the applicant has decided to challenge the validity of this decision in the courts in legal proceedings bearing the name and title Glenveagh Homes Limited v. Louth County Council, High Court 2025 570 JR. The proceedings were commenced on 29 April 2025, and remain pending.

As LCC is aware, the Development Management Guidelines (2007) and the Development Plans – Guidelines for Planning Authorities (2022) require the planning authority to assess any proposed development in terms of the zoning presently applicable to a given site. This zoning is 'Strategic Reserve' and no development can take place during the lifetime of the current LAP. When the current CDP is updated, this may change. The justification for zoning lands Strategic Reserve lands is set out in the Core Strategy of the CDP.

When one considers the planning law pertaining to landowners challenging downzoning (they seldom oppose upzoning), the primary cases are as follows:

- In Brophy v An Bord Pleanála [2015] IEHC 433, Baker J. stated that "A development plan is arrived at following a democratic, public consultation process" and where there is a perceived conflict between a development plan and Ministerial Guidelines (in this case the 2005 Sustainable Rural Housing Guidelines), the "solemn and common public contract contained in the development plan itself must prevail." In general, the planning authority should consider a planning application by reference to the existing development plan and not to any future development plans or drafts: see Ebonwood Limited v Meath County Council [2004] 3 I.R. 34.

- Development plans include a mix of broad policies or statements and more specific objectives. For example, in Maye v Sligo Borough Council [2007] 4 I.R. 678 at 696., Clarke J. stated (at 696): 3.7.

Similarly, in Christian v Dublin City Council,21 which concerned a challenge to a zoning objective in the City Council's development plan, Clarke J. stated (at pars. 51 and 52):

> *The way in which Development Plans are set out vary. Certain aspects of the Plan may have a high level of specificity ... In those cases it may not be at all difficult to determine whether what is proposed is in contravention of the Plan. In those circumstances it will only remain to exercise a judgment as to the materiality of any such contravention. However, at the other end of the spectrum, it is not uncommon to find in a Development Plan objectives which may, to a greater or lesser extent, be properly described as aspirational. Such objectives may be expressed in general terms. In such cases a much greater degree of judgment may need to be exercised as to whether the development proposed amounts to a material contravention of the Development Plan.*

- Similarly, in Christian v Dublin City Council [2012] 2 I.R. 506, which concerned a challenge to a zoning objective in the City Council's development plan, Clarke J. stated (at pars. 51 and 52):

> *It also seems to me to be appropriate to characterise the Development Plan as a mixture of the general and the specific. The Development Plan is required, as has been pointed out, to contain a written statement of the development objectives of the area in question. The means by which those objectives are to be achieved or developed in the detail of the Plan which specifies different zones in which particular types of development are to be focused ... it is, therefore, appropriate to characterise the Development Plan as being a mix of broad policy and concrete implementation measures. The implementation measures can themselves, of course, range from the specific (such as, for example, the maximum heights of buildings or plot ratios) to the more general (such as a desire to provide a certain level of certain green space in an area) which can sometimes border on the aspirational. There are many points in between those two extremes.*

- In Christian & Ors. v Dublin City Council [2012] 2 I.R. 506, the respondent Council adopted a development plan which included a zoning category "to provide for institutional, educational, recreational, community, green infrastructure and health uses" and excluded residential development as a use either permissible or open for consideration. The applicants sought judicial review on the grounds, inter alia, that the respondent failed to give reasons for adopting the zoning category and contended that this was an impermissible restriction of their right to property and right to equality.

- It was held by Clarke J., in quashing the aspects of the development plan which dealt with the impugned zoning category Z15, that there was no basis for suggesting that elected members of local authorities could not give, or be required to give, reasons. In order to assess the lawfulness of a decision affecting persons' rights and obligations, the court required access to a sufficient amount of information to enable an assessment to be made as to the lawfulness of the decision, including the reasons for the decision. It was held that there was no obligation on the elected members to give reasons in respect of the policies implemented in a development plan but there was an obligation to give reasons in respect of how policies would be implemented. While reasons could generally be inferred from a local authority manager's report, where the elected members adopted a resolution with which the manager did not agree, there was an obligation to include reasons for a resolution, either in the resolution, or in the documentation and materials referenced therein. In the current case, those reasons have been given and they align with ABP's previous LRD scheme refusal.

- **As ABP had refused planning permission at appeal stage (in line with LCC's own refusal decision) on the ground of prematurity pertaining to servicing by way of foul water infrastructure, it could be argued that LCC had no choice but to downzone the lands – see Redmond v An Bord Pleanála [2020] IEHC 151, as well as the High Court decision in Highlands Residents Association v An Bord Pleanála [2020] IEHC 622.**

- **Our client reminds LCC that Section 15 of the PDA 2000 imposes a duty to secure the objectives in a development plan. Within two years of the making of the plan, the chief executive must prepare a report and present it to the elected members. The planning authority may not frustrate the objectives in the development plan Browne v Cashel Urban District Council (UDC), unreported, High Court, Geoghegan J., March 26, 1993. LCC could not at the time of the downzoning have any confidence – arising from the decision of ABP – that the previous zoning objective pertaining to these lands could be secured.**

- The LCC housing authority must ensure consistency of approach between the preparation of the development plan's zoning requirements by the planning authority and the housing strategy developed by the housing authority for the same functional area. Such an approach exists with these lands zoned Strategic Reserve.

Having considered this matter and the planning law arising, our client is confidence that th[illegible]CC position will stand, and the Strategic Reserve zoning is correct and legal. This planning objection is lodged on the basis that it will be upheld, etc.

5.1.3 Should an apped arise i nthis case, ABP can notmateri allycontravene a zoning

We note that the proposed development, as submitted, materially contravenes the Strategic Reserve zoning. In the event LCC refuses permission and this case is appealed to ABP we note that the Board may not grant permission where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land: see the discussion in Redmond v An Bord Pleanála [2020] IEHC 151, as well as the High Court decision in Highlands Residents Association v An Bord Pleanála [2020] IEHC 622.

5.2 Lo cationrelative to Dundalk Bay SAC and SPA

The applicant site adjoins the Dundalk Bay SPA (004026) and SAC (000455. It is a very sensitive location given such a close proximity to these protected areas. The areas are protected also under the Bern convention (birds) and Bonn convention (mammals). It is also listed as a Ramsar site. The Local Biodiversity Action Plan for Louth (2021-2026) is incomplete regarding the SAC and SPA.

The applicant ecologist notes:

> *The Standard Natura 2000 Data Form is accurate to the 2020 update while the Conservation Objectives were published in 2011. As the SPA qualifying/feature species have been revised since 2011, with several species added and removed, there is some inconsistency between the two documents. The full species list included in this table is as per the 2020 Standard Data Form. Conservation objectives are not yet available for the newly added species but are assumed, for the purposes of assessment, to follow the same format as for other feature species.*

It is important that "inconsistencies" and applicant assumptions (conservation objectives for some species are "assumed") do not impact the Appropriate Assessment screening. Concerns arise that the applicant is reliant on data which is not up to date and on assumptions for some species which may not be correct.

There are multiple ways in which the proposed development (adjacent to the SPA and SAC could adversely impact the conservation objectives for these areas including:

- Direct hydrological, hydrogeological, and air / land pathways.
- Loss of infrequently used exsitu foraging habitat.

The conservation status of each QI / SCI as stated by the applicant shows the need to proceed with caution (see Figs. 23 to 27).

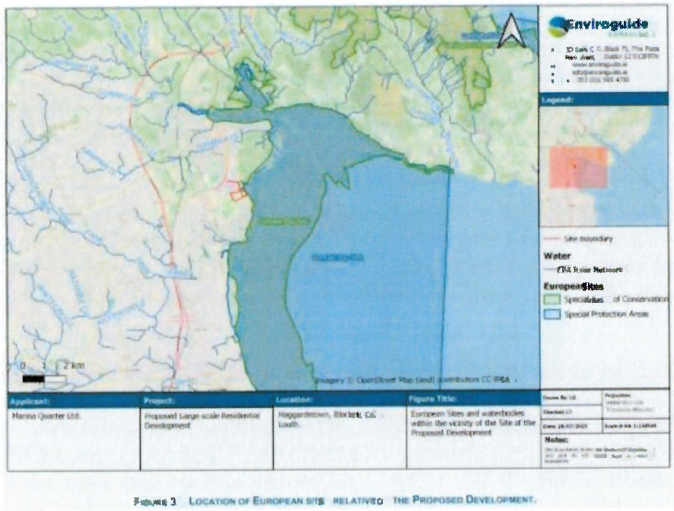


Fig. 23: Site's location relative to European sites (Source: Appropriate Assessment Screening Report)

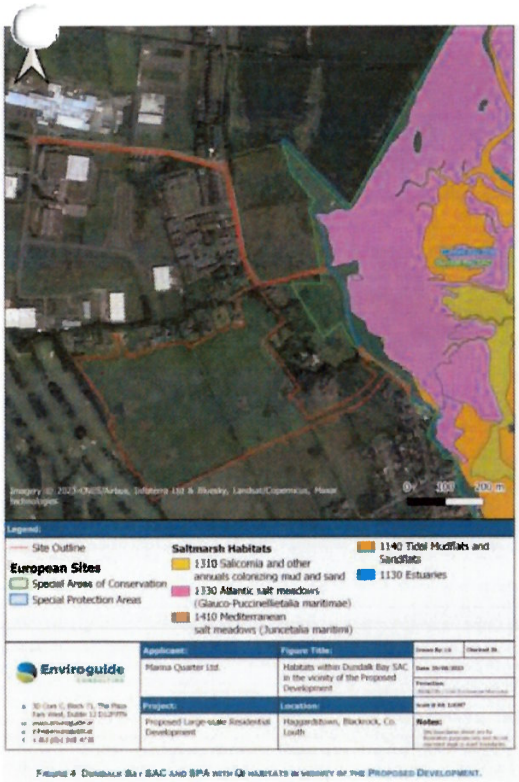


Fig. 24: Dundalk Bay SAC & SPA – Habitats within proximity of the proposed development (Source: Applicant Natura Impact Assessment Report)

Site Name & Site Code	Qualifying Interests (* = priority habitats)	Potential Pathways
Special Areas of Conservation (SAC)		
Dundalk Bay SAC (000455) Adjacent to Proposed Development.	**Habitats:** - Estuaries [1130] - Mudflats and sandflats not covered by seawater at low tide [1140] - Perennial vegetation of stony banks [1220] - Salicornia and other annuals colonising mud and sand [1310] - Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330] - Mediterranean salt meadows (*Juncetalia maritimi*) [1410]	Direct hydrological, hydrogeological, and air / land pathways.

Fig. 25: Dundalk Bay SAC – Habitats And potential pathways (Source: Applicant Appropriate Assessment Screening Report)

Site Name & Site Code	Qualifying Interests (* = priority habitats)	Potential Pathways
Dundalk Bay SPA (004026) Adjacent to Proposed Development.	**Birds:** -- Great Crested Grebe (*Podiceps cristatus*) [A005] -- Greylag Goose (*Anser anser*) [A043] -- White-fronted Goose (Greenland subspecies) (*Anser albifrons flavirostris*) [A395] -- Turnstone (*Arenaria interpres*) [A169] -- Goldeneye (*Bucephala clangula*) [A067] -- Great Northern Diver (*Gavia immer*) -- Red-throated Diver (*Gavia stellata*) -- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] -- Shelduck (*Tadorna tadorna*) [A048] -- Teal (*Anas crecca*) [A052] -- Mallard (*Anas platyrhynchos*) [A053] -- Pintail (*Anas acuta*) [A054] -- Wigeon (*Anas Penelope*) [A050] -- Red-breasted Merganser (*Mergus serrator*) [A069] - Oystercatcher (*Haematopus ostralegus*) [A130] -- Ringed Plover (*Charadrius hiaticula*) [A137] - Golden Plover (*Pluvialis apricaria*) [A140] -- Grey Plover (*Pluvialis squatarola*) [A141] -- Lapwing (*Vanellus vanellus*) [A142] -- Knot (*Calidris canutus*) [A143] -- Dunlin (*Calidris alpina*) [A149] - Curlew Sandpiper (*Calidris ferruginea*) [A147] -- Black-tailed Godwit (*Limosa limosa*) [A156] - Bar-tailed Godwit (*Limosa lapponica*) [A157] -- Curlew (*Numenius arquata*) [A160] -- Redshank (*Tringa totanus*) [A162] -- Spotted Redshank (*Tringa erythropus*) [A161] -- Greenshank (*Tringa nebularia*) [A164] -- Black-headed Gull (*Chroicocephalus ridibundus*) [A179] -- Common Gull (*Larus canus*) [A182] -- Cormorant (*Phalacrocorax carbo*) [A017] -- Ruff (*Philomachus pugnax*) [A151] -- Wetland and Waterbirds [A999]	Direct hydrological, hydrogeological, and air / land pathways. Loss of infrequently used *ex-situ* foraging habitat.

Fig. 26: Dundalk Bay SPA – Habitats And potential pathways (Source: Applicant Appropriate Assessment Screening Report)

QI / SCI (* = priority habitat)	Conservation Status	National Status	Conservation Objective
Dundalk Bay SAC (000455) (NPWS, 2011)			
1130 Estuaries	B: good conservation	Inadequate	To maintain the favourable conservation condition of these habitats in Dundalk Bay SAC
1140 Mudflats and sandflats not covered by seawater at low tide	B good conservation	Inadequate	
1220 Perennial vegetation of stony banks	B: good conservation	Inadequate	
1310 *Salicornia* and other annuals colonizing mud and sand	B : good conservation	Favourable	To restore the favourable conservation condition of these habitats in Dundalk Bay SAC.

/ SCI (* = priority habitat)	Conservation Status	National Status	Conservation Objective
1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)	B: good conservation	Inadequate	To maintain the favourable conservation condition of these habitats in Dundalk Bay SAC
1410 Mediterranean salt meadows (*Juncetalia maritimi*)	B: good conservation	Inadequate	
Dundalk Bay SPA (004026) (NPWS, 2011; EEA, 2023)[4]			
Great Crested Grebe (*Podiceps cristatus*) [A005]	A: conservation excellent	Amber	To maintain the favourable conservation condition of these species in Dundalk Bay SPA.
Greylag Goose (*Anser anser*) [A043]	B: good conservation	Amber	
White-fronted Goose (Greenland subspecies) (*Anser albifrons flavirostris*) [A395]	B: good conservation	Amber	
Turnstone (*Arenaria interpres*) [A169]	B: good conservation	Amber	
Goldeneye (*Bucephala clangula*) [A067]	B: good conservation	Red	
Great Northern Diver (*Gavia immer*)	B: good conservation	Amber	
Red-throated Diver (*Gavia stellata*)	B: good conservation	Amber	
Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]	A: conservation excellent	Amber	
Shelduck (*Tadorna tadorna*) [A048]	A: conservation excellent	Amber	

QI / SCI (* = priority habitat)	Conservation Status	National Status	Conservation Objective
Teal (*Anas crecca*) [A052]	A. conservation ex cellent	Amber	
Mallard (*Anas platyrhynchos*) [A053]	A. conservation excellent	Amber	
Pintail (*Anas acuta*) [A54]	A. conservation excellent	Amber	
Wigeon(*Anas Penelope*) [A050]	B . good conservation	Amber	
Red-breasted Merganser (*Mergusserra tor*) [A069]	A . conservation excellent	Amber	
Oystercatcher (*Haematopus ostralegus*) [A130]	A. conservation excellent	Red	
Ringed Plover (*Charadrius hiaticula*) [A137]	A. conservation excellent	Amber	
Golden Plover (*Pluvialis apricaria*) [A140]	A. conservation excellent	Red	
GreyPlover (*Pluvialis squataroli*) [A141]	A. conservation excellent	Red	
Lapwing (*Vanllus vanellus* [A142]	A. conservation excellent	Red	
Knot (*Calidris canutus*) [A143]	A. conservation excellent	Red	
Dunlin (*Calidris alpina* [A149]	A. conservation excellent	Red	
Curlew Sandpiper (*Calidris ferruginea*) [A147]	B good conservation	Red	
Black-tailedGodwit (*Limosalimosa*) [A156]	A. conservation excellent	Red	
Bar-tailed Godwit (*Limosa lapponica*) [A157]	A. conservation excellent	Red	

SCI (* = priority habitat)	Conservation Status	National Status	Conservation Objective
Curlew (*Numenius arquata*) [A160]	A. conservation excellent	Red	
Redshank (*Tringa totanus*) [A162]	A. conservation excellent	Red	
Spotted Redshank (*Tringa erythropus*) [A161]	B. good conservation	Amber	
Greenshank (*Tringa nebularia*) [A164]	B. good conservation	Green	
Black-headed Gull (*Chroicocephalus ridibundus*) [A179]	A. conservation excellent	Amber	
Common Gull (*Larus canus*) [A182]	A. conservation excellent	Amber	
Cormorant (*Phalacrocorax carbo*) [A017]	A. conservation excellent	Amber	
Ruff (*Philomachus pugnax*) [A151]	B. good conservation	Amber	
Wetland and Waterbirds [A999]	NA	NA	To maintain the favourable conservation condition of the wetland habitat in Dundalk Bay SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

Fig. 27: Dundalk Bay SPA & SAC – Status of conservation objectives for each species (Source: Applicant Natura Impact Assessment Report)

6.0 Technical & planning law concerns with the submitted planning application

Several technical concerns arise with this planning application's presentation. These are set out prior to the remainder of this report as they may include grounds for invalidation of the planning application.

6.1 The submitted drawings and details are inaccurate

A number of the drawings and details submitted with this planning application raise concerns. This issue arose in Sweetman v. An Bord Pleanála (Derryadd) [2021] I.E.H.C. 390 and in Balscadden Road SSA Residents Association Ltd wherein the applicants for Judicial Review complained of inconsistent and inaccurate plans. It was proven that providing accurate planning application documentation is a statutory obligation. The language of the Planning and Development Regulations 2001 (as amended) is unambiguous.

Under Southwood Park Residents Association v. An Bord Pleanála [2019] I.E.H.C. 204, Simons J. concluded that the breach of the requirements of the regulations is fatal to the validity of the planning permission stating the breach could not be characterised as trivial, technical or insubstantial. The effect of the breach was twofold.

First, it undermined public participation in the planning process in that members of the public did not have an opportunity to consider and make submissions on the survey results and mitigation measures relied upon by the Developer.

Secondly, it distorted the interpretation of the planning permission, in circumstances where one of the conditions of the planning permission had required that the mitigation and monitoring measures which had been submitted as part of the planning application be carried out in full and a member of the public who examined the online version of the planning application would only have sight of an earlier version of the mitigation measures.

LCC cannot make a decision without addressing the concerns listed in Section 9.0 of this Planning Objection Report.

The submitted drawings may therefore not offer a credible basis on which a planning d ecisio n be made to grant permission. If this is left unaddressed, Judicial Review proceedings may follow.

6.1.1 The applicant Planning Report in correctly c laims an existing entrance the east

Sectio 2.1 of the applicant Planning Report states: "The subject site is accessible by ... 1 no. access point to the east at Blackrock Road (R172)". Where is this access point? BPS has walked the footpath at this location, and we cannot find an entrance to the south of our client's own entrance. The applicant is in fact proposing a new entrance where there is only marshy land at present. There is no existing entrance.

The marshy land behind the wall to the right, as one looks at it, is an extension of the Dundalk SPA as per the NPWS submission to LCC made on October 2023 (under the withdrawn LRD application). The NPWS has not stipulated the size of this area. The applicant appears to have decided the size themselves.

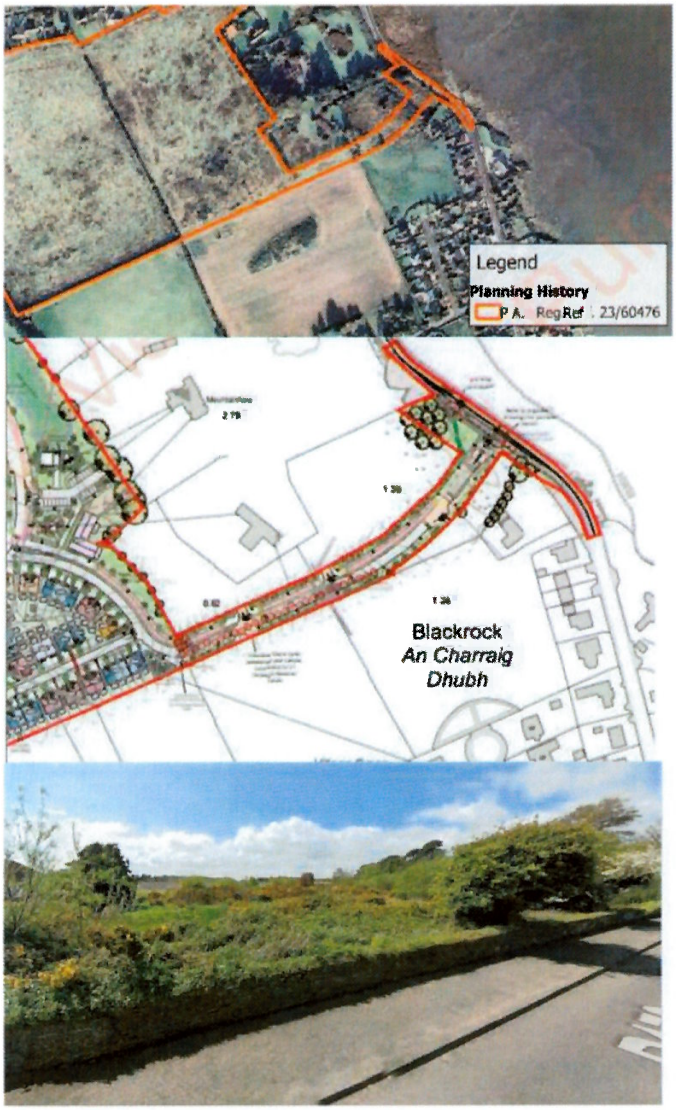


Fig. 28: Fig. 2.1 of the applicant Planning Report and the area of the purported existing entrance

6.2 National Parksand Wildife Service i nteraction wit hthe AA and NIS work

At the 27/11/2024 pre-planning meeting, LCC noted how: "Joanna advised that the NPWS is currently updating information in relation to their sites nationwide, which may have implications for the AA to be submission". No details of any discussions between the NPWS and the applicant are offered in the AA report.

Page 50 of the AA report states: "Although this data provided by the NPWS is somewhat outdated, it provides an indication of the types of waterbird species that roost along the coast in proximity to the

of the Proposed Development and compliments the more recent survey data collected during the 2024/2025 winter season by Enviroguide, and therefore is included for reference".

The Non-Technical Summary and Volume 2 of the EIAR includes no reference to the NPWS.

In preparing an Appropriate Assessment, a Natura Impact Statement or an Environmental Impact Assessment Report for a site adjoining a SAC and SPA, one of the first tasks must be contacting and consulting with the National Parks and Wildlife Service. Our client's property was visited by a Ranger – Jennifer Lynch - from the NPWS in the week of the 18th of September 2023. The Ranger expressed concerns that they had not been consulted properly then and it appears this may be continuing.

The applicant claims to have consulted with the NPWS. Can LCC please clarify whether the NPWS was or was not properly consulted at pre-planning stage this time around as there are no details of this in the AA, NIS or EIAR? And, whether a referral has now been requested from them. The NPWS Ranger sent our client an email setting out the role it is meant to play, and this does not appear to have been possible to date[13].

In the absence of involvement of the NPWS at pre-planning stage, it is difficult to argue that the NIS and/or EIAR meet statutory requirements regarding their preparation. They cannot be based on the best available evidence, etc. Our client understands that the NPWS is now in a position to provide a referral response to LCC. It is just not clear why this was not obtained at pre-planning stage so as to help the AA, NIS and EIAR assessments.

6.3 The EIAR is inadequate

Regarding the EIA Directive and Schedule 7 of the Planning and Development Regulation, the LCC should refuse to consider and cannot grant permission for the proposed development in circumstances where the developer has failed to provide an Environmental Impact Assessment Report ("EIAR") to a sufficient standard which rules out the likelihood for significant effects on the environment.

- The EIAR is defective, inter alia, it does not provide a description of the entire project to a sufficient degree in order that the likely impacts on the environment can be fully considered. The EIAR fails to consider in sufficient detail and/ or at all the likely cumulative impacts with other projects and fails to consider in sufficient detail and/ or at all the overall likely impacts on the environment.

- The EIAR and supporting documents does not fully consider the likely impact of the development on the Dundalk Bay SAC and SPA.

- The EIAR and supporting documents fail to properly consider the scale and impact of construction phase works, soil stabilisation or remediation requirements, which will impact water quality and surface water run-off from the site.

- The EIAR and supporting documentation does not assess and/ or fails to adequately assess the impacts from the proposed development on our client's property arising from new flood and surface waters forced through their property.

- The EIAR and supporting documentation fail to propose a scheme which accords with the Climate Action Plan 2023 or the National Sustainable Mobility Policy (2022).

6.4 The submitted Appropriate Assessment Screening Report and NIS are incomplete

The information presented by the applicant within the Appropriate Assessment Screening Report and Natura Impact Statement is insufficient, contains lacunae, and is not based on appropriate scientific expertise and as such LCC cannot comply with the requirements of the Habitats Directive and relevant provisions of national law under the Planning and Development Act 2000:

- The proposed development does not comply with the requirements of the Planning and Development Act 2000 (as amended) (under Part XAB Q/ the 2000 Act (ss. 177R-177AE)) and the Habitats Directive. Due to inadequacies and lacunae in the AA Screening Report and Natura Impact Statement prepared by the applicant, LCC does not have sufficient and/or adequate information before it to carry out a complete assessment of the likely impact on European sites in relation to the proposed development.

[13] https://www.npws.ie/development-consultations#The%20role%20of%20the%20Minister%20in%20relation%20to%20development%20applications

- The "Zone-of-Influence" referred to in the AA and NIS assessment is not reasoned or explained it is unclear how such a zone was so determined the criteria for determining a "zone-of-influence" has no basis in law. Furthermore, the limitation of the consideration of protected sites to a 15km radius is not explained and it is unclear how such a limitation was determined. See Section 3.5 'Identification of Relevant European sites' of the AA Screening Report.

- The applicant NIS fails to include a list of existing planning permissions and or to carry out a full assessment of potential in-combination effects of the proposed development and other developments in the vicinity of the site. The previously submitted NIS for the refused LRD set out significant numbers of existing planning permissions including large residential schemes which will need to connect to the Coe's Road pumping station in 2030. They are further up the queue to deliver their foul water to the WWTP whose current status requires further review by LCC. The NIS also noted that multiple large permissions (and the current planning application) are dependent on infrastructure upgrades not planned until 2027 (now 2030). The Uisce Eireann Confirmation of Feasibility (CoF) for nearby schemes and the current scheme notes that upgrades to Coe's Road Pumping Station are planned for 2030 at which point there will be capacity for the Proposed Development (in the pumping station). Why has this work not been done?

  The AA and NIS may have been amended to try not to draw attention to foul water concerns. Section 4.4.1 'In-combination Effects' of the NIS states: "The potential for likely significant in-combination effects on European sites involving the Proposed Development and other granted or pending developments has been assessed within the AA Screening Report (Enviroguide, 2025)." This is not permitted. The NIS must carry out a Stage 2 assessment including of *in-combination* effects on European sites. The NIS focuses on the Dundalk Flood Relief Scheme (FRS) and states that "there could be the potential for in-combination effects on the surrounding environment involving the FRS and the Proposed Development in the absence of mitigation e.g., through wintering bird disturbance along the coast should the construction of coastal flood defences be included in the FRS". Concerns arise that references to the FRS distract from the reality in Dundalk that there are a queue of projects waiting for the upgrade of the Coe's Road Pumping Station and these were in line first. The *in-combination* effects of all these other projects is not mentioned in the NIS.

- LCC should refuse to consider and cannot grant permission for the proposed development in circumstances where the developer has failed to provide an AA and NIS that considers the entire projec tincluding all elements that are necessary and/or ancillary to the to the delivery of the project and as such does not demonstrate that the project will not have a significant negative impact on protected sites and protected species beyond all reasonable scientific doubt.

- Insufficient surveys have been carried out to assess the potential impacts arising from interfering in bird flight paths. Birds have air and land pathways, and the applicant lands currently form part of the stepping stone land pathways enjoyed by these birds. The proposals will also cause loss of frequently used ex-situ foraging habitat.

- Insufficient surveys have been carried out to assess the potential impacts of the proposed scheme on otters which maintain land pathways into and out of the applicant site. The applicant lands currently form part of the land pathways enjoyed by otters. The proposals will also cause loss of frequently used in-situ and ex-situ foraging habitat. Our client experiences sea otters who come from the SPA across the road and into their pond. They do the same regarding the proposed entrance to the scheme which is often a marshy pond-like area. A young otter was killed on the road in December 2023 (see Fig. 29). There are footprints in the marshes where they feed. This information has been logged with NPWS as have the photos of the otter.

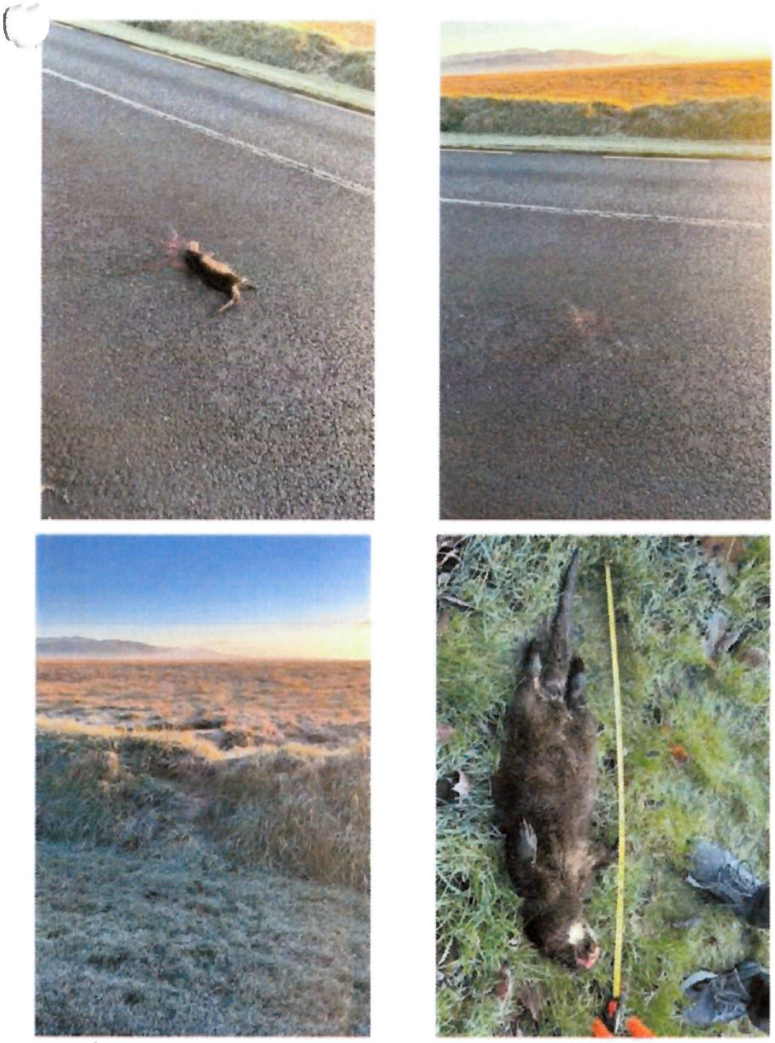


Fig. 29: Young otter passing from the SPA/SAC over the road to client property & hit by a car

- Both the AA Screening Report and the NIS have failed to consider and/or sufficiently consider the likely impacts on protected species of which many require continuous monitoring as to their conservation objective status and some are failing to meet those objectives.

- The monitoring and mitigation measures described in the NIS are non-specific and not quantifiable. They rely on the Construction Management Plan measures, surface water drainage measures and foul drainage measures details of which are not fully known at this stage. Matters would need to be conditioned that could not later be subjected to NIS re-assessment.

- The biodiversity chapter of the EIAR that accompanies this application is reliant on less than credible mitigation measures and on those mitigation measures being properly implemented by the applicant.

- The potential for cumulative impacts to arise as a result of the proposed development, in combination with other existing, permitted, or proposed projects, and their potential to lead to likely significant effects on European sites, relies on the fully successful implementation of mitigation measures outside of the control of the applicant.

- With regards to the application's EIAR, the potential for cumulative impacts to arise as a result of the proposed development in combination with other existing, permitted, or proposed projects are addressed in the respective specialist Chapters of the EIAR for each environmental factor. The EIAR summarises the cumulative impacts aspect of the proposed development in further detail and lists the relevant projects to be considered as part of a cumulative impact assessment. Having regard to the information provided, it is our client's opinion that this response fails to fully addresses the LCC LRD Opinion.

- The applicant has failed to proceed to Stage 4 of the Appropriate Assessment process on the basis that identified adverse impacts can be addressed by way of mitigation measures. Our client does not agree with this. They consider that the applicant assessment should negative, i.e. adverse effects

on the integrity of a site cannot be excluded and the process should proceed to Stage 4 or the plan or project should be abandoned. 'Alternative Solutions' should have been addressed at pre-planning stage but the applicant failed to properly engage with the pre-planning process and the option of 'Alternative Options' is no longer open.

6.5 The development description and public notices are inadequate

The Site Notice does not comply with the requirements of the Planning and Development Regulations 2001 (as amended). In particular it does not contain a complete description proposed development works required.

Despite being requested to do so at pre-planning stage, the applicant has failed to mention the proposed cutting and infilling of land within the submitted planning notices, etc. The applicant has included the following phrase: "All other site excavation, infrastructure and development works above and below ground, including changes in level, retaining features, resurfacing and site servicing (foul and surface water drainage and water supply". This catch attempt fails to supply the basic line that our client's and others understand when references are made to cut and fill. The applicant's wording could apply to non-specific matters pertaining to general excavation and services and not to the wholesale altering of areas of the site's topography.

The notices fail to outline how the applicant intends to force flood and surface waters through private properties to the north of the main entrance to the proposed development.

6.6 The requirements of the Planning & Development Regulations 2001 are not met

The application and application documentation does not comply with the requirements of the Planning and Development Regulations 2001 (as amended) in terms of the particulars to be provided with the application in respect of the proposed development, including in relation to the plans and particulars lodged. In particular the plans and particulars lodged do not provide sufficient or any detail with respect the detail and the extent subterranean structures.

6.7 Surface water/floodwater management measures are technically unacceptable

6.7.1 A purported "northern" drainage channel claim is denied by client

The applicant's Infrastructure Design Report, EIAR, SSFRA, AA, NIS, and other reports refer to a purported drainage channel or culvert which is described as passing from the proposed scheme entrance on Blackrock Road northwards and through our client's property. The various reports make claims of which none are based on a visit to our client's property as our client has not allowed access to any member of the project team as regards preparing surveys for the previous or current LRD planning applications.

Our client accepts that on the south side of the applicant's proposed entrance (o Blackrock Road to the south of their property entrance), there is a wetland area wherein a channel can appear which looks as though it could be a small stream. It is not. It is a wetland. This was accepted by Enviroguide when it carried out its site visit under the previous LRD (please check their reports as they refer to this area as a marsh).

The current Enviroguide NIS report contains Figures taken from the DOBA Infrastructure Design Report. These Figures are addressed in Sections 1.2, 6.7.1, and 8.0 of this Planning Objection Report.

What our client wants to make clear here is that Figure 6 of the Enviroguide Report refers to a channel which is no more than a ditch, and this is located to after the bend to the north of our client's property and bears no relationship to their property (see Figs. 30, 31, and 32).

Enviroguide's Figure 6 is based on a site visit on 7.2.2024. LCC is asked to note that during this site visit Enviroguide did not take any photograph of any purported channel between the proposed entrance to the site on Blackrock Road, passing through our client's property, and then connecting to the northern outfall. It did not provide such photographs as they do not exist and, in any case, Enviroguide cannot access our client's property.

Enviroguide's only evidence that there could possibly be a drainage channel passing through our client's property has not been provided following their site visit, but via details supplied to them by the project team. These details are, as we note throughout thus Planning Objection Report, spurious.

LCC is welcome to visit our client's property to discuss this matter and to view their carefully landscaped garden with its pond. If LCC is unable to point to a functioning and maintained drainage channel anywhere in our client's property which could receive surface, storm, and flood waters from the

applicant site then perhaps the matter can finally be put to rest and the applicant proposals to flood their property disregarded.

FIGURE 6. NORTHERN DRAINAGE CHANNEL VIEWED FACING WEST (LEFT IMAGE) AND EAST (RIGHT IMAGE) (IMAGES TAKEN 07/02/2024).

Fig. 30: Figure 6 of the Enviroguide NIS Report (Source: NIS)

Fig. 31: Google Maps photos of the views provided in the Enviroguide NIS Report (Source: Google Maps)

Fig. 32: Google Maps photos of the views provided in the Enviroguide NIS Report (Source: Google Maps)

6.7.2 The summary of flood risk and potential impacts has changed between SSFRA's

The applicant SSFRA for the refused LRD scheme is quite different to that for the current scheme. This is very clear when one considers the summary of flood risk and potential impacts. LCC is asked to compare Figs. 33 and 34. How can tidal/coastal flooding have changed from "Medium" risk to "Severe" risk. Was the previous SSFRA wrong? How can the current SSFRA be trusted?

3.3. Summary

The floodrisk ident ification has been completed for the location of the proposed d evelopment site. The sources of each of the potential flood risks and potential impacts on the site are summa rised below in *Table 3*.

Type	Source	Pathway	Receptor	Likelihood	Consequence	Risk
Tidal/Coastal:	Dundalk Bay	R172 Road	Proposed Access R oad	Moderate	Severe	Severe

Fig. 33: Risk of flooding along the R172 Regional Road is "Severe" and the consequences would be "severe" (Source: Current SSFRA)

Source	Pathway	Receptor	Likelihood	Consequence	Risk
Tidal/Coastal	Coastal flooding from Estuary	Parts f the Site including the access road	Probable	Restricted Access	Medium
Fluvial	Open channels or watercourses	Residents (People), dwellings, veh icles& roads	Low	Medium	Low
Surface Water Drainage Systems (Fluvial)	Flooding from development's surcharge drainage systems	Residents (people) and vehicles,Roads, pathways, and open space areas	Possible	Medium	Modeate
Fluvial Overland Flows	Elevated lands to the west of the site	Residents and vehicles ,Roads, pathways, and open space areas	Possible	Medium	Modeate
Groundwater Flooding	Rising GWon site	Future Site	Remote		
Human or Mechanical Error	New drainage network blokages	Areas of the development draining to the surfae water network	Possible	Medium	Moderate

Table 6 - Source-Pathway-Receptor Analysis

Why is the previous LRD's SSFRA different to the current one? Could it be that the previous SSFRA was not accurate? How can the previous scheme be "Medium" and the current scheme "Severe"?

Fig. 34: Excerpt from the previously submitted Flood Risk Assessment – Table 6 – for the refused LRD. Why is this different? (Source: Refused SSFRA)

6.7.3 Surface water/flood water discharge to wetland/Flood Zone A

Our client's property is partly sited in Flood Zone A and this area and areas to the south of this can and are described as a wetland. Had their property never been developed and a road built to front, it is likely the SAC and SPA would extend to within their property.

Can anyone in the applicant team or in LCC explain to our client why it is that it can possibly be a good idea that the applicant proposed scheme surface water and flood waters be passed in part into Flood Zone A lands and into wetlands when during high rainfall events these areas will already be flooded? How exactly will this work? How would our client's property not be further flooded?

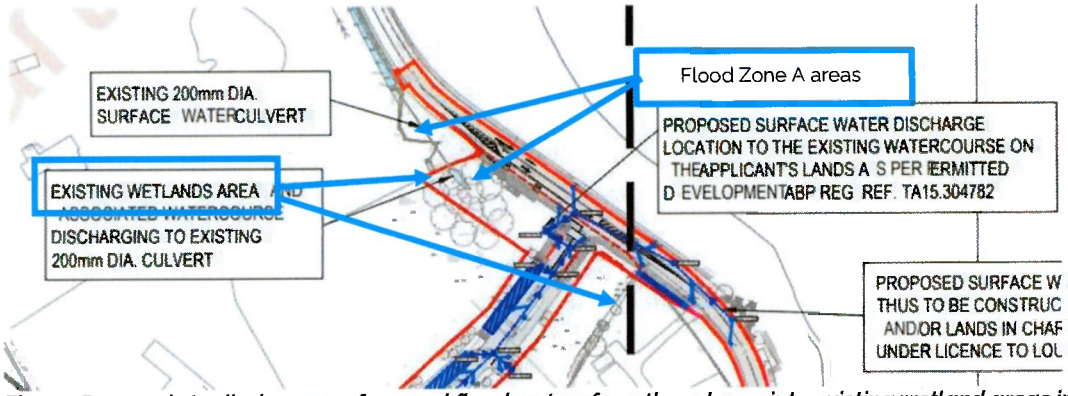


Fig. 35: Proposals to discharge surface and flood waters from the scheme into existing wetland areas in Flood Zone A (Source: LCC Planning File)

6.7. The SSFRA models client property raised by 300m to address flooding – why?

The applicant SSFRA includes Fig. 17 (see below at Fig. 36) and accompanying text which suggests that flood risk modelling has assumed our client's dwelling would be raised by 300mm. Our client has not given any permission for this and there is no possibility of the existing house being raised. The modelling is not accepted as realistic. This comment may be based on our client's misunderstanding of the SSFRA; however, its Fig. 17 makes no sense to a layperson.

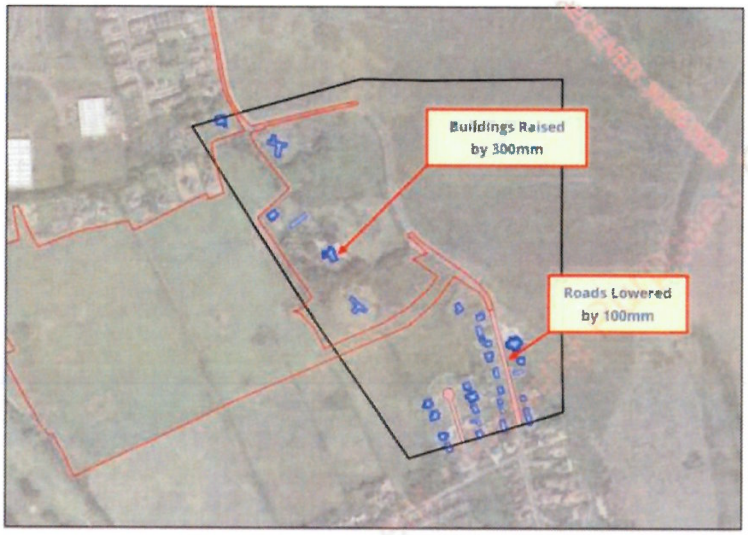


Figure 17 – Tidal Model Topographical Features

Fig. 36: Fig. 17 of the submitted SSFRA (Source: SSFRA)

6.7.4 The extent of open space areas used for detention basins requires review

The applicant has proposed that a percentage of the scheme be available as open space – communal and public – these areas appear as only open space in the submitted master site plan. However, when one reviews Dwg. No. 2268-DOB- XX-SI- DR-C-0202 'PROPOSED SURFACE WATER DRAINAGE LAYOUT SHEET 2' it quickly becomes clear that large areas of these open spaces are in fact attenuation areas or detention basins for surface water including during pluvial flood events.

It is generally the case that areas of development sites required for attenuation/detention are not included in open space calculations. Further, it is clear that during even moderate rainfall events large areas f the site may be under water and unsafe for children.

The extent of these measures suggests that this is not a suitable site for a large residential housing estate.

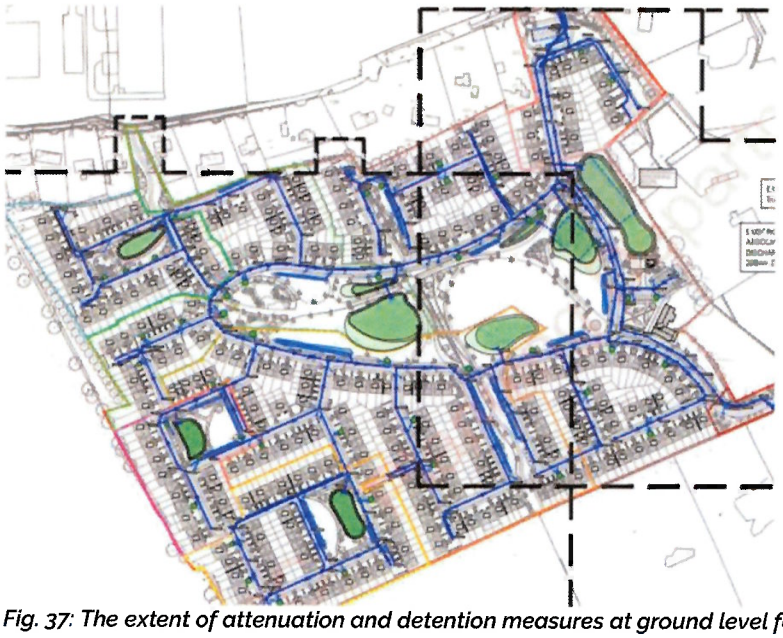


Fig. 37: The extent of attenuation and detention measures at ground level for surface waters

7.0 Planninghistory

7.1 Refused LRD sch eme- reg. ref. LRD 2360476

ABP refused LRD planning application, reg. ref. LRD 2360476 and An Bord Pleanála case reference: LH15.319077. because:

> *Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Eireann, the Board was not satisfied a sufficiently developed commitment and specific timeframe has been provided that demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency in the capacity of sewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would, therefore, be contrary to the proper planning and sustainable development of the area.*
>
> *In deciding not to accept the Inspector's recommendation to grant permission, the Board noted in the correspondence from Uisce Eireann that the wastewater connection "...to the north as proposed by the developer would add flows to the Coe's Road pumping station which does not have capacity for the development." Furthermore, Uisce Eireann estimated this capacity upgrade to be completed in 2027. The Board acknowledged the recommendation of the Inspector to grant the 10-year application with the condition that the proposed development would not commence until the upgrade works are completed. However, on balance and in these particular circumstances, the Board considered the estimated timeframe for the required upgrade was not substantiated by demonstrable commitments from Uisce Eireann and, in the absence of this and there being no realistic alternative proposed by the applicant, the Board decided the proposed development would be premature by reference to the existing deficiency in pumping station capacity.*

This scheme is close to identical to the present scheme (and, as such, there is little reason to include a copy here of any part of that scheme's proposed site plan, etc); however, the present scheme is now sited on lands zoned Strategic Reserve. Section 13.21.27 'L1- Strategic Reserve' of the adopted LAP sets out 'Guidance' which states: "**These are strategically located lands that will generally not be available for development until after the expiration of this Plan**".

7.2 Lapsed SHD permission

There has been one previous planning application pertaining to this site. **Reg. ref. TA15.304782**[14] refers to Strategic Housing Development application for 483 no. residential units (258 no. houses, 225 no. apartments), childcare facility and associated site works. Permission was granted by An Bord Pleanála with Paul Hyde as signatory.

This planning application was granted on 7/10/2019. The permission lapsed in 2024.

The applicant Planning Statement for the previously refused LRD scheme notes how: "This planning permission has not yet been implemented owing to issues around the viability of the development, particularly apartments". Our client submits that any further scheme on the applicant site could also be further delayed. This is placing unjustified stress on them and on the residents of the area. The applicant's planning application effectively asks that the previous SHD scheme permission be converted into a ten year permission.

73 N on-activated planning permission for a pumping stati on

The applicant refers to a grant of permission issued by LCC in 2008 under reg. ref. 08/5201414 for a 'Foul Pumping Station' (Dundalk Town Council). This permission lapsed many years ago and is historic at this stage. As with the SHD permission, the applicant failed to commence the works.

The granted permission was issued under a development plan which is now very old. The permission is irrelevant to the current planning application which seeks permission for similar development as the site is not adequately served but mains foul drainage and requires a pumping station to reach the Dundalk Town Trunk Sewer. The current proposals include: "1 No. Type 3 Wastewater Pumping Station & associated 24 Hr underground emergency storage tank".

[14] https://www.pleanala.ie/en-ie/case/304782

applicant's Planning Report notes how "The ability for the site to be served by water infrastructure was important for the SHD application ...". The applicant has not demonstrated that the 2008 permission is still acceptable or the current proposals to replace it are likewise.

The applicant asks that LCC continue to grant permissions to service a site which has been long-fingered since 2008 while other sites should likely be prioritised (sites not adjacent to an SPA and SAC). This site remains an agricultural field which is unserviced by mains foul drainage.

7.4 Area planning history = multiple projects reliant on SAC/SPA mitigation measures

The applicant Planning Report lists multiple large planning applications that have been permitted in this area of Dundalk in recent years. Cumulative development concerns arise.

A significant concern arises in that most of the large SHD planning permissions are not being commenced. This leaves the local community in a limbo as to the future of the area. This includes:

- 16/803 and 19/171 / TA15.303891 (SHD)
- 19/171 / TA15.303891: Dublin Road: Residential Development (SHD)
- 19/590 / TA15.304782 (SHD)

Concerns arise that each of these uncommenced SHD permissions confirms that this area cannot support schemes of this size and, as such, smaller scale and more sensitive proposals would be preferable.

Further, in the absence of commencements regarding these SHD schemes, it is difficult to determine what the likely cumulative adverse Environmental impacts will be. Section 4.4.6.1 'Existing Planning Permissions' of the NIS refers to the above listed permissions and others. A number of these permissions rely on mitigation measures to protect water quality in the SAC and SPA. The extent for which mitigation measures are relied upon is, in our client's view, excessive. That so many projects would each implement the required mitigation measures in a flawless manner is not credible. There is a need to consider staggering these large schemes within this area such that water testing can be used as a monitoring tool.

8.0 Comments on the pre-planning stage for the current scheme

The applicant Planning Report states: "The development proposal that is the subject of this planning application has been subject to consultation with the local authority through the Large Scale Residential (LRD) pre-planning processes, namely, the S.247 Pre-Consultation and LRD Meeting stages. The principle of development of the site is, therefore, firmly established and the development proposal subject to rigorous pre-planning scrutiny, consultation, and engagement".

Our client can confirm that they have not been consulted by the applicant; therefore, the proposals are not based on "consultation" and "engagement" and lack scrutiny by adjoining Third Parties such as themselves.

These third parties had made submissions to the emerging drafts of the Dundalk Local Area Plan 2025-2031 and hoped to have these lands downzoned. This is precisely what happened. LCC agreed with ABP and third parties that the lands should be downzoned.

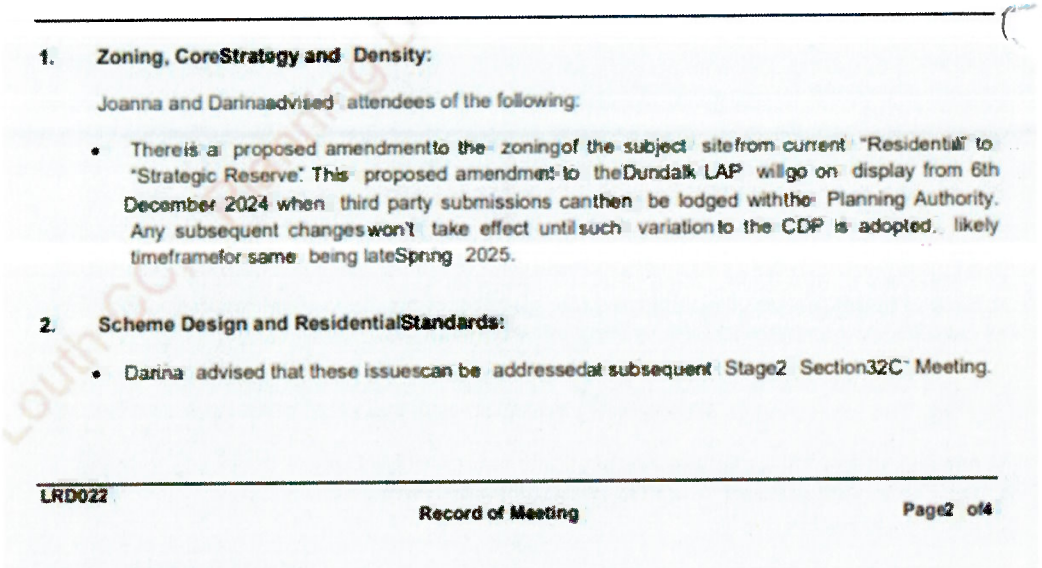
8.1 The starting point for the LRD pre-planning was the previous zoning & LRD

Our client and the local community generally is wholly excluded from commenting on the pre-planning stage submissions made by the applicant. When this new planning application was lodged, local reaction was that it was essentially the previous LRD scheme with some modifications.

However, all local people are aware that these lands have been downzoned to Strategic Reserve and no development can proceed. The applicant's pre-planning meeting of the 27/11/2024 (ref. LRD022) pre-dated the downzoning.

Our client and others have reviewed the pre-planning notes and it is clear LCC told the applicant downzoning was possible. On 27/11/2024, LCC's ref. LRD022 meeting minutes stated:

> ***Joanna and Darina advised attendees of the following: There is a proposed amendment to the zoning of the subject site from current "Residential" to "Strategic Reserve". This proposed amendment to the Dundalk LAP will go on display from 6th December 2024 when third party submissions can then be lodged with the Planning Authority. Any subsequent changes won't take effect until such variation to the CDP is adopted, likely timeframe for same being late Spring 2025*** [emphasised].



1. **Zoning, CoreStrategy and Density:**

Joanna and Darinaadvised attendees of the following:

- Thereis a proposed amendmentto the zoningof the subject sitefrom current "Residential" to "Strategic Reserve". This proposed amendment to theDundalk LAP willgo on display from 6th December 2024 when third party submissions canthen be lodged withthe Planning Authority. Any subsequent changeswon't take effect untilsuch variationto the CDP is adopted, likely timeframefor same being lateSpring 2025.

2. **Scheme Design and ResidentialStandards:**

- Darina advised that these issuescan be addressedat subsequent Stage2 Section32C Meeting.

LRD022 Record of Meeting Page2 of4

Fig. 38: The applicant was advised in 11/2024 of the possible zoning change (Source: LCC pre-planning meeting minutes)

This is the critical point. The starting point for all other discussions for the pre-planning for this new planning application was the refused LRD scheme and the old zoning. This is not acceptable.

LCC is invited to review the recent High Court case wherein Clane Community Council has successfully challenged approval given to developer Debussy Properties Ltd for more than 100 homes. Mr Justice Richard Humphreys quashed the decision partly because of its reliance on the same pre-application consultation it submitted i nits previous application for the development.

LCC refers to the applicant having made revisions to the previous LRD scheme, yet the issued LRD Opinion sets out a significant list of areas which were not addressed by the applicant at pre-planning stage.

8.1.1 Starting point for the LRD pre-p lanning does not address previous ob servations

The major shortcoming of the current LRD process is that initial feedback from LCC to applicants takes place prior to any observations being lodged by Third Parties. In this way our client was excluded under the previous SHD's pre-planning stages from asking that the democratic will of local people that the LCDP and LAP's policies and objectives for this site be applied to the could not be heard.

LCC's LRD pre-planning feedback did not then and does not now mention the significant observations lodged regarding the previous scheme. The emphasis is, as noted above, on trying to amend the SHD scheme.

8.1.2 The pre-planning stagesfor the LRD show little progress

Our client has reviewed the pre-planning notes for the LRD scheme provided by LCC. The meeting of the 27th of November 2024, show how the applicant has followed not only the earlier SHD scheme template but that of the updated refused LRD. The following issues arose – in addition to the likely downzoning matter:

- Discussions with and an anticipated agreement with UE is essentially what was promised by the applicant to ABP which refused planning permission on the basis of having no confidence in the proposals and any agreement with UE (see Section 2.1 of this report). The state of play as regards foul drainage matters had not been progressed.

- Concerns remained over sightlines and visibility splays onto the Coast Road R172 were raised despite the significant works proposed including on lands in our client's ownership. The lands and adjoining lands are not all within the applicant's ownership – a letter of consent is required from our client. We note how: "Joanna advised attendees of "Submission 128" received in relation to the current draft Dundalk LAP whereby an adjoining landowner had indicated a possible overlap of boundaries. While this may ultimately be a civil issue, the applicant may consider responding to this allegation". It is unclear why the Planning Regulations 2001 (as amended) require the applicant to demonstrate legal control or permissions over all areas within thered line boundary yet our client's lands within the red line boundary do not raise any concerns for LCC. Can LCC please refer to the Regulations and to the Development Management Guidelines? Why should our client have to go to civil court to assert their legal rights when their solicitor had made multiple submissions to LCC

confirming the lands over which they hold ownership. It is unclear why the applicant is not being asked to furnish proof of ownership and/or control over our client's lands.

- The part of our client's private property though which the applicant wishes to force its surface water and flood water is in Flood Zone A and is a wetland. The pre-planning meeting notes how: "Noel advised that the applicant's FRA should make reference to the Dundalk LAP's Interactive Map and the applicant needs to demonstrate that they are not displacing flood water onto adjoining properties. Given the site's coastal location and associated tidal movements, flow paths shall be clearly outlined on the submitted Assessment". How is it even possible that LCC could consider as acceptable an exit point for the scheme's surface and flood waters being in a Flood Zone A wetland area which would be under eater during high rainfall events and could not receive scheme outflows. The ongoing willingness to enter into discussions with the applicant as regards flows and not the principle of this proposal is hard to understand. One would not think the best way to develop a flood scheme for areas of Cork City often hit by flooding would be to try to discharge those waters into the river which is causing the flooding. Flood Zone A areas cannot accommodate the scheme's surface water and flood water. How is this not obvious? How can a "flow path" flow into a Flood Zone A area which is already flooding? Our client's property is often flooded during pluvial events. It contains a large pond as otherwise much of their garden would be a marsh.

- The applicant is told that their AA and EAIR will need to be robust yet these reports are essentially repeats of the refused LRD scheme. We note that while the Strategic Environmental Assessment pertaining to the Adopted Dundalk Local Area Plan 2025-2031 includes these lands as Strategic Reserve only. They are no longer pre-screened as appropriate in principle for development. The starting point for the AA and EIAR is no longer one which LCC can support as this scheme is not presently permitted in Strategic Reserve zoned lands.

LCC cannot ask for Further Information at planning application stage and to permit this scheme would require material contravention of the LAP. This appears unjustified especially as ABP would likely refuse planning permission in line with its previous decision.

8.1.3 Planning Statement's pre-planning sections refuse to accept the downzoning decision

The Dundalk Local Area Plan 2025-2031 was adopted by Louth County Council on March 6, 2025. The applicant site was downzoned to Strategic Reserve.

It is almost hard to believe that the day before the adoption of the LAP, a meeting took place with LCC (on the 5th of March).

LCC issued their LRD Opinion Response following this meeting. It is dated 28th March 2025. The site is now downzoned and it is therefore difficult to read the Orwellian applicant Planning Statement's references to the issue of the site's zonings made throughout. Each time zoning is mentioned, it is necessary for the project planning consultant to offer some response, when, were they representing a Third Party, their first objection would be that the lands are now zoned Strategic Reserve. Has their client managed to have more lands zoned for a scheme of over 50 units somewhere else in Dundalk they would be celebrating. Instead, our client and the surrounding community are forced to read double-speak reports which attempt to undermine the downzoning.

Section 3 'Response to Pre Application Discussions' states:

- "An initial section 247 Pre-Planning meeting specific to this subject application was held on 27th November 2024 and was attended by the Applicant and the appointed Design Team. The Design Team provided a presentation to the Planning Authority outlining the key elements of the proposed development. Minutes regarding the items discussed were received from Louth County Council ...".

  Response: The LCC minutes make clear that the site may be downzoned.

- "It was noted that the subject lands are zoned as "A2 New Residential Phase 1," with a proposal to change this to "L1 Strategic Reserve," which both the applicant and the Office of the Planning Regulator opposed".

  Response: The subject lands are now zoned L1 Strategic Reserve by way of a democratic vote.

- "Uisce Éireann confirmed serviceability for 502 units, with a wastewater connection agreement for 200 units already in place."

  Response: These proposals and/or discussions/agreements with UE are no more advanced than those set out at appeal stage for the refused LRD. ABP did not accept these: "the Board noted in the correspondence from Uisce Eireann that the wastewater connection '...to the north as proposed by the developer would add flows to the Coe's Road pumping station which does not have capacity

for the development.' Furthermore, Uisce Eireann estimated this capacity upgrade to be com[illegible]ed in 2027". **That pumping station is now delayed further until 2030. ABP was correct.**

- "Surface water proposals remain consistent with previous applications, showing no increased flood risk, and no Foreshore Licence is required."

  Response: These proposals continue to ask LCC to allow surface and flood waters to be discharged into our client's private property in Flood Zone A wetland areas wholly unsuitable to receive discharges from the applicant's significant 502 unit scheme. significant likely Adverse impacts on the SAC and SPA continue to be overlooked.

- "Adequate sightlines are planned at the entrance".

  Response: These proposals continue to raise sightline and road safety concerns and rely on lands which are in our client's ownership and for which there is no consent provided.

For these reasons, the current scheme cannot be permitted. Fundamentally, the scheme is premature pending the zoning of the site in a manner under which it can be permitted, and a range of other concerns remains unaddressed so as to lend LCC or ABP sufficient confidence to consider materially contravening the LAP. Attempting Material Contravention of an LAP only months old would constitute a record in Irish planning law. It is unlikely to pass LCC as the votes for the downzoning were 11-6 in favour.

8.1.4 The LRD scheme's Response to LRD Opinion pertains to Strategic Reserve lands

The LCC LRD Opinion sets out a long list of areas where the pre-planning scheme failed to address its pre-planning concerns stating: "In addition to the requirements of Section 32D, the Opinion requested that specific information should be submitted with the LRD application under the following headings ..". These are each reviewed below.

The applicant has submitted a 67 page response which could be summarised in one phrase – attempted denial of the Strategic Reserve zoning.

The LCC Planning Department LRD Opinion was issued a day before these lands were downzoned, and it attempts to pretend that this was not a total showstopper.

The ABP decision was made on **07/06/2024** and LCC downzoned the lands to reflect this. The applicant is operating in a parallel universe.

The Section 1.0 'Introduction' to the applicant LRD response does not mention the 6th of March 2025 downzoning. Our client objects to having to respond to the LRD response when the lands are no longer represent zoned for development. These are lands reserved for the next Development Plan cycle only.

The applicant's LRD Opinion is, respectfully, an almost total carbon copy of that which BPS responded to under the previous LRD. That application was refused by LCC and ABP and the lands rezoned on the 6th of March 2025 following a local campaign to support the ABP decision as regards servicing and infrastructural prematurity.

Below, BPS repeats much of what we have stated previou sly.

1. **Environmental Impact Assessment and Appropriate Assessment**

   EIAR Response: The current LRD scheme now provides a full EIAR. The SHD scheme on which the applicant continues to hope to rely as regards the principle of development of these lands, was submitted without an EIAR. This is despite the Dundalk Bay SAC and SPA and the sub-threshold scale of that scheme. The current scheme is submitted with an EIAR which notes how the site is zoned Strategic Reserve where development of the lands is not possible at present.

   AA Response: It is not clear to our client how the AA and NIS report author has side-stepped the issue of zoning and prematurity as regards foul drainage. ABP did not accept the foul drainage proposals before and they remain no better.

   It is our client's opinion that neither the EIAR or the AA offer sufficient information or that information is not sufficiently well analysed to allow this planning application to proceed (see Section 9.0 of this Planning Objection Report). The EIAR's biodiversity chapter confirms the sensitivity of this site and its surroundings including adjoining European sites, but it relies far too heavily on mitigation measures to address issue of concern that should better be addressed by avoidance.

With regards to the application's EIAR, the potential for cumulative impacts to arise as a result of the proposed development in combination with other existing, permitted, or proposed projects are addressed in the respective specialist Chapters of the EIAR (Volume 2) for each environmental factor. The EIAR summarises the cumulative impacts aspect of the proposed development in further detail and lists the relevant projects to be considered as part of a cumulative impact assessment. Having regard to the information provided, it is our client's opinion that this response fails to fully addresses Request Item No. 3 of the LRD Opinion.

The applicant has failed to proceed to Stage 4 of the Appropriate Assessment process on the basis that identified adverse impacts can be addressed by way of mitigation measures. Our client does not agree with this. They consider that the applicant assessment should negative, i.e. adverse effects on the integrity of a site cannot be excluded and the process should proceed to Stage 4 or the plan or project should be abandoned[15]. Stage 3. 'Alternative Solutions' should have been addressed at with LCC at pre-planning stage, but the applicant failed to properly engage with the pre-planning process and the option of 'Alternative Options' is no longer open.

2. **Flood Risk -** LCC has raised concerns over pluvial flood risk on parts of the site 'and' over "Infilling of lands". The applicant is required to demonstrate "that the residential units are not at risk of flooding nor will they exacerbate flooding elsewhere, i.e., adjoining public road and residential properties by offsetting this flood volume elsewhere. Of particular importance is that a retention pond is proposed in the current pluvial flood extents area as per the abstract from PFRA Map".

   Response: The LCC pre-planning assessment's pluvial flood risk concerns regarding the locations of some houses, roads and other developments are wholly justified. Our client's property is sited largely in Flood Zone A and experiences pluvial flooding. The applicant's Statement of Response to the LRD Opinion confirms the following:

   - Pluvial flood management will only take place "post-development". During the construction phase areas of the scheme and areas of our client's property are likely to be impacted by pluvial flooding not yet mitigated by the applicant.

   - The applicant proposes to address pluvial flooding by "**Removing localised depressions where pre-development pluvial flooding occurs through cut and fill of existing topography**" [emphasis added]. Given that LCC has specifically stated at pre-planning stage that it wants the extent of cut and fill proposed to be reduced, it is difficult to understand why the applicant would propose more of the same. Our client objects to any surface cut and fill which could cause surface waters to be directed toward and/or into their property.

   - The applicant will raise the access road into the site by as much as 2m. This is a significant change and one which the applicant claims will not drive surface water into other properties. Our client does not support this risk being taken.

   - The applicant's surface water proposals are all based on gravity flows, yet no full hydrological survey of the site appears to have been submitted. Given how our client's property already receives ground and surface water from the applicant site and the impacted areas of the property is in Flood Zone A, there is a need to fully understand how the applicant will ensure all surface and flood waters are prevented from passing over the shared property boundary.

   - "Provision of a dedicated underground surface water drainage network which shall intercept and collect surface water run-off arising from rainfall-generated overland flows from post-development hardstanding areas such as roofs, roads and footpaths". **These measures will only work in areas of the site not under water. Our client is not convinced by the proposals which they consider likely to result in the transfer of surface water from the site into adjoining properties such as their own.**

   - "The proposed surface water network will convey any run-off associated with rainfall on the proposed site to attenuation areas (as illustrated on the Proposed Surface Water Drainage layout drawing series). Figs 101 and 102 of this Planning Objection Report show the volume of these attenuation areas and detention basins close to our client's property. It is excessive (the "provision of a surface water measures for a "1:100 plus 20% Climate Change Event". The largest is sited alongside our client's property. There is a need to reconsider the suitability of this site for residential development given the extent of these measures required to address surface water and flood risk concerns.

[15] https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2009_AA_Guidance.pdf

- "All house levels are positioned 500mm above the attenuated surface water levels and, connected to that of the existing adjacent residential developments". That is, the applicant seeks to add 824 surface parking spaces, internal hard surfaced rods and 502 houses which will all speed up surface water flows and they will make sure their own houses are protected by raising them by half a metre above ground level. Our client's property cannot however be raised and it is on a lower ground level than all of the applicant site. Our client remains unconvinced by what appear to them to be premature proposed for surface water management and flood risk management.

- The applicant sets out detailed calculations as to the likely surface water run-off from the site. The soil types include those with very high run-off potential, average rainfall in Dundalk is high, the site area is not especially large, and the site cannot store surface water long term. There is very poor to no filtration. Our client is not convinced by the applicant's optimism regarding the site's ability to discharge surface water at outflow rates that the proposed drainage arrangements can cope with.

- The applicant offers "proposed surface water network design parameters as reflected within the accompanying Infrastructure Design Report". These are again based on outflows which our client considers optimistic. This is a site which already experiences ponding, and this is before any new hard surface areas are added.

- The volume of surface water attenuation measures required to try to retain excess floor water from the 1 in 100 year flood are excessive and require large areas of the scheme's open spaces to be converted into ponds.

- The engineering reports, Flood Risk Assessment, and drawings all indicate that surface waters will be collected and discharged from the site. An emergency overflow is proposed. LCC stated that this should "isolate hazardous materials from storm water runoff". Anything exceeding a 100 year event will simply overflow the system. There will be a discharge into Dundalk Bay SAC/SPA at SMH 1.32. Concerns arise then as to the proximity of the SAC and SPA. Whether by ground water, surface water or through drains construction and operational stage waters from the site will reach the SAC and SPA. The only question is how contaminated they will be. Our client considers this risk to be too high.

- The applicant is forced to consider an outfall to the SAC/SPA. They argue that they do not need a Foreshore Licence from the Department of the Environment. The applicant is at pains to avoid a Foreshore Licence so has setback the outfall location to effectively adjoining Blackrock Road which appears to make no sense. Why would LCC want flood waters from the site to be discharged adjoining the public road? The outfall should travel further eastward if it is to exist at all. In any case, climate change means the High Water Mark is changing around the coast and care is needed on this point. Our client considers this to be likely because an outfall from a large-scale housing estate into Dundalk Bay SAC/SPA would set a poor precedent and would be unlikely to be granted. LCC can decide one way or the other on this point; however, our client submits that the Department needs to be consulted either way. **The proposed eastern outfall of the subject site's surface water is currently shown to pass into our client's property which is not acceptable (for the reasons set out below).**

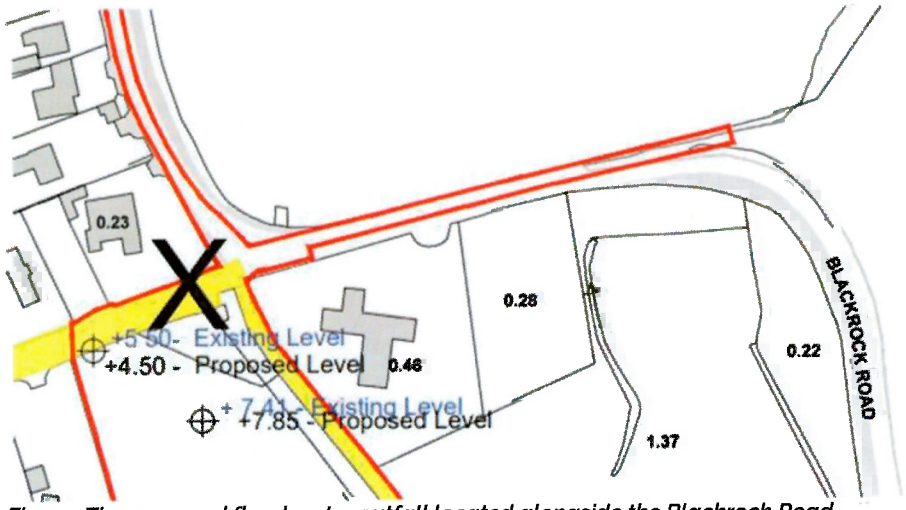


Fig. 39: The proposed flood water outfall located alongside the Blackrock Road

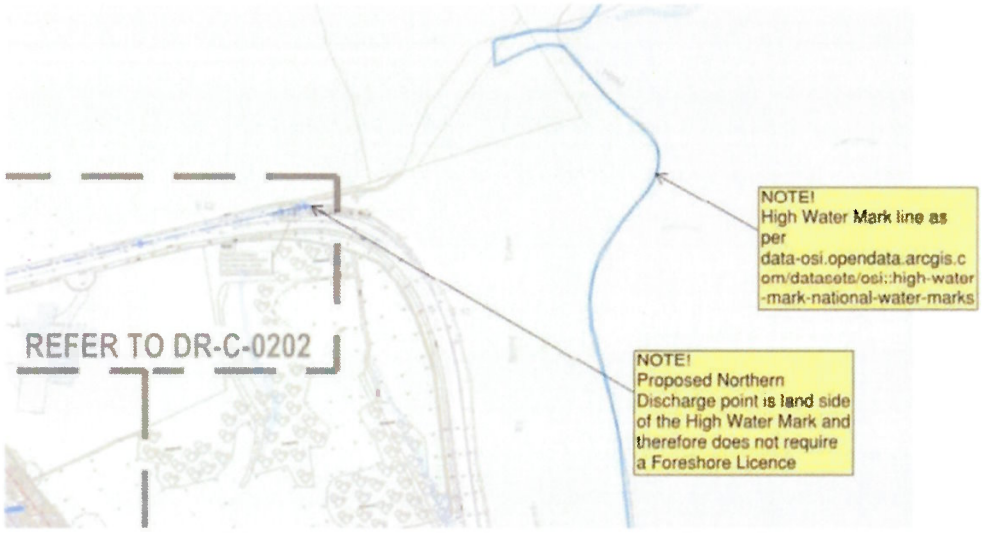


Fig. 40: The proposed flood water outfall location setback from the coastline

Fig. 41: The proposed flood water outfall location setback from the coastline

- It is not clear to our client exactly why this scheme should be allowed an outfall to the SAC/SPA when no other strategic residential scheme in the area has been allowed such a thing. The particular flood risk and ground and surface water concerns of this site which have realised this as a possibility are exactly those reasons why this site is unsuitable for the density of development proposed.

- The applicant refers to a range of works being undertaken to address pluvial flood waters during the construction stage including:

  > *... providing a designated pipeline to convey the runoff from the lands to the South of the development to an alternative discharge location. It is also proposed to install pipelines of sufficient capacity and at strategic locations that will allow the flows* ***to pass underneath the new roadway thus maintaining critical pluvial flow paths.*** *The proposed design for these pipelines means that the runoff will only flow in a South to North direction, as is currently the case for the runoff to reach the estuary* [emphasis added].

  The applicant appears to be stating that they wish to carry out works within our client's lands to facilitate the passage of flood waters. Our client has not given any permission for such works and is very concerned over the proposals as they seem to suggest passing construction phase run-off waters directly into the SAC and SPA.

The applicant measures are not reassuring regarding flooding. They in fact confirm that there is a real risk at this location. The extent of measures required to try to address this risk is contrary to national, regional and local planning policies which seek to avoid developments which impact adversely on the climate, and which are unsustainable in design. The works required merely to make this a possible development site and not a field with surface pooling is excessive.

The applicant has also failed to mention – in the response to the LCCC LRD Opinion the issues of existing underground springs and culverts and the role these would play in any flood event, etc.

3. **Childcare Design.**

Response: The applicant has included a creche sited to the rear (west) of our client's property in an area of the site which is often visibly experiencing surface water ponding. This creche and its parking is located on Strategic Reserve lands zoned H1 Open Space. The proposed sewage pumping station is literally sited opposite. These lands are not zone for such development.

The creche is poorly sited and its design is not appropriate. It is isolated from much of the scheme. The applicant seeks to argue that they and not LCC are correct regarding the number of places it should provide.

4. **Community Social and Cultural Infrastructure Audit.**

Response:

A Community Social and Cultural Infrastructure Audit was required to be submitted at LRD application as per Sections 13.8.25 and Section 13.8.26 of the Louth County Development Plan 2021-2027 and the provisions of the Sustainable Residential Development and Compact Settlement Guidelines. This Audit confirms that this is a large housing scheme served by insufficient social/community and infrastructure facilities. The applicant scheme is essentially a 1980s housing estate design with an unsustainable and climate unfriendly quantum of car parking (861 spaces – a vast increase from the SHD scheme). The car parking is needed as the site is isolated from services, the public bus service is poor and infrequent, and households would need to drive to almost all activities. The submitted Community and Social Infrastructure Audit confirms only what already exists. This scheme will not contribute a new district centre, neighbourhood centre new school, etc. It is a single use significant development which represents an unsustainable extension to the town.

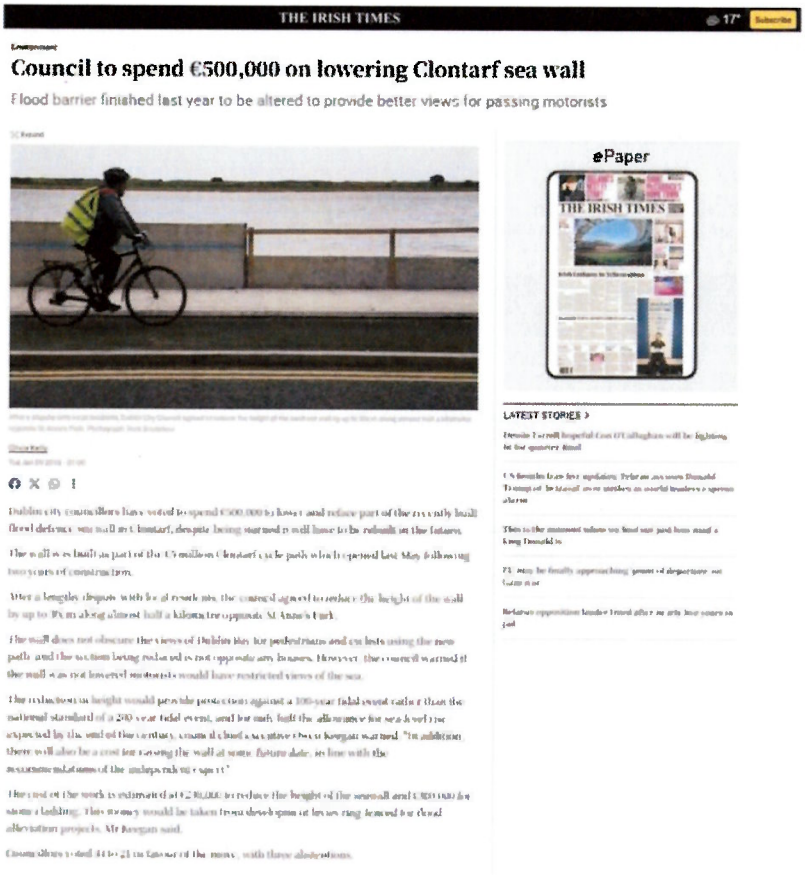
5. ***Roads/Layout/Infill (having regard to EIAR)***

Response: Our client – who own an area of land over which the applicant seeks to carry out works and who have not provided their consent – oppose the proposed infill works on the R172, at the site entrance and along the access road to the site. These works are proposed in areas which are literally sub-threshold as regards the Dundalk Bay SAC and SPA. The SAC does not have a straight line edge, and its wetland areas would extend over the road and into our client's property and other lands to the north and south were development of these lands never to have taken place. The applicant wants to carry out works which prioritise the scheme's needs over those of the SAC/SPA and over the protection of adjoining properties already part sited in Flood Zone A. The applicant's EIAR and AA reports continue to make the same arguments in favour of what were mostly the SHD scheme's plans. These plans were included before any EIAR was prepared and before adequate surveys and flood analysis had been carried out. In short, the signature of Paul Hyde was applied to a grant long before any person could have confidence in these proposals.

The road works are needed to address tidal flooding to protect the scheme's entrance. How unsuitable does a scheme's location need to be that it needs to convert a public road into a flood barrier just to avoid tidal flooding making itsmain entrance inaccessible at a time when sea levels are rising? [The R172 at the proposed site entrance is being raised by up to 1.289m to provide access to the proposed development above the predictive 1 in tidal flood levell. The works to the public road – only required for this scheme – would have a disproportionate adverse impact on our client's access to their home and for local people and anyone else to use what is a public road. Raising a road by 1.289m is not a minor change. The Clontarf wall. This is around the height at which the very controversial Clontarf flood wall was installed by Dublin City Council which subsequently spend over €500,000 on reducing it by 30 cms. The applicant has repeatedly stated that they are willing to adversely impact others while arguing that such significant road works as those required to raise an entire section of road by almost 1,3m "will not impact on adjoining properties or impede / restrict adjoining lands". Our client respectfully objects to this claim. LCC is asked to provide an example of a similar road project where existing property owners and road users were not impeded, etc.

Of genuine concern is that the applicant team do not in fact know what the impact of these significant works would be. They state: "Additional surveys shall be carried out and corresponding cross sections submitted at LRD application stage to demonstrate that the proposed infill works will not impact on the adjacent road and or properties". LCC is asked, as they are asked with foul drainage, surface water/flood water drainage, sightlines, etc. to trust the applicant when they offer emerging engineering solutions to the impossible. The submitted DOBA drawings appear to contradict the applicant's position. The applicant has failed to justify why it is that they should locate their scheme entrance at such a poor location. This location floods (from tidal and pluvial flooding), it is a wetland area, it has poor sightlines, it requires land take from our client, it impacts adversely on the SAC and SPA, it will impact on traffic flows, and its additional almost 1.3m in road level will impact on the appearance of the area. It will appear odd relative to what is a mostly flat stretch of

attractive coastal road. Would other planning authorities allow a similar development on the coastal roads passing along sensitive coastal areas of Ireland alongside SAC and SPA areas?


THE IRISH TIMES

Council to spend €500,000 on lowering Clontarf sea wall

Flood barrier finished last year to be altered to provide better views for passing motorists

ePaper

LATEST STORIES

Fig. 42: The height of the original Clontarf flood wall and the subsequent 30cm reduction in height (Source: Irish Times[16])

6. **Landscaping.**

Response: The applicant has sited part of a creche, parking areas, access roads, detention basins and other attenuation measures, in lands which are zoned Strategic Reserve. These lands are not presently available for development. The applicant proposes to remove an excessive number of trees and the proposals present risks to others. The paladin fence proposed to the west of our client's property has not been agreed with then and as such cannot be sited on the shared boundary. Our client's concerns regarding the landscaping of this scheme are set out in Section 9.9 of this Planning Objection Report.

7. **Impact on Existing Residential Amenity.**

Response: The applicant has sited a sewage pumping station, a large detention basin (with attenuation underneath), a creche and creche parking in in lands which are zoned Strategic Reserve. These lands adjoining our client's property are not presently available for development. H1 zoned open space lands adjoining our client's property. They do not support the use of the areas adjoining their property as a service area for the scheme. Our client's concerns regarding the residential amenity impacts of this scheme are set out in Section 9.10 of this Planning Objection Report.

8. **Infilling of lands / topography.**

Response: The applicant proposes to cut and fill areas of the site, to raise all the houses by 50cm, to raise the access roads, to dig out attenuation tanks even below largescale detention basins. The extent and significance of earthworks proposed for this scheme are excessive. They would cause hydrological runoff and hydrogeological ground water impacts that despite the claims of the applicant are unlikely to be mitigatable in the short term and/or permanently. The applicant'

[16] https://www.irishtimes.com/news/environment/council-to-spend-500-000-on-lowering-clontarf-sea-wall-1.3348943

Statement of Consistency offers one example of the access road to the south of our client's property. This shows the extreme cut and fill proposed with the bewildering nature of the proposed drainage pipes which extend to what the Natura Impact Statement refers to as an area of existing "marshy and waterlogged" ground. Why is it necessary to create such a large extent of "made ground"? The applicant's access road to the R172 should be reconsidered. The proposed surface water and wastewater longitudinal sections illustrated in 2268-DOB-XX-SI-DR-C-1400 to C-1405 and C-1450 to C-1455 would not be allowed regarding a smaller development site and it is not clear how they could be accepted here.

The applicant's planning notices/development description now include "excavation, cut and fill, reprofiling of existing ground levels". These works were included in the previous LRD but they were not advertised. The scheme includes wholesale changes proposed to the site's topography and to the level of the entrance and the public road outside. The Construction Management Plan mentions this, but it is not adequately assessed or assessed at all within the AA or NIS reports. The quantum of fill material to be imported raises further concerns over the suitability or otherwise of this site.

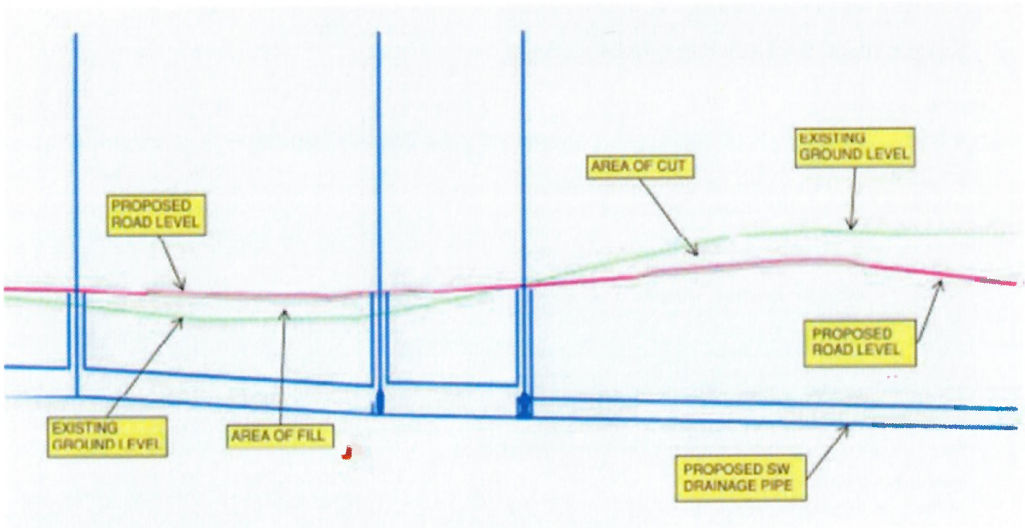


Fig. 43: Excerpt from the applicant's Statement of Consistency

9. A Construction Management Plan.

Response: The applicant has submitted Appendix 5.1 'Construction Management Plan (including construction traffic management plan)' of the EIAR. This report purports to be and the applicant's reports refer to it also as a 'Construction Environmental Management Plan', a 'Construction & Demolition Waste Management Plan', a 'Construction Stage Surface Water Management Plan', and a 'Construction Traffic Management Plan'. Our client has reviewed this document which purports to be so many reports in one.

Taken one by one, BPS notes how:

- The 'Construction Environmental Management Plan' is wholly general in content and outline only. It is a sample document. The entire document points to the appointment of a future contractor. Table 5 is limited in how it allows an assessor to determine if environmental protection will be in place prior to any large-scale works taking place and it is difficult to pick out when and how these protections will be ensured. It does not offer sufficient specific detail to LCC to carry out Appropriate Assessment. Sections 5.3 and 5.4 are non-specific to this site.

- The 'Construction & Demolition Waste Management Plan' is an outline plan only and lacks specific details pertaining to the proposed development. This could have been cut and pasted from any similar document. It offers nothing for the AA and NIS assessor to assess. Table 3 is blank. Table 4 is blank. This document does not offer LCC any basis for assessing this scheme or for carrying out its Appropriate Assessment. The entire document points to the appointment of a future contractor.

- The 'Construction Traffic Management Plan' is described as a "Framework" plan. This is a general report without much detail. The report defers to future contractor requirements and infers that its content is not confirmed. For example, it states: "use of these designated routes can be written into contractor obligations" and that construction routes need to be agreed with LCC. We note how one main route passes along the SAC and SPA. There are repeated references to measures which "should" be done, and which will be done by the contractor. There are areas which do not cross reference with the submitted AA and NIS reports. In all, the report reads as a preliminary

assessment and list of outline proposals. This is not a sufficient basis on which to justify the conclusion of the NIS.

- The 'Operational Waste Management Plan' is an outline document setting out in simple terms the operational waste management proposals for the site. It does not address all possible waste streams and is incomplete regarding avoidance and/or mitigation measures. This is not a sufficient basis on which to justify the conclusion of the NIS.

- The 'Infrastructure Design Report' for the present LRD has been amended such that it no longer refers to the Liffey but instead argues that our client and properties to the north and south contain a river into which the applicant can force its surface and flood waters. This is not accepted. The applicant has designed a scheme whose surface and flood water drainage would amount to channelising the entirety of all surface and flood waters from the site through our client's property. This area is in Flood Zone A and is wholly unsuitable for such drainage.

There remain concerns regarding what the applicant has submitted regarding the construction phase. The details read as drawn together in haste to try to make LCC consider these issues have been properly considered and addressed. This haste has caused mismatched reports with content from other jobs to be included. The construction phase remains improperly outlined despite its significance.

Our client does not consider this scheme to be defensible on these issues. Section 9.0 of this Planning Objection Report sets out our client's objections. The scheme's drainage proposals regarding surface and flood waters are excessive and excessively risky regarding the SAC and SPA. The scheme will place significant loading on the future Coe's Road Pumping Station which other schemes are waiting to connect into.

The Louth County Council Pre-planning has not been fully addressed by the applicant. The Statement of Response to LRD Opinion which accompanies this application for planning permission is incomplete and/or fails to offer solutions to the concerns raised by LCC. The submitted LRD planning application continues to fail to offer LCC sufficient basis on which to consider a grant of planning permission. This is especially regarding likely significant impacts on the SAC and SPA.

8.1.5 Issued LRD Opinion pre-dates the downzoning of these lands.

The applicant has set out the "Information to be submitted with the LRD Application Pursuant to article 16A(7) of the Planning and Development Regulations 2001 (as amended)". The LCC communication with the applicant – as noted above – pre-dates the downzoning of these lands.

The applicant has decided to lodge the planning application anyway and to essentially pretend that the lands have not been downzoned.

This being the case, our client is forced to respond to many of the claims made by the applicant especially in the LRD Response to Opinion document.

- ***The issue of the road entrance***

  Before these lands were downzoned, LCC stated:

  > *The applicant shall be required to provide clarity around the realigned Regional road at the site entrance. It appears that the new southern road edge may impact on 2 no existing private properties to the northwest of the proposed entrance. In addition, an existing stone wall will impact on the continuity of the proposed realigned footpath (it is considered that this footpath is restricted in width and pedestrians will need to step onto the road carriageway).*

  Client position: Works are proposed on lands in their ownership. A legal submission has been made to LCC regarding this matter. Our client has not consented to this planning application being lodged. The applicant/developer has been required by LCC to submit written evidence that all necessary rights and/or permissions from third party landowner(s). This has not been submitted. Third Party lands are impacted with the landowners not represented. All lands within the application site are not owned by Glenveagh Homes. Lands owned by our client are described as "lands in the control of Louth County Council". These lands are under our client's control and ownership. The proposed development works along Blackrock Road are works on part of our client's lands being undertaken by a private developer. Article 22(2)(g)(ii) of the Planning and Development Regulations 2001 does not apply. Further, the works required to achieve sightlines and to achieve the proposed raised road level are unacceptable at this location. The consequent surface water and flood water run-off in what is a Flood Zone A area cannot be justified.

- ***The issue of the Road Safety Audit & the unsuitability of the Blackrock Road entrance***

9. b. The applicant shall consider footpath accessibility issues 500m either side of the main site entrance onto the Regional Road R172 and Bothar Maol.

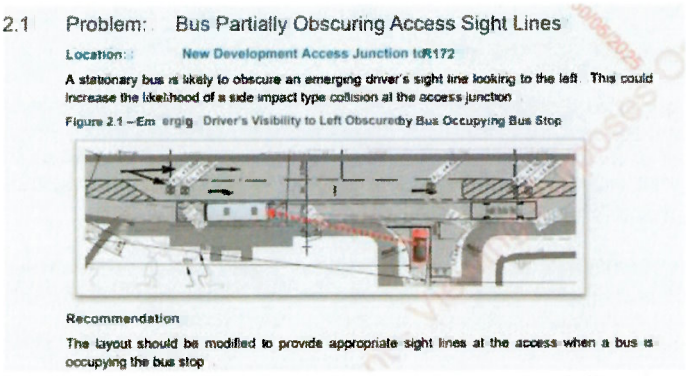
c. Further consideration/clarity shall be provided in regard to the proposed location of the bus stop to the northwest of the site entrance in particular to address visibility concerns regarding visibility when a bus is stopped etc.

Client position: The applicant's proposed scheme entrance on Blackrock Road is problematic. There are issues with building in a Flood Zone A area, issues with road raising and widening works, issues with sightlines when a bus is stopped, issues with pedestrian passing the entrance to a 500+ unit scheme with constant traffic entering and exiting, and issues with the pedestrian paths passing from the site entrance in both directions. These issues are now recognised in the current planning application; however, they cannot be properly addressed. The scheme entrance is unsuitable to serve what is a backland site.

The Road Safety Audit has noted the concerns in Figs. 44 and 46. The scheme proposes to place its adverse impacts on adjoining properties and lands including our client's property and lands and those also in the Dundalk Bay SAC yet offers nothing in return. There are not proposals to significantly upgrade pedestrian paths, to improve bus services, etc. The applicant's response to concerns that the scheme offers poor pedestrian connections is to state that pedestrians will walk through the scheme and not along Blackrock Road. This is not accepted.

The applicant attempts to argue that the site is zoned other than Strategic Reserve but at the same time, when concerns are raised over sightlines given stopping buses, LCC is referred to Section 3.1.2 of the NTA "Guidance on Bus Stop Locations in Rural Areas." Is the applicant now arguing that the site is not even in Dundalk? The Blackrock Bus Stop is a Dundalk bus stop and not a rural bus stop. The applicant argues that: "Given the constraints posed by existing private property entrances north and south of the access to the development, the proposed northbound bus stop is the closest feasible location". That is, given the unsuitability of the proposed site entrance in Flood Zone A lands adjoining private properties unsupportive of adjoining a 500+ unit scheme entrance, they can offer nothing better. The applicant argue that sightline concerns can be addressed with "signage and line markings". This is not acceptable. Also not acceptable is asking LCC to design the scheme with a comment: "The applicant ... is open to a condition to provide either bus stop, as both can be facilitated according to the submitted drawing". The applicant must take responsibility for the failings of the scheme entrance whose cumulative negative siting concerns now thoroughly exceed any positives (the list of which our client has yet to find).

Fig. 45 shows a DOBA drawing except, which claims a section of wall, if removed, will solve all sightline concerns applying to just 65m sightlines. This drawing is not convincing. Please compare the RSA concern with the drawing – a driver would have to stop exactly where DOBA's drawing shows them stropping. People are not so predictable. People will pull out into the road if there is a bus at the bus stop.


2.1 Problem: Bus Partially Obscuring Access Sight Lines

Location: New Development Access Junction toR172

A stationary bus is likely to obscure an emerging driver's sight line looking to the left. This could increase the likelihood of a side impact type collision at the access junction

Figure 2.1 – Emerging Driver's Visibility to Left Obscured by Bus Occupying Bus Stop

Recommendation

The layout should be modified to provide appropriate sight lines at the access when a bus is occupying the bus stop

Fig. 44: The Road Safety Audit notes concerns over sightlines (Source: Scheme RSA)

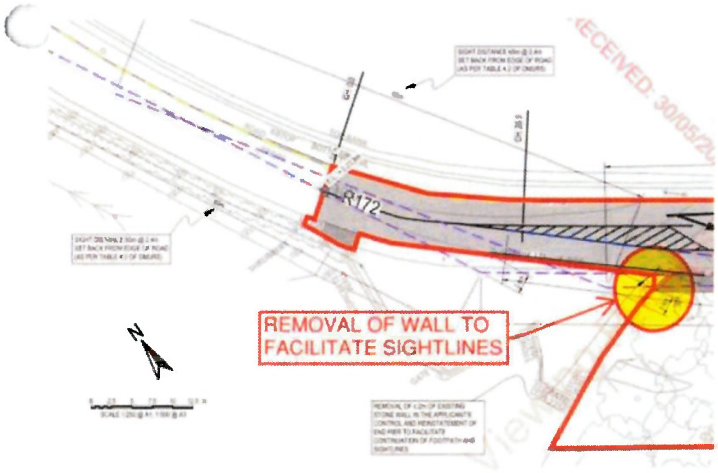
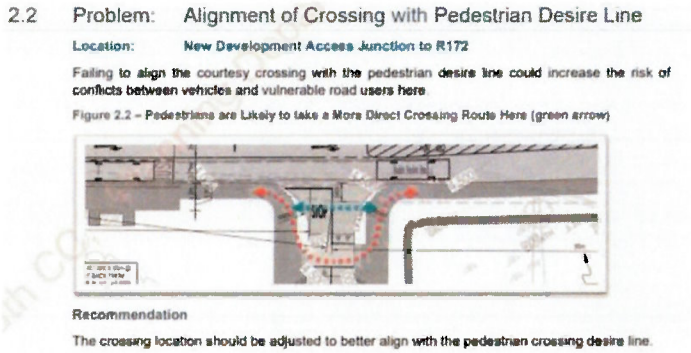


Figure 4 Extract from DOBA drawing 2268-DOB-XX-SI-DR-C-0585 highlighting 65m sightlines at 2.4m from the road edge

Fig. 45: DOBA drawing which claims a section of wall, if removed, will solve all sightline concerns


2.2 Problem: Alignment of Crossing with Pedestrian Desire Line

Location: New Development Access Junction to R172

Failing to align the courtesy crossing with the pedestrian desire line could increase the risk of conflicts between vehicles and vulnerable road users here

Figure 2.2 – Pedestrians are Likely to take a More Direct Crossing Route Here (green arrow)

Recommendation

The crossing location should be adjusted to better align with the pedestrian crossing desire line.

Fig. 46: The Road Safety Audit notes concerns over pedestrians passing the proposed entrance (Source: Scheme RSA)

- ***The issue of proposing to discharge surface/flood waters into private properties***

> *13. a. The applicant proposes to discharge part of the storm water generated from the site to an existing drainage channel (SMH32.08) that runs north alongside the Regional Road (R172). The Planning Authority have no records of this drainage network alongside the public road. The applicant shall submit location plans, longitudinal sections, pipe diameters, gradients, cover/invert levels and eventual discharge point including pipe diameters and gradients both upstream and downstream of this proposed connection. Response: The MapGenie 6 Inch First Edition shows that the open channel has existed since the 19th century. A topographic survey completed in 2018 for the SHD planning application reveals that flows within the Eastern Conveyance Channel travel north, extending under the R172 and discharging into a larger open channel (Northern Conveyance Channel). This channel connects with other estuary channels before reaching Dundalk Bay and the Irish Sea. IE Consulting's undertook a Hydraulic Assessment of this channel – refer to Hydraulic Modelling, Assessment and Analysis Report appended to the Infrastructure Design Report by DOBA. This assessment confirms that the existing channels and culverts have sufficient capacity to convey flows from the proposed LRD development. The assessment includes cross sections of the channels and culverts. Refer to DOBA Response attached for further details and imagery.*

Client position: LCC has no details of any existing drainage channel (SMH32.08) as this does not exist in the manner claimed by the applicant. Part of our client's property is located in Flood Zone A and could be defined as a wetland (containing a large pond). The applicant proposes to discharge part of the surface, storm and flood water generated from the site into existing wetland areas which exist in private properties such as our client's located to the north of the proposed Blackrock Road entrance. The applicant site is a backland one and they have been forced to look for ways to pass surface, storm and flood water from the site to the sea. They have opted to try to force these waters onto our client and other property owners and through lands in Flood Zone A (which would be under water during high rainfall events and unable to act as any form of channel into which to discharge water from the site.

This is the third planning application now made on these lands. This is the first time that LCC has noted no records of any drainage channel through our client's property. This is the first time LCC

has asked the applicant for "location plans, longitudinal sections, pipe diameters, gradients, cover/invert levels and eventual discharge point including pipe diameters and gradients both upstream and downstream of this proposed connection". As the applicant has no consent for any survey within our client's property, has never carried out any survey of their property, and has had no way over no less than three planning applications to prove their theory that waters forced into our client's property will pass through it – even during periods of flooding – and to the sea. In the absence of any possible way for them to prove their theory to LCC (this being a theory which could cause significant flooding of our client's property – the applicant is forced to rely on "the MapGenie 6 Inch First Edition shows that the open channel has existed since the 19th century". LCC is being asked to rely on a series of maps prepared by the OS back between 1829 and 1842. These maps represent the first large-scale survey of Ireland, covering the entire country at a scale of 6 inches to 1 mile, and are taught in geography and planning college courses as a stage in the mapping of Ireland when maps could be significantly inaccurate and based on appraisals by eye. These are not up to date maps. Not only are these antique maps of absolutely no relevance in this matter, but our client purchased their property and lands based on documentation which includes no reference to any channel passing through their property.

Next the applicant will tell LCC that the houses should be smaller as the MapGenie 6 Inch First Edition was prepared before the famine during which people ate less. Or perhaps no child care assessment is required because children worked prior to the famine and were not in childcare. Perhaps, the scheme should accommodate horses and carriages as the main modes of transport in such historic times. Whatever is the case, any surface water which was managed in this area up to 200 years ago was not managed in any way which would be recognisable by LCC today. The entire argument is ludicrous.

Figs. 49 and 50 show Figs. 22 and 34 of the SSFRA which set out surveyed pluvial overland flow paths – these show no current overland flow path passing from the south of the applicant site, down the location of the proposed access road, and into our client's property – the opposite is the case – flows pass southwards away from our client's property. The applicant is arguing that there is an existing drainage channel which does not currently serve pluvial (rainfall) flows. This confirms our client's position that there is no natural drainage channel passing through their property which currently serves existing pluvial flows.

Fig. 4 of the applicant's Infrastructure Design Report also attempts to make the same case for a northward drainage channel. The photograph provided in that report's Fig. 4 is initially misleading and suggests flows pass northward to support the applicant's case for a northward drainage channel. In fact, the 'Photo Direction' is southward and supports the pluvial flows survey (see Figs. 22 and 34 of the SSFRA) which show surface pluvial waters passing south from this point into a wetland/marshy area which occasionally has visible water as shown in the photo. There is no proof provided in Fig. 4 of the applicant's Infrastructure Design Report of any purported channel passing north (Source: Applicant Infrastructure Design Report and Google Streetview).

The applicant and LCC cannot definitively prove that a public pipe or water channel has ever existed to the Regional Road side of our client's property. This is a contemporary planning application, and it must rely on contemporary public sewers, etc. which have been checked by way of CCTV, etc.

The applicant asks LC to rely on their own survey conducted in 2018. Again, this work was carried out without access to our client's property. The applicant cannot reasonably ask LCC to base its assessment on whether a channel exists on the fact that the applicant argues one exists to benefit their scheme.

This is the same applicant for whom "IE Consulting has assessed the existing channels and culverts" but then it is accepted that "**A CCTV survey of the culvert crossing the road was attempted, but it was not completed due to obstruction**" [emphasis added]. Despite the construction, the applicant states: "the channel was confirmed to be in working condition ..." (some photographs are provided which purport to suggest that such pictures mean a survey is not required – despite how the proposals seek to permanently rely on channels/culverts outside of the applicant's control and maintenance responsibility). LCC is asked to consider why it is that the applicant seeks to rely on 19th Century Maps and not on a proper survey of our client's property? Could it be that our client's property which is part sited in Flood Zone A – in the area where a channel is claimed – is not available to accommodate waters from the applicant scheme. No consent has been given for this. Theirs is a private property. However, the applicant has no choice because the scheme location leaves no other option.

Figs. 19 and 20 raise some interesting questions about the applicant's reports. IE Consulting claims to have surveyed our client's property to prepare an assessment of what are claimed to be "existing channels and culverts". No member of the project team has ever set foot in our client's property with their consent. Exactly how has IE Consulting caried out such work without our client's consent or knowledge? To our client, these claims read as fiction. Based on this fiction, IE Consulting claims

existing channels and culverts have sufficient capacity to convey the proposed flows from the LRD development".

Our client can confirm that they challenge the veracity of IE Consulting, and the claims made in their work included with this LRD application.

IE Consulting should be asked if all their work was desk-based and 'if not' how and when did they survey our client's property. Please ask them to provide dates and times at which they attended our client's property and a copy of any permission/consent received to enter the property.

Without our client's consent for actual real assessments of their property to arise, this scheme cannot proceed no matter how much the applicant seeks to create a narrative that they essentially maintain a river (which they are unaware of) in their front garden.

If LCC can find any document, map or survey not prepared by the applicant which proves a channel exists then our client's solicitor and surveyor would like to review such details. Otherwise, the works our client has carried out to their property including heavy landscaping, the creation of a pond, etc. are all works which were carried out more than 7 years ago. LCC cannot have any confidence, nor can it consider there to be any right available to it or the applicant to treat our client's property with the assumption that a purported pre-1845 channel still exists in a manner which has not been interfered with in any way and which all future property owners would maintain to the benefit of the applicant scheme.

As it stands, LCC has no way of knowing whether waters forced into our client's property would not merely collect causing a large flood of their property and home. Our client asks if LCC are intending to indemnify them against any insurance claim they may be forced to make to cover such damage. Indeed, is LC confident that it would not be them that would be liable for having given planning permission for huge volumes of surface, storm, and flood waters to be forced into our client's property? There are families across Ireland living in or partly in Flood Zone A properties and lands who cannot obtain insurance. How does LCC consider our client's insurer would react to the applicant's proposals? And, How would it own corporate insurer?

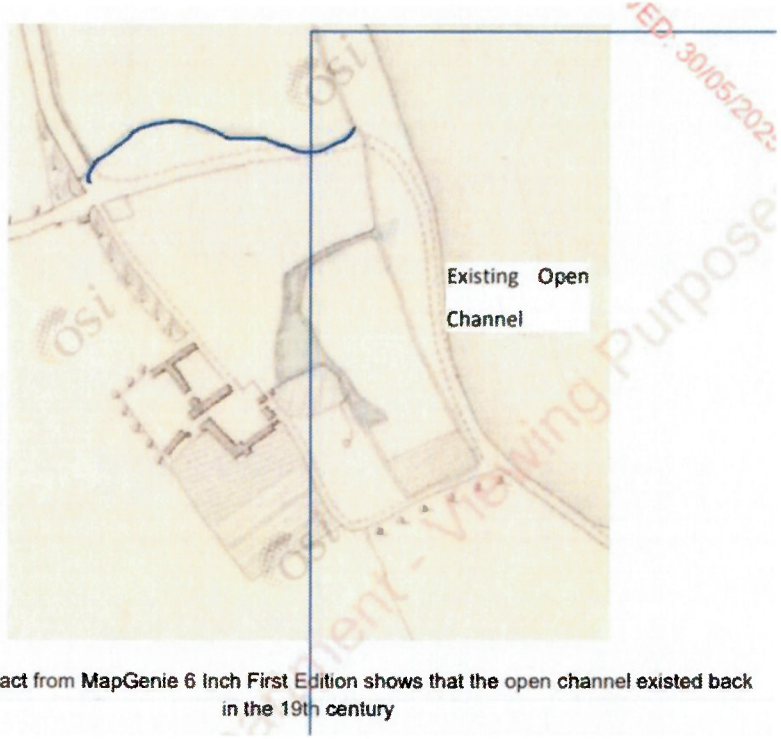


Figure 18 Extract from MapGenie 6 Inch First Edition shows that the open channel existed back in the 19th century

Fig. 47: Applicant's surface, storm, and floodwater proposals depend largely on an antique map prepared prior to 1850 which pre-dates client ownership of their property

Figure 5 - Historic 6inch Mapping

Fig. 48: Applicant's surface, storm, and floodwater proposals depend largely on an antique map prepared prior to 1850 which pre-dates client ownership of their property

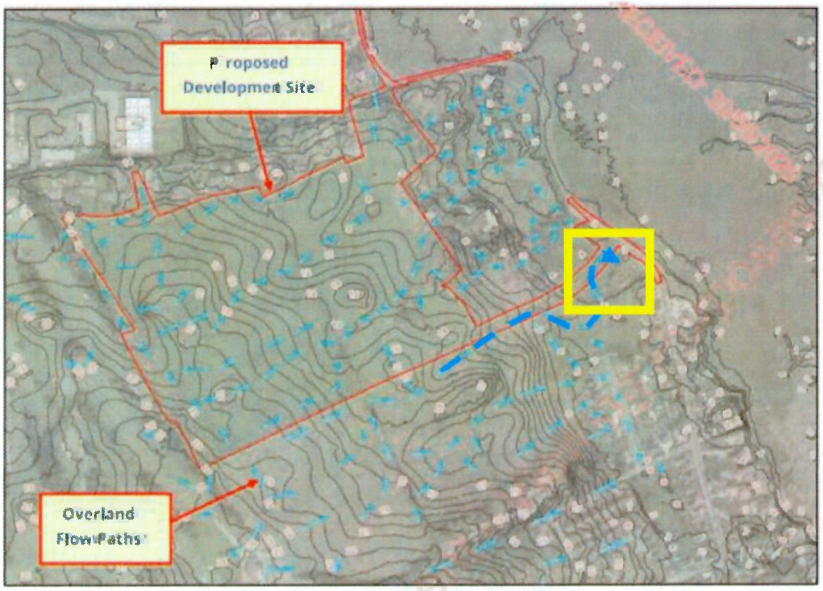


Figure 22- Pluvial Overland FlowPaths

Fig. 49: Fig. 22 of the SSFRA sets out surveyed pluvial overland flow paths – these show no current overland flow path passing from the south of the applicant site, down the location of the proposed access road, and into our client's property – the opposite is the case – flows pass southwards (Source: SSFRA)

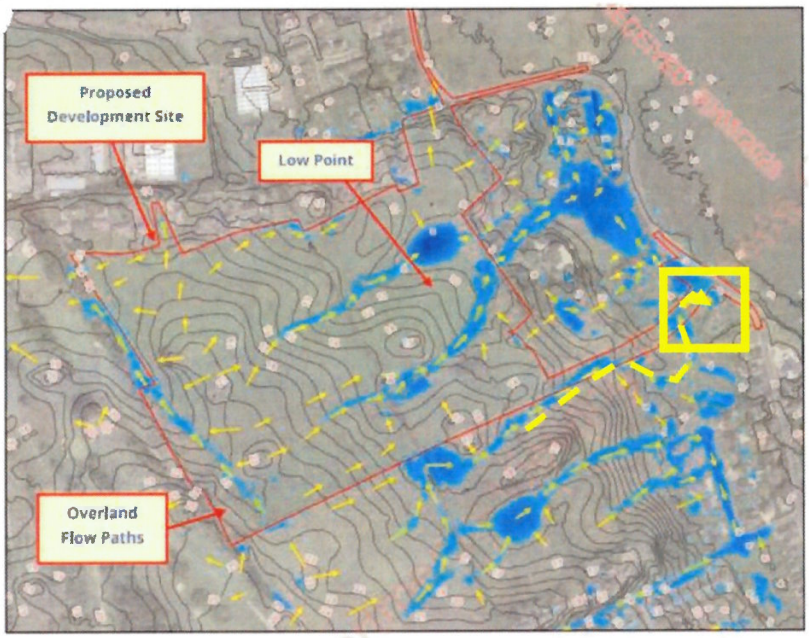


Figure 34 – Baseline Scenario 1% AEP MRFS Pluvial Flood Extents and Overland Flow Paths

Fig. 50: Fig. 34 of the SSFRA sets out surveyed pluvial overland flow paths – these show no current overland flow path passing from the south of the applicant site, down the location of the proposed access road, and into our client's property – the opposite is the case – flows pass southwards (Source: SSFRA)

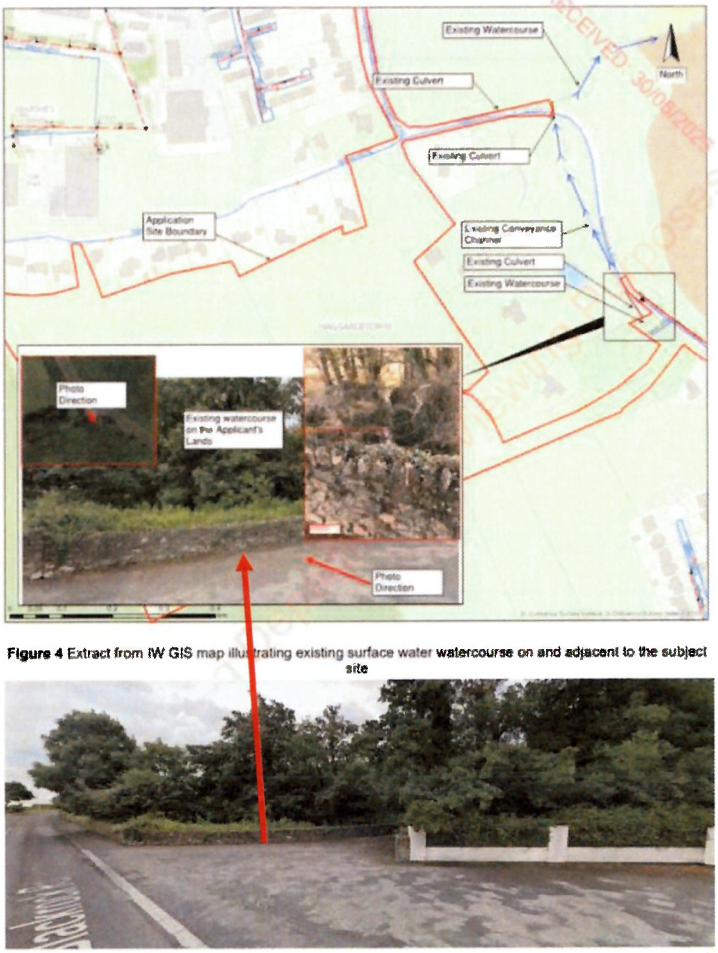


Figure 4 Extract from IW GIS map illustrating existing surface water watercourse on and adjacent to the subject site

Fig. 51: Fig. 4 of the applicant's Infrastructure Design Report – the photograph provided is initially misleading and suggests flows pass northward to support the applicant's case for a northward drainage channel. In fact, the 'Photo Direction' is southward and supports the pluvial flows survey

which shows surface waters passing south from this point into a wetland/marshy area (which occasionally has visible water as shown in the photo. There is no proof provided in this figure of any purported channel passing north (Source: Applicant Infrastructure Design Report and Google Streetview)

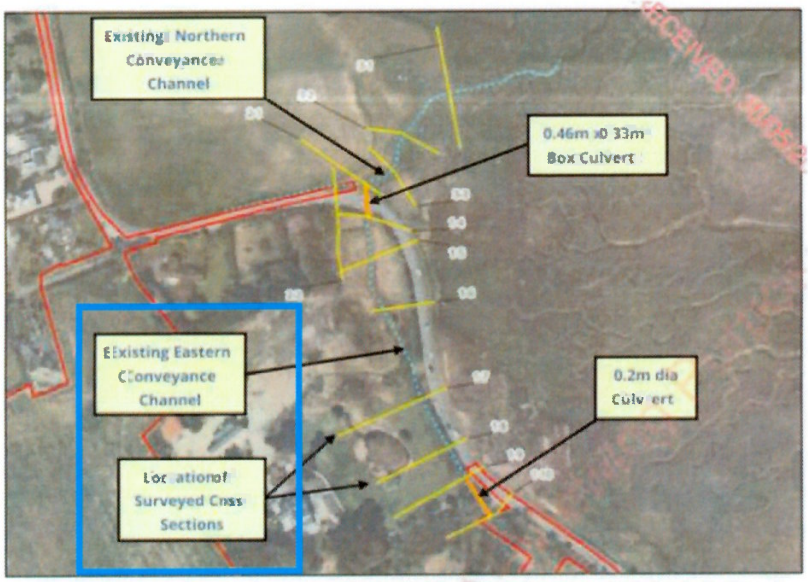


Figure 19 Extract from IE Consulting Hydraulic Modelling. Assessment & Analysis Report (Source: IE Consulting

Fig. 52: Drawing presenting the applicant's unsurveyed claims (by way of no site visit into client's property) as to a purported Eastern Conveyance Channel – the applicant has never entered our client's property for any claimed survey (approx. 50% of the blue dotted line – the south side – is located in our client's property)

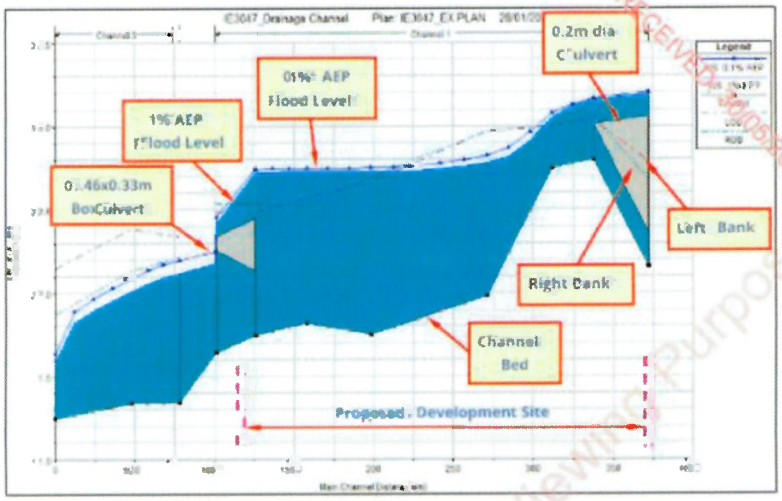


Figure 20 Extract of Modelled Conveyance Channel from IE Consulting Hydraulic Modelling. Assessment & Analysis Report (Source: IE Consulting)

Fig. 53: The applicant's unsurveyed (by way of no site visit into client's property) claims as to a purported Eastern Conveyance Channel – the applicant has never entered our client's property for any claimed survey (are these desk based results?)

- ***The issue of proposing to discharge surface/flood waters across the Regional Road***

LCC states: "The drainage channel crosses the regional road approx. 280m via an existing culvert, hence the applicant shall demonstrate that this culvert is of adequate capacity and condition to cater for this flow and confirmation that the drainage on the Regional Road will not be affected. The applicant shall supply CCTV footage details to demonstrate the condition of this culvert".

Client position: Our client considers these proposals in the same manner as they consider the proposals to raise the height of the road and to widen it. They are poorly considered. The applicant's details regarding the drainage channel crosses the regional road approx. 280m via an existing

culvert are unacceptable. They state: "A CCTV survey of the culvert crossing the road was attempted, but it was not completed due to obstruction." Would this statement be accepted in any small scale planning application even for a single infill dwelling attempting to connect into an existing blocked storm water sewer pipe?

- ***The issue of proposing surface water ponds and small lakes without lifeguards or fencing***

  LCC states: "Within the proposed development site , a number of retention ponds / swales are proposed. As identified on drawings the depth of these swales / retention ponds are 0.5m with slopes of 1 in 4. The applicant is requested to undertake a safety audit to ensure that these areas do not pose a safety risk to residents.

  Client position: Our client's objection to the refused LRD scheme raised this concern. The applicant proposal could be described as a Lakeland scheme. Their own property contains a large pond completed by way of heavy landscaping to accommodate the property's own surface waters (in Flood Zone A). They consider their own pond a risk to children, and they do not consider the SuDS Health and Safety Risk Assessment to adequately address the likely risks to unsupervised children in a large housing estate (in public areas).

- ***The issue of infilling lands and significantly altering topography with associated HGV trips, etc.***

  LCC states: "There is a height difference of over 18 metres between the northeast corner of the site at Bothar Maol and the south-west corner of the site where it abuts the Dundalk Golf Club. While the LRD documentation includes an existing topographic survey and an indication of FFLs for the proposed dwellings, there is deficiency in the cross-sections submitted for the development proposal ... Infilling of lands should be referenced in the LRD planning application description of development."

  Client position: Our client welcomes the advertising of the applicant's proposed cutting, filling, and topographical changes including those to Blackrock Road and its footpaths. The applicant offers no definitive assessment as to the quantum, of soil and subsoil to be excavated and exported or the quantum to be imported. LCC is asked to trust the, that "A cut and fill balance across the site is sought to be achieved". Our client does not accept that this can or will be achieved across the site and at Blackrock Road where ground levels are proposed to be raised by almost 1.3m. Concerns arise that the scheme will in fact require the export of soil and sub-soil but the import of suitable fill (for the road raising and widening work). The applicant reports are too general on these matters.
  The R172 at the proposed site entrance is being raised by up to 1.289m to provide access to the proposed development above the predictive 0.5% AEP (1 in 200 year) tidal flood level for the Mid-Range Future Scenario (MRFS) of +4.14m. LCC is asked to consider whether these works are appropriate in Flood Zone A.

  BPS asks this because we have worked on projects where planning permission has been refused as scheme entrances, even for a single dwelling, are in Flood Zone A which means that access to emergency vehicles, etc. may be prevented by flood waters in the future. The applicant appears confidence that they can push tidal and pluvial flood waters away from the entrance and a section of the public road, but these waters must go somewhere. While arguing that existing properties will be able to drive up slopes onto the public road from their properties, these same slopes will encourage surface waters into their properties.

  Concerns arise that the pluvial flood waters will end up flooding private property such as our client's and the tidal flood barriers created by the section of raised road will cause tidal waters to pass around each side of it during extreme flood events. The applicant states: "The increase in levels along the R172 will not impact on adjoining properties or impede / restrict adjoining lands. Refer to DOBA Response attached for details." However, what about flood waters. What about the law of unintended consequences?

- ***The issue of ecology and bird surveys – the lands are downzoned and the surveys have no use***

  LCC states: "The submitted Ecology Technical Note prepared by Enviroguide outlines that a number of new ecological surveys are currently underway to inform the EIAR which is required to accompany the LRD application. The planning authority queried the rationale for not carrying out further breeding bird surveys in the Section 32B Consultation Meeting , noting that additional winter bird surveys are proposed. This matter should be considered further and a suitable rationale for this approach outlined and explained having regard to best practice guidelines."

  Client position: The applicant's planning application is their third. Every time a new planning application is being prepared, LCC is told that new surveys of birds are being undertaken. Notwithstanding the downzoning of these lands to Strategic Reserve meaning the lands will remain fallow and available and exsitu habitat for the coming years, the applicant nonetheless confirms that

"following the S.32B meeting ... surveys commenced". The current "ecology reports submitte(ve taken account of the results for Apil and the surveys will continue into May". That is, they are ongoing even after LCC voted to downzone these lands. It does not matter what the results of the surveys show at present as by the time these lands are zoned for residential development in the future, they will be out of date. Local ecology including birds should not be disturbed while the lands remain zoned as Strategic Reserve.

9.0 Grounds for objection

9.1 Ground 1: Site i sdownzo nedto L1 strategi cReserve – material contraven to narises

The applicant site has been rezoned under the Dundalk Local Area Plan 2025-2031 which was formally adopted by resolution at a Council Meeting on Thursday, March 6, 2025. It has been available for inspection from Wednesday, April 16, 2025.

The Dundalk Local Area Plan 2025-2021 supersedes the Louth County Development Plan 2021-2027 as regards the zoning of the subject lands.

In planning terms, the subject site has been identified by the Louth County Council under the Local Area Plan (2025 – 2031) as L1 – Strategic Reserve.

The site zoning policy includes the objective: "To provide a land reserve for the orderly expansion of the settlement into the future".

Section 13.21.27 'L1- Strategic Reserve' of the adopted LAP sets out 'Guidance' which states: "**These are strategically located lands that will generally not be available for development until after the expiration of this Plan**".

The applicant's proposed eastern entrance is located in Flood Zone A and most of our client's property is also.

Our client's property (full folio) is zoned part A1 'Existing Residential' and part H1 'Open Space'. The eastern half of the residential property is sited within Flood Zone A.

The development proposed is not in accordance with the zoning of the site.

The proposed development would represent a material contravention of the site's zoning.

LCC cannot reasonably propose a material contravention just months after downzoning the site.

The LCC LRD Opinion was issued before the ands were downzoned and that advice given 'without prejudice' to the outcome of any planning application has now been superseded by LCC's decision to downzone the lands in alignment with the decision of ABP to refuse planning permission on the grounds of foul drainage prematurity (see Section 2.1 of this report).

The applicant's arguments and High Court threats around the downzoning decision made by LCC are addressed in Section 5.0 of this Planning Objection Report.

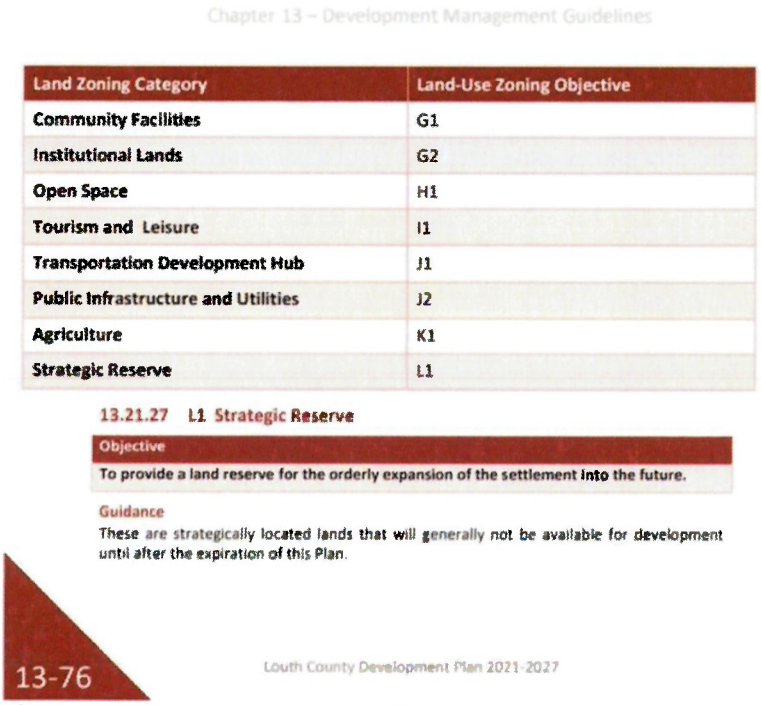
We submit that arising from the downzoning of these lands, LCC is precluded from considering granting planning permission (even if it wished to overturn its previous decision to refuse planning permission which was upheld only on **07/06/2024** by ABP on appeal).

We note that Section 2.4.3 'Guiding Principles for Core Strategy' of the LCDP states:

> ***The RSES recognises that a disconnect may exist between the quantum of land zoned in current plans and the National and Regional development parameters set out in the NPF. The options available to address issues of surplus residential lands are***: • *Prioritisation measures that provide for the sequential release of lands which may be suitable for housing delivery but not likely to be forthcoming during the period of the Plan; and* • ***De-zoning land.*** *Where there are sites with long term development potential not being brought forward for development, the RSES acknowledges that local authorities should consider other suitable, alternative sites capable of being delivered in the short term. With regard to any surplus of residential lands, the prioritisation of lands will be considered.* ***This may include*** *the phasing of lands and/or the introduction of a strategic reserve, or* ***the de-zoning of land****.*
>
> ***Any lands placed in a strategic reserve will not be available for development during the lifetime of the Plan. This will be dependent on the settlement category in which the lands are located and other localised factors including but not limited to; recent patterns of development, extant permissions and infrastructure constraints*** [emphasis added].

Section 2.14.5 'Residential Development' of the LCDP states: "**Any excess lands have been placed in a strategic reserve and will not be available for development during the life of this Plan**" [emphasis added].

LCC's position regarding L1 Strategic Reserve lands is very clear and the reasons for downzoning lands are equally clear. The LAP has downzoned these lands. The matter is finished.



Land Zoning Category	Land-Use Zoning Objective
Community Facilities	G1
Institutional Lands	G2
Open Space	H1
Tourism and Leisure	I1
Transportation Development Hub	J1
Public Infrastructure and Utilities	J2
Agriculture	K1
Strategic Reserve	L1

13.21.27 L1 Strategic Reserve

Objective

To provide a land reserve for the orderly expansion of the settlement into the future.

Guidance

These are strategically located lands that will generally not be available for development until after the expiration of this Plan.

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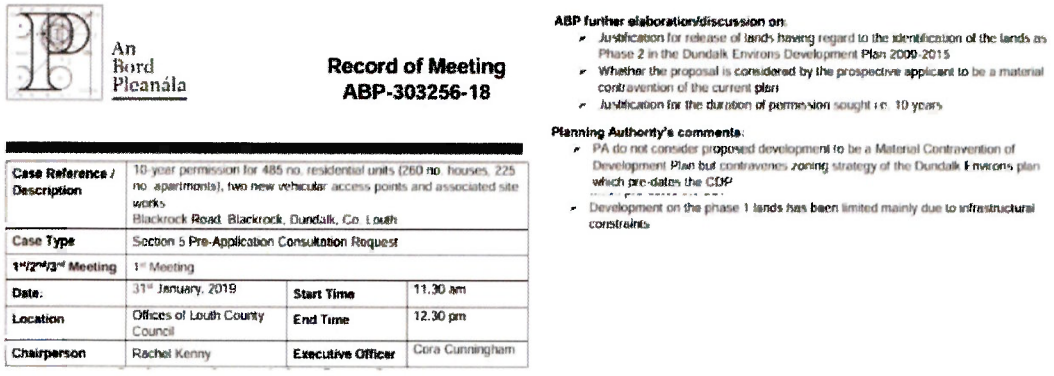
Louth County Development Plan 2021-2027

Fig. 54: The meaning of the L1 Strategic Reserve zoning under the LCDP

In case LCC or the applicant need clarification on this matter, BPS reminds LCC that in pee-planning for the original SHD scheme, it noted that the scheme would materially contravene the Dundalk Environs Plan, but that this pre-dated the CDP. The opposite is now the case.

There is no longer any justification for the release of these lands under an LRD as they are L1 Strategic Reserve lands. The proposal is a material contravention of the LAP and the CDP (given the LAP supersedes the CDP in this re-zoning matter).



An Bord Pleanála

Record of Meeting
ABP-303256-18

Case Reference / Description	10-year permission for 485 no. residential units (260 no. houses, 225 no. apartments), two new vehicular access points and associated site works Blackrock Road, Blackrock, Dundalk, Co. Louth		
Case Type	Section 5 Pre-Application Consultation Request		
1st/2nd/3rd Meeting	1st Meeting		
Date:	31st January, 2019	Start Time	11.30 am
Location	Offices of Louth County Council	End Time	12.30 pm
Chairperson	Rachel Kenny	Executive Officer	Cora Cunningham

ABP further elaboration/discussion on:

- Justification for release of lands having regard to the identification of the lands as Phase 2 in the Dundalk Environs Development Plan 2009-2015
- Whether the proposal is considered by the prospective applicant to be a material contravention of the current plan
- Justification for the duration of permission sought i.e. 10 years

Planning Authority's comments:

- PA do not consider proposed development to be a Material Contravention of Development Plan but contravenes zoning strategy of the Dundalk Environs plan which pre-dates the CDP
- Development on the phase 1 lands has been limited mainly due to infrastructural constraints

Fig. 54: The issue of zoning as discussed between the applicant, ABP and LCC during pre-planning for the SHD scheme

9.1.1 Lands to the west & adjoining client property are now zoned L1 Strategic Reserve

During the passage of the Dundalk Local Area Plan 2025-2031, through its various drafting stages, our client did raised objections to the zonings of the applicant site as the lands adjoin their property.

Under the previous LRD scheme the lands immediately to the west of their property had been zoned H1 under the LCDP.

The issue of the applicant proposing development within H1 zoned lands is no longer an issue as all of the lands are zoned Strategic Reserve and all parts of the proposed development would currently represent a material contravention of the LAP zoning.

Despite the downzoning of these lands, the applicant has returned with the same LRD scheme with the same infrastructural proposals sited alongside our client's property. The applicant scheme continues to site the creche building, and access road, car parking, a wastewater pumping station and a large attenuation basin all within a short distance of our client's property.

A review of the list of developments 'permitted in principle' or 'open for consideration' in Strategic Reserve zoned areas does not include:

- Child care facility.
- Car parks.
- Utilities (an entire pumping station and a large-scale attenuation basin).

Concerns arise that the siting of these developments represents material contravention of the current zoning as they were previously a material contravention of the H1 zoning and of Section 13.21.22 H1 'Open Space' whose 'Objective' is "To preserve, provide and improve recreational amenity and open space". The 'Guidance' states: "This zoning refers to areas of 'active' and 'passive' open space. Development that will improve the facilities or quality of the open space, amenity or recreational facilities, or contributes to the enjoyment of the space will be considered".

The decision to grant or refuse the permission lies with the elected members of the local authority and is a reserved function.

There have been several cases where large scale residential development (SHDs) were quashed by the courts on the grounds of material contravention of the development plan. In this case, it appears the applicant has misunderstood the new LAP zoning. We note how the courts will intervene to quash a decision without affording any curial deference. An example is in Clonres v An Bord Pleanala [2021] IEHC 303 where Humphreys J quashed permission granted on a residential development on lands in St Paul's Clontarf related to the Z15 zoning.

Fig. 55: Scheme infrastructureproposed on Strategic Reserve zoned lands to the west of client's rear (western) boundary

9.1.2 Foul drainage proposals include temporary surface tanks of waste up to 2030

Despite arguing that ABP's refusal decision under the previous LRD was incorrect and that LCC should not have downzoned these lands to being zoned Strategic Reserve, the applicant's foul drainage proposals confirm that both ABP and LCC are correct.

The applicant is seeking on-site temporary foul drainage measures "in advance of upgrade works to the Coe's Road" which is no longer to be completed by 2027 but will not be until approx. 2030.

ABP does not permit temporary WWTP operations on sites and certainly not to serve over 500 units.

The Non-Technical Summary of the EIAR states of a scheme whose surface/storm/flood waters will be pushed towards outfall into the Dundalk Bay SAC. The scheme offers too much risk as regards proposed on-site temporary foul water storage:

> ***Welfare facilities have the potential, if not managed appropriately, to release organic and other contaminants to ground or surface water courses. Foul drainage from temporary welfare facilities during the construction phase of the Proposed Development will be discharged to temporary holding tank(s) the contents of which will periodically be tankered offsite to a licensed facility****. All waste from welfare facilities will be managed in accordance with the relevant statutory obligations by an appropriately authorised contractor* [emphasis added].
>
> *Discharge from any vehicle wheel wash area will be directed to the onsite settlement tank for* ***discharge to the UE foul network*** *(subject to receipt of the relevant consent from UE) or by* ***tankering of waste offsite*** *by an appropriately authorised contractor. Any debris or sediment within the wheel-wash will be emptied periodically for disposal offsite at a licenced facility* [emphasis added].
>
> ***Receiving water quality may be affected by various sources of contamination, including storage and use of fuels, oils, and chemicals, use of concrete and cementitious materials, runoff with entrained sediment, sediment in groundwater during dewatering, accidental release of wash-water or foul water, and release of foul water during connection to live sewers. Contaminants may infiltrate to the substrate and bedrock aquifer, migrate via overland flow, enter unnamed streams, or infiltrate through subsoils during excavations*** [emphasis added].
>
> ***Foul water will be directed to the Dundalk Waste Water Treatment Plant (WWTP), with planned upgrades to accommodate the development. Although there have been exceedances in effluent discharge limits, the additional load from the development is considered insignificant*** [emphasis added].

The scheme is premature. Foul water discharge exceedances to the SAC and the additional loading of this scheme in the context of such exceedances is not acceptable.

Section 9.2 of the submitted 'Infrastructure Design Report' and various entries in the EIAR state: "9.2 Wastewater The wastewater generated from the proposed development will discharge by gravity to a new Type 3 wastewater pump station (WwPS) with associated temporary storage and dosing measures ... **in advance of upgrade works to the Coe's Road WwPS, via an interim temporary solution whereby flows from the development in excess of 61m3 are stored on the development site during the day (7am to 7pm)** and discharged to the public network during the night (7pm to 7am)" [emphasis added].

LCC is asked to note that the proposed foul waste storage would be in tanks alongside the proposed on-site pumping station close to our client's property and – again – all on lands zoned L1 Strategic Reserve.

BPS is unable to locate the elevational engineering drawings pertaining to the pumping station and the foul waste storage tanks. LCC might review these to confirm concerns over surface level foul waste storage.

These proposals are unacceptable for a range of reasons including material contravention, prematurity on foul drainage infrastructure grounds, on poor siting of temporary foul waste infrastructure, etc.

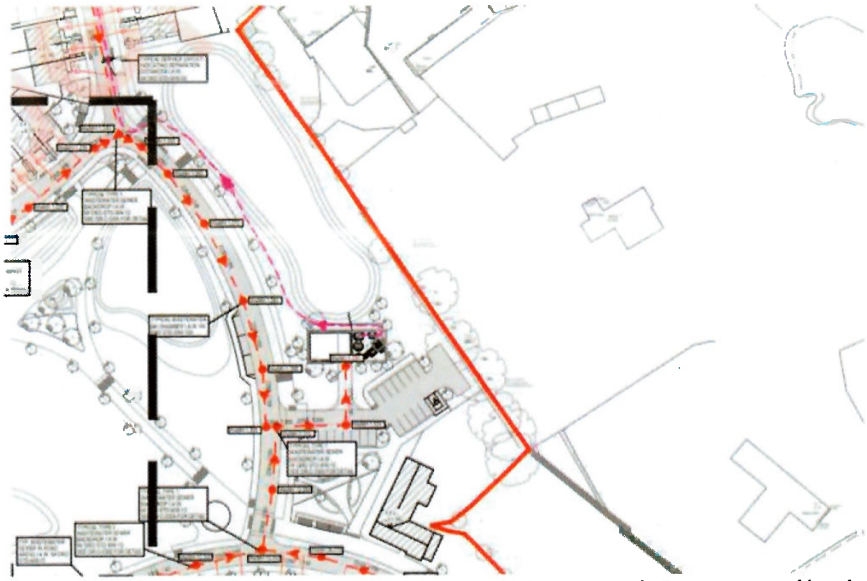


Fig. 56: Scheme foul drainage infrastructure proposed on Strategic Reserve zoned lands to the west of client's rear (western) boundary

9.1.3 Proposals materially contravene the flood risk management objectives of t heLCDP

In O'Donnell v An Bord Pleanála, the High Court quashed the Board's decision to grant permission for a large-scale residential development on the grounds that it breached the flood risk management objectives of the County Development Plan. The court found that the Board did not adequately identify and justify the material contravention, and that it acted ultra vires its powers.

In the current case, the applicant has failed to address pre-planning concerns regarding surface water, storm water and flood water routing from the scheme and flood risk. Further, the SSFRA author appears unaware these lands have been downzoned to L1 Strategic Reserve in the LAP (see Fig. 57) and the requirements of the Justification Test are no longer met (if they were previously). Further, the SSFRA accepts that the scheme will cause flooding elsewhere and "mitigation" is only possible by forcing flood water into our client's property by way of purported "Mitigation Measure 1" (see Section 8.0 of this Planning Objection Report) – this is not permitted under the Justification Test (see Fig. 58).

It is important to note that the OPW failed the site on these Justification Tests. LCC is asked to review the OPW's submission made to the drafting of the Dundalk LAP 2025 (see Fig. 1B). The OPW recommended the site be rezoned **"for usage appropriate to the level of flood risk"** [emphasis added].

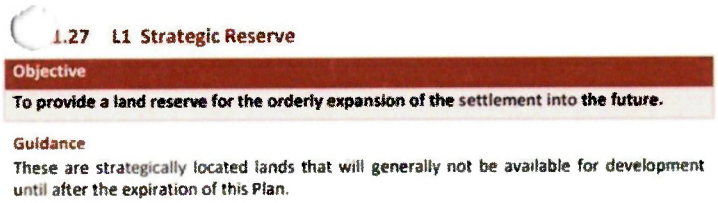
Box 5.1 Justification Test for development management (to be submitted by the applicant)

When considering proposals for development, which may be vulnera ble to flooding, and that would generally be inappropriate as set outin Table 3.2, the following criteria must be satisfied:

1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines.

1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these guidelines.

Answer- The sites zonedas 'Residential' in the Louth CountyDevelopment Plan 2021-2027 andcan becharacterised asan in-fill development located withinthe Urban Coreand therefore supports the continued renewaland development of the compact urban form in accordance with the key planning objectives.



1.27 L1 Strategic Reserve

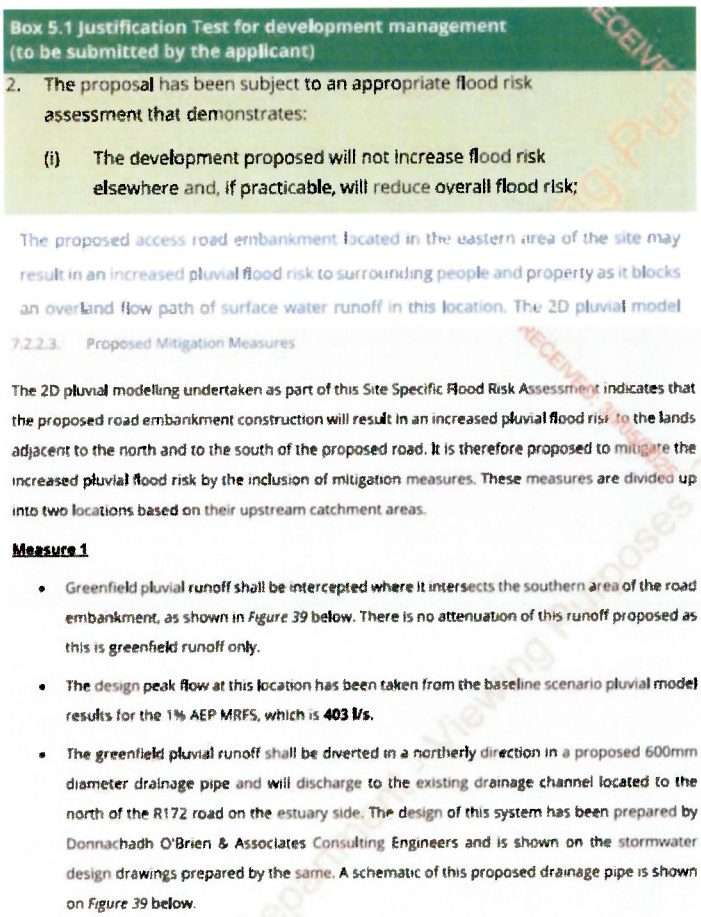
Objective

To provide a land reserve for the orderly expansion of the settlement into the future.

Guidance

These are strategically located lands that will generally not be available for development until after the expiration of this Plan.

Fig. 57: Excerpt from the SSFRA's Justification Test assessment – the assessment is incorrect as the site has been downzoned to Strategic Reserve (Source: SSFRA)



Box 5.1 Justification Test for development management (to be submitted by the applicant)

2. The proposal has been subject to an appropriate flood risk assessment that demonstrates:

   (i) The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;

The proposed access road embankment located in the eastern area of the site may result in an increased pluvial flood risk to surrounding people and property as it blocks an overland flow path of surface water runoff in this location. The 2D pluvial model

7.2.2.3. Proposed Mitigation Measures

The 2D pluvial modelling undertaken as part of this Site Specific Flood Risk Assessment indicates that the proposed road embankment construction will result in an increased pluvial flood risk to the lands adjacent to the north and to the south of the proposed road. It is therefore proposed to mitigate the increased pluvial flood risk by the inclusion of mitigation measures. These measures are divided up into two locations based on their upstream catchment areas.

Measure 1

- Greenfield pluvial runoff shall be intercepted where it intersects the southern area of the road embankment, as shown in *Figure 39* below. There is no attenuation of this runoff proposed as this is greenfield runoff only.
- The design peak flow at this location has been taken from the baseline scenario pluvial model results for the 1% AEP MRFS, which is **403 l/s.**
- The greenfield pluvial runoff shall be diverted in a northerly direction in a proposed 600mm diameter drainage pipe and will discharge to the existing drainage channel located to the north of the R172 road on the estuary side. The design of this system has been prepared by Donnachadh O'Brien & Associates Consulting Engineers and is shown on the stormwater design drawings prepared by the same. A schematic of this proposed drainage pipe is shown on *Figure 39* below.

Fig. 58: The applicant SSFRA confirms that the scheme will cause flood waters to enter client lands and property and that the proposed solution is to direct more flood watrs into their property which is contrary to the Justification Test (Source: SSFRA)

There are concerns that:

- The lands are zoned Strategic Reserve and the Justification Test cannot be passed (see Fig. 1B).
- Reliance on forcing surface water, storm water and flood water from the scheme and into our client's and other properties without adequate detail and based on mapping which is almost 200 years old is not acceptable. The applicant has no consent from our client for this. The proposal may cause flooding of areas of private properties already in Flood Zone A.
- The scheme entrance and the section of public road on which it would depend are on Flood Zones A and B. Proposals to 'make ground' in order to raise ground levels and push flood waters elsewhere is not acceptable for a range of reasons. The lands must be accessed from a scheme entrance which does not have a history of flooding and is not located in Flood Zones A and B.
- The scheme proposes that its surface water, storm water and flood water pass from a 500+ unit scheme and downhill into lands in Flood Zones A and B which – during periods of high rainfall and/or flooding – cannot accept it. Is this not setting the area up for significant additional overflow flooding?
- The extent of on site and site servicing measures needed to deal with surface water, storm water and flood water from the scheme are excessive and confirm the unsuitability of this site for the proposed development.

The submitted planning application fails to address flood risk though this was raised in detail wit h the LCC LRD Pre-planning Opinion, and the proposals are characterised by measures such as cut and fill and the raising of lands which is not acceptable and contradicts and fails to comply with the LCDP including with:

- Section 2.10 'Core Strategy and Strategic Flood Risk Assessment';
- Section 10.3 'Flood Risk Management';
- Table 10.1 'Areas for Further Assessment and their Associated Flood Risk Management Plan'; and
- Table 10.2 'Flood Zone Type'.

Further, the proposals fail to align with Section 1.7.4 'STRATEGIC FLOOD RISK ASSESSMENT (SFRA)'of the LCDP which states:

> *In meeting the requirements of both the Strategic Environmental Assessment process and The Planning System and Flood Risk Management - Guidelines for Planning Authorities (2009), the Council has conducted a County wide Strategic Flood Risk Assessment for the Plan area. This provides a broad assessment of flood risk within the County and will inform strategic land-use planning decisions in this and other plans.*

9.1.4 The L1 Strategic Reserve zoning doesnot have objectives as it is downzoned land

In planning terms, the subject site has been downzoned to L1 Strategic Reserve and it is not available for development. This zoning is not accompanied by any aims and objectives. There is no basis for any proposal to be submitted for planning assessment under the zoning.

This is not a location indicated for residential development at present and considerations as to its possible servicing are premature.

While the applicant sets out proposals for a creche, argues there are school places available, argues that temporary problems with foul drainage can be addressed in the medium term, that surface, storm and flood matters can be addressed by relying on neighbouring lands and private properties to take these waters, concerns arise over and over again that LCC has downzoned these lands and the development management framework and aims and objectives of the LCDP and the LAP do not apply to this site at present.

If these lands are re-zoned in the future, there may be an opportunity to create a sustainable neighbourhood. This 500+ single use scheme is not this. A wholly different scheme is needed which responds to and does not seek to disregard a future LCDP and/or LAP.

The current scheme is not exactly what is required to convert a largescale residential community of 502 units into a neighbourhood. There are no actual supporting facilities, i.e. individuals and families without creche age children also need supporting facilities. Those with children in a creche need a local shop, a gym, community centre, sports facilities, etc. Where also are the transport links? Where is the shared car scheme, the shared bike scheme (with committed operator), the shuttle bus from the scheme for residents to travel to the train, the town centre, etc?

Where exactly in this scheme of 502 units for a likely population of over 1500 people are the supporting facilities?

The lack of supporting facilities is contrary to and a material contravention of the LCDP and LAP which require that sustainable neighbourhoods be created with supporting facilities.

9.1.5 Com munityan d SocialInfrastructure Audit confirms the L1 SR zoning as correct

The submitted Community and Social Infrastructure Audit confirms the L1 Strategic Reserve zoning as correct. These lands are poorly served.

This audit didn't consider any input from local people who live in the area. It is a desk-based de facto listing of what little the area has in terms of 'Community and Social Infrastructure'. Much of the content refers to infrastructure which is located beyond any reasonable walking distance and the existing bus service is poor and infrequent.

Most of the content is not applicable to residents of this area.

The application states that there are 3 entrances to the site. The applicant has included a pedestrian entrance on Bothar Maol. The second entrance is an unauthorised entrance created in December 2024 on Bothar Maol. This has never had planning permission. The applicant created it in their attempts to do works in an attempt to keep the 2019 SHD permission alive (it has since lapsed). The third pertains to

proposed main entrance on the R172. It is not 'existing'. This is a backland site without any real connections to the area.

The applicant has no understanding of the area's sporting teams. Quay Celtic and Gaels GAA are rival clubs to this area. Nobody in Blackrock plays for these teams.

Section 7.1.2 suggests that primary school age children travel to Ravensdale / Knockbridge /Bellurgan or Faughart. This is a nonsense. How would they get there? There are no transport systems. It is not credible to suggest that primary school children living in Blackrock should travel to the other side of the peninsula to go to school.

All GAA and soccer clubs in the wider area are oversubscribed.

There are absolutely not 8 equestrian facilities in the area – this claim is false.

Blackrock Park is tiny and represents a poor amenity space for local people as things stand. The scheme should improve public open space in the area. However, as quite an inaccessible backland site no one would walk into the site to access open space.

Blackrock beaches are currently under scrutiny for toxic algal bloom related to excessive ecoli and enterococcus levels from sewage. There is no bathing beach in the area. Currently the stench from the water is noticeable when walking on the beach, LCC is invited to investigate this.

There is not a "range of bus services" - there is one bus service with an infrequent timetable that operates a limited service which excludes the evenings.

All doctors are oversubscribed in the area

All schools in Blackrock are oversubscribed.

When ABP first discussed the SHD scheme with the applicant at pre-planning, concerns were raised over the sustainability of this site in 'Community and Social Infrastructure' terms. Nothing has changed.

All that has really changed is that the zoning and flood risk concerns presented by the original SHD planning application (and raised by the OPW – see Fig. 1B) have now been addressed by the downzoning of the lands, the prematurity of the scheme in infrastructure terms has been addressed by the last LRD refusal, and the many concerns over mysteries around the site since the applicant began years of planning applications can now be considered again. For example,

- Trees were mysteriously cut down before the SHD scheme planning application was lodged. This was never explained.
- Works began on the site after the ABP LRD refusal under the, about to lapse, SHD scheme. The applicant needs to explain the thinking behind this.

9.2 Ground 2: The starting point for the LRD planning application is previous proposals

Our client did not support the previous SHD scheme granted on this site, did not support the refused LRD planning application, and does not support the current LRD scheme proposal on downzoned lands.

In presenting the current LRD planning application, the applicant has sought to infer that it is the SHD scheme part III when it is very much not so.

When planning permission was refused by ABP on **07/06/2024** and before the lands were downzoned, the applicant decided to cause consternation and upset in the area by starting works purportedly under the now lapsed "previously permitted SHD development". Having not mentioned that scheme in the previous LRD's development description, the applicant, now faced with a downzoned site, has included reference in the current development description to "removal of works completed under previously permitted SHD development including the foundations for 5 no. houses ...". **No explanation is provided for the decision to carry out works on the site which could not – in the time available – amount to substantial works on the back of which an extension of duration of the lifetime of that permission could be achieved**. This appears to be an ill-conceived attempt to keep the lapsed SHD permission alive.

At this point even the newspapers have published stories confirming the SHD scheme has lapsed, and the site is downzoned.

Concerns arise that the applicant continues to try to keep the SHD scheme permission alive when it is no longer active. This is causing upset to local people. As per Horne v. Freeney, the applicant cannot activate only part or parts of a planning permission and not all.

Other parts of this new LRD planning application refer tenuously to how the applicant has proceeded with paying for a Connection Agreement pertaining to a lapsed SHD scheme planning condition which is not relevant to the current case. Again, the hope appears to be to make it appear that this is somehow a ghost estate which needs to be finished when in fact it comprises of hard to access backland agricultural fields.

The current LRD planning application must be assessed wholly in its own right and is not justified in any part by the previous SHD decision - a planning permission which has lapsed.

There is now a new LCDP 2021-2027 in place and a new LAP in place: plann ing policy has altered. The make-up of the An Bord Pleanála Board itself has also been altered following recent controversies. It must reasonably be borne in mind that the previous SHD decision was signed by Paul Hyde. As such, the decision is not accepted and/or supported by our client.

Clane Community Council successfully challenged approval given to developer Debussy Properties Ltd for more than 100 homes. Mr Justice Richard Humphreys quashed the decision partly because of its reliance on the same pre-application consultation it submitted in its previous application for the development.

Mr Justice Humphreys said that the pre-application process was an interim step in the overall approval procedure.

In the current case, the applicant's previous SHD scheme permission has lapsed and the previous LRD was refused on grounds of prematurity pertaining to infrastructure, yet the applicant sought to return to LCC with much the same scheme for new pre-planning discussions. That is, to discuss essentially much the same scheme as refused by ABP. This had the effect of essentially encouraging LCC not to engage with the scheme in its entirety but to look only at how it could be amended to address its and ABP's concerns.

Almost immediately after the LCC LRD Opinion was issued, the site was downzoned. At this point, the planning application process should reasonably have halted .

Further, most of the site investigations for this proposal are supplementary to those carried out for the previous SHD and LRD schemes. Figs. 59 to 67 offer examples of this. The applicant seeks to rely on survey data which is now many years out of date.

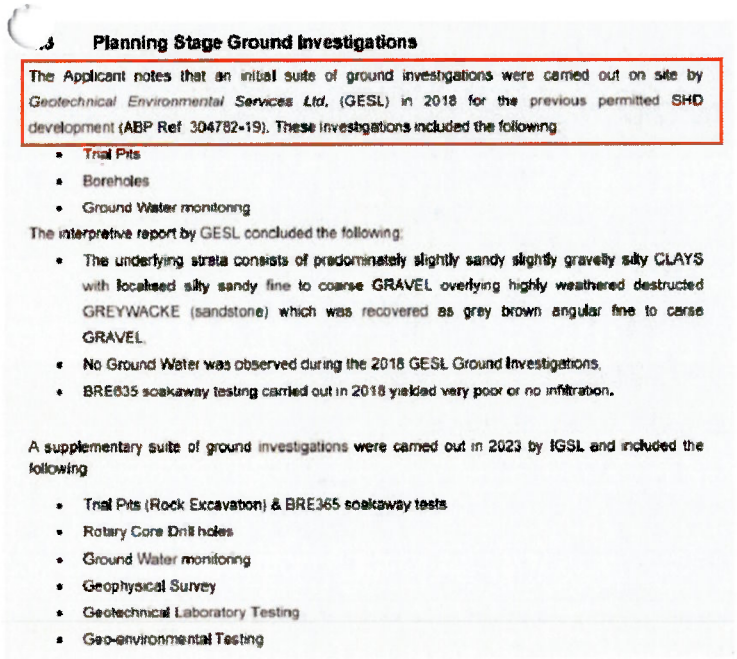
This is a site with poor infiltration where waters pond at the surface of the land and are often visible throughout the site. The applicant reports essentially assess the site based on results derived from a summertime, dry and sunny, period when the crops are growing in the field. The boreholes and test holes were not, it repeatedly appears, drilled on wet days or in winter.

As regards ground survey data pertaining to surface, storm and flood water – putting aside antique maps almost 200 years old (see Section 8.0 of this Planning Objection Report) - our client notes how the applicant has included survey data from 2018 and 2023. The 2023 results are very similar to the 2018 results. A review of the photographs included in the 'Ground Investigation factual and 'nterpretative report' appear as though the ground had been drying for weeks before the surveys. In any case, now new surveys were undertaken in February, March, April, etc. before the submission of the current planning application. It relies on the previous surveys.

The last LRD was refused on **07/06/2024** and this new planning application rushed to lodgement. The only way to rush it to lodgement is to treat ABP's refusal as a de facto Further Information request which it was not. It was a fully articulated indictment of the prematurity of the scheme's foul drainage proposals.

The proposal is no longer only premature in infrastructural terms; it is premature in zoning terms.

<u>Recommendation:</u> LCC is asked to consider whether the pre-planning stages and LRD Opinion can be deemed legally accepted given the pre-planning scheme discussed was a slightly modified version of the refused LRD scheme. Further, the downzoning of these lands renders any pre-planning feedback to be wholly out of date as the proposals are no longer only premature in infrastructural terms; it is premature in zoning terms.



Planning Stage Ground Investigations

The Applicant notes that an initial suite of ground investigations were carried out on site by *Geotechnical Environmental Services Ltd*, (GESL) in 2018 for the previous permitted SHD development (ABP Ref 304782-19). These investigations included the following

- Trial Pits
- Boreholes
- Ground Water monitoring

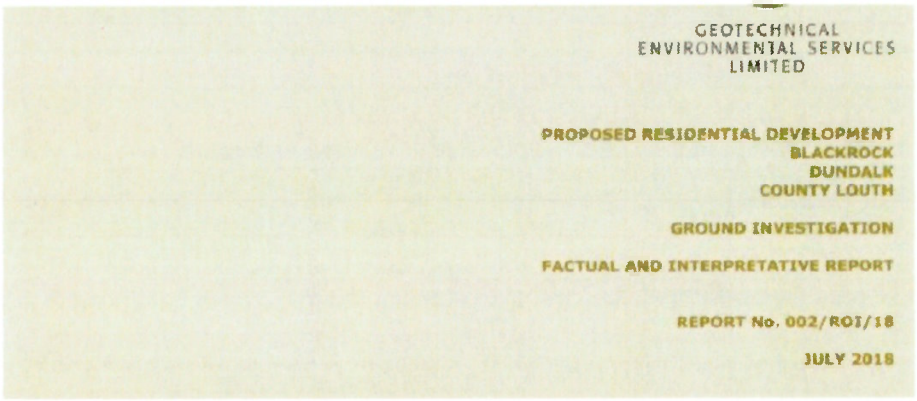
The interpretive report by GESL concluded the following:

- The underlying strata consists of predominately slightly sandy slightly gravelly silty CLAYS with localised silty sandy fine to coarse GRAVEL overlying highly weathered destructed GREYWACKE (sandstone) which was recovered as grey brown angular fine to coarse GRAVEL.
- No Ground Water was observed during the 2018 GESL Ground Investigations.
- BRE635 soakaway testing carried out in 2018 yielded very poor or no infiltration.

A supplementary suite of ground investigations were carried out in 2023 by IGSL and included the following

- Trial Pits (Rock Excavation) & BRE365 soakaway tests
- Rotary Core Drill holes
- Ground Water monitoring
- Geophysical Survey
- Geotechnical Laboratory Testing
- Geo-environmental Testing

Fig. 59: Most of the ground investigations are from 2018 and pertain to the SHD scheme (1)



GEOTECHNICAL
ENVIRONMENTAL SERVICES
LIMITED

PROPOSED RESIDENTIAL DEVELOPMENT
BLACKROCK
DUNDALK
COUNTY LOUTH

GROUND INVESTIGATION

FACTUAL AND INTERPRETATIVE REPORT

REPORT No. 002/ROI/18

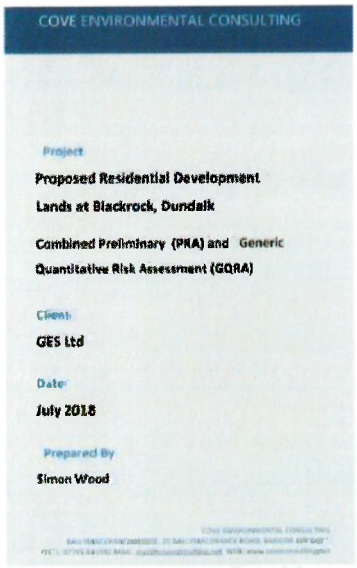
JULY 2018

Fig. 60: Most of the ground investigations are from 2018 and pertain to the SHD scheme (2)

Fig. 61: Most of the ground investigations are from 2018 and appear excessively dry (1)

Photos 3 & 4: View of Site Lookingtowards East (from NW and N of site)

Fig. 62: Most of the ground investigations are from 2018 and appear excessively dry (2)



COVE ENVIRONMENTAL CONSULTING

Project

Proposed Residential Development
Lands at Blackrock, Dundalk

Combined Preliminary (PRA) and Generic Quantitative Risk Assessment (GQRA)

Client

GES Ltd

Date

July 2018

Prepared By

Simon Wood

Fig. 63: Reports including risk assessment reports are from 2018 and a previous planning application

5.1 GROUNDWATER

No groundwater was noted during the drilling and the wells were also dry on subsequent site v isits.

Fig. 64: Core report finds no groundwater on a sunny dry summer day in 2018

7.3 ENVIRONMENT AND THIRD PARTY SITES

Very low quant itiesof water were detected within the boreholes (with many being dry). As a result it is considered that there is no significant movement of groundwater (or any contaminants) either laterally or verticallyand thus the potential for transfer of contaminan tsto the groundwater, surface waters or third party sites is considered insignificant.

Fig. 65: Core report finds dry boreholes on a sunny dry summer day in 2018

IGSL Ltd

Haggardstown

Ground Investigation & Geotechnical Interpretative Report

Project No. 24490

May 2023

IGSL

M7 Business Park
Naas
Co. Kildare
Ireland

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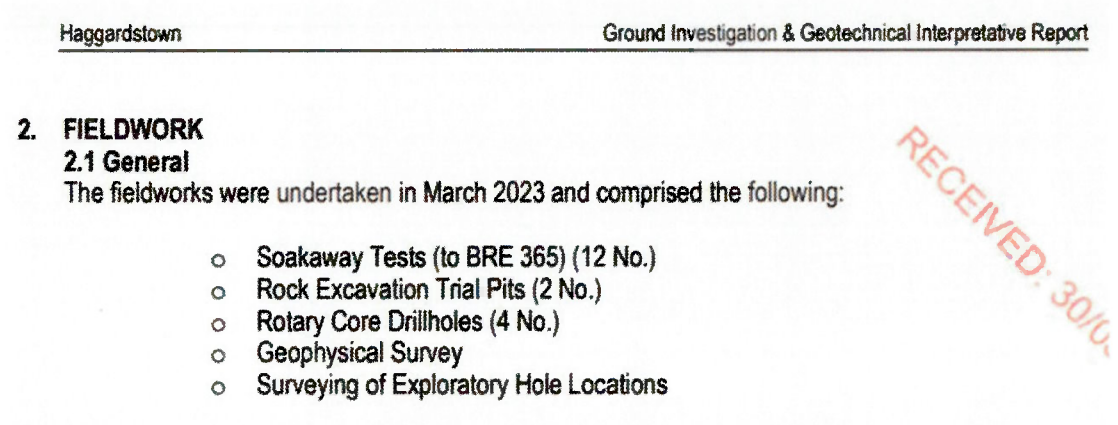
E: info@igsl.ie
W: www.igsl.ie

Fig. 66: 2023 ground investigation report



Haggardstown Ground Investigation & Geotechnical Interpretative Report

2. FIELDWORK

2.1 General

The fieldworks were undertaken in March 2023 and comprised the following:

- Soakaway Tests (to BRE 365) (12 No.)
- Rock Excavation Trial Pits (2 No.)
- Rotary Core Drillholes (4 No.)
- Geophysical Survey
- Surveying of Exploratory Hole Locations

RECEIVED: 30/0

Fig. 67: Date of the 2023 ground investigation report - the data is two years' old

9.2.1 The Flood Risk Assessment seeks to rely on the previous SHD scheme assessment

The Louth County Development Plan 2021-2027 sites the applicant's proposed southern access road onto the R172 into Flood Zone A and B for coastal flooding. LCC stated at pre-planning stage that they are aware that the site and this area of the site is liable to coastal 'and' pluvial flood events.

The previous SHD scheme's Flood Risk Assessment is not relevant as there is a new SFRA in place under the LCDP and there is new flood extent data.

The flood risk posed to the scheme's entrance is such that the applicant needs to significantly amend existing ground levels including an entire section of road and the scheme entrance to try to address this. These areas are in Flood Zones A and B.

Fig. 68 confirms how the applicant's SSFRA and surface/storm/flood water drainage arrangements again rely on the previous SHD scheme permission to justify discharging scheme derived waters into Flood Zone A lands, our client's property, etc.

It is our client's position that the previous SHD scheme should not have obtained planning perr on as the flood risk is too high. The proposals cannot reasonably be justified with all nearby property owners concerned over how flood waters may be relocated into their properties.

8. Justification Testfor Development Ma nagement

In the context of the 'Planning System and Flood Risk Management Guidel nes, DOEHLG, 2009and in consideration of the scenario that the development as proposed is undefended this Site Specific Flood Risk Assessment has determined that a portion ofthe proposed development site (proposed access road embankment) falls withina tidal Flood ZoneA and Flood Zone'B' The sites accessed from the east , fom the Blackrock Road (R172). A new entrancewill beprovided, with works to the designof the existingroad proposed to facilitate safe turning movements. The new entrance design also includes ann-line bustop on the western s ideof theR172. Permission was previously granted by ABP for an access a thislocation f oa residentialscheme of similar scale (ABPRef No. 304782) Vehicularaccess from Bóthar Maola cul de sac, is less suitablefrom a roads perspective It isalso subject to flooding- tidal Flood ZoneA and FloodZone 'B'. The main acc ess roadfrom the eastalso providesfor future accessto adjacentlands.

Table 3.1 of the guidelinelists the vulnerabilty class of various types of development.The area of the proposeddevelopment slelocated withintidal Flood Zone 'A' and FloodZone 'B' is therefore classified as Highly Vulnerable Developmet .

Table 3.2 of the guidelnes (duplicated below) providesa matrix of different vulnerability classesof development in relation to Flood ZonesA B andC, and lists ifdevel opments appropriate n each Zone andwhere the justifkation Test shouldbe applied.

With the proposed works raising the roads levels above flood risk, the access from Blackrock Road was deemed themost appropriate.We also note this accesswas previously permitted by ABPto serve 483 no. housing unitsat the same location ABP Ref304782).

Where 'Highly Vulnera ble Developmentis proposed withina delineatedtidal Flood Zone A or Flood ZoneB', the planning authoritymust be satisfied that the developmet satisfiesthe cr iteria of the justificationTest as descibed in Box 5.1 of the guidelines (duplicated below)

Fig. 68: Applicant SSFRA again relies on the previous SHD scheme permission to justify siting areas of the scheme in Flood Zones A and B

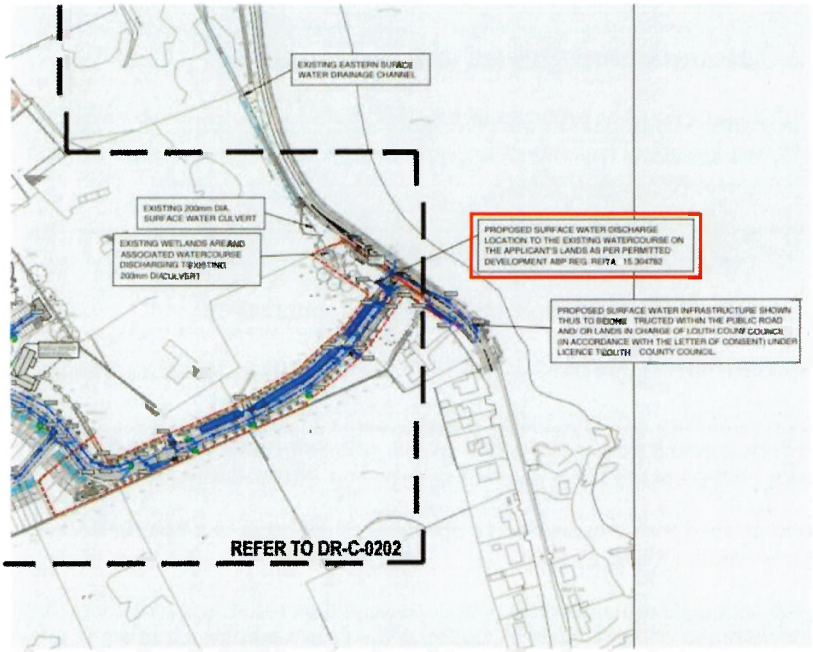


Fig. 69: Applicant's SSFRA and surface/storm/flood water drainage arrangements again rely on the previous SHD scheme permission to justify discharging scheme derived waters into Flood Zone A lands, our client's property, etc.

It is also important to note that the AA and NIS reports each rely on the applicant drawings and SSFRA and together they all continue to try to argue that because of the SHD decision, all of the concerns raised by our client can be overlooked. For example, The NIS relies on the lapsed SHD to state: "the surface water discharge locations, as illustrated on DOBA Engineering drawing series C-0200 pertaining

t e Proposed Development, are located in the same positions and use the same existing culverts and conveyance channels as was previously granted by An Bord Pleanála case reference TA15.304782 – SHD development ...".

9.3 Ground 3: No permission(s) given for works on or under client lands

9.3.1 No permission given for surface works to the front of client property

Please find in Appendix 1 of this report copies of our client's multiple submissions made to LCC regarding this matter.

Fig. 7 of this Planning Objection Report details our client's folio and provides an excerpt from the applicant's proposed red line boundary. They own lands on both sides of the Blackrock Road and the applicant's red line boundary extends into those lands.

The applicant approached our client for permission to undertake works within or under their lands and this permission was not given. The applicant's planning application now, in effect, asks LCC to require our client to accept these works.

It would normally be the case that when road improvement works, works under a road, sightlines works, new footpath works, etc. are proposed by an applicant, a letter of permission from the owner of the lands is provided. The applicant has provided no such letter of permission. Indeed, our client objects to the inclusion of any of their lands within the applicant's red line boundary or for the red line boundary abruptly to end to the south of their property entrance onto the R172, yet the applicant then seeks to drive flood and surface waters northward into their property (outside of the red line boundary and into privately owned lands).

LCC needs to carefully review whether the applicant has the necessary permissions in place for the works proposed within our client's property and/or needs to ensure it has the power to give permission to a private developer to carry out road works, etc. within these lands when these will not be undertaken by a statutory undertaker but by a private company acting in their own interests.

These works appear to include:

- Siting a new watercourse culvert at the proposed R172 entrance and directing flows of flood and surface waters into and/or under our client's lands to pass northward and eventually under Blackrock Road.
- Carrying out works to the r172 Blackrock Road to raise its level.

The applicant claims that lands owned by our client are areas over which they have a Right of Way and/or are ones that are subject to a letter of consent from LCC. Our client is not aware of any applicant right of way over their lands and is not aware that they have ceded any ownership rights to their lands such that LCC can give the applicant a letter of consent to carry out works on or below their property (see Section 1.2 of this Planning Objection Report).

9.3.2 No permission given to direct surface/flood water into client property

The applicant proposes two connections between their site and Dundalk Bay SAC and SPA. The southern connection proposes to carry out works such that new surface water and flood water passing from the applicant site passes into an existing culvert which passes through our client's property and then into the property to the north, then under the R172 and into the bay.

Our client does not accept this as being a reasonable proposal. They are being asked to accept a large portion of the entire surface and flood waters from the applicant site when their own gardens already experience regular pluvial flooding, and they are forced to maintain a large pond.

The applicant has concocted a proposal to create a new watercourse channel where there is not currently one. In this regard, please refer to Sections 1.2, 6.7.1, and 8.0 of this Planning Objection Report.

Our client accepts that their property and that to the north maintain a culvert which passes under the road to the north, but this does not currently extend southwards to the applicant's proposed site entrance. This was accepted by the project ecologist under the previous LRD. Section 4.1.2 'Site Drainage' of the submitted Natura Impact Statement noted:

> *According to the IDR (DOBA, 2023a), there is no formal surface water drainage on Site, with the exception of an existing unnamed watercourse which is evident along the eastern boundary adjacent to the R172 Blackrock Road. This existing watercourse flows northwards* ***through private properties*** *prior to crossing beneath the R172 and discharging in a north-easterly direction towards the Irish Sea.* ***Further to a review of the topographical survey and geotechnical investigations***

> ***carried out on Site, it is apparent that surface water run-off from the existing greenfield sit which does not infiltrate to ground, flows overland in an easterly direction towards this existing watercourse.***
>
> ***The ground in the east of the Site, by the proposed main entrance off the R172, was noted to be marshy and waterlogged in the vicinity of this unnamed watercourse during Enviroguide Site visits in February and May 2023, with no distinct watercourse channel observed*** [emphasis added].

The applicant asks LCC to believe that there is an existing watercourse channel which they can connect into and pass their surface and flood waters into our client's property. There is not.

Fig. 70: Area of marshy and waterlogged ground - no distinct watercourse channel (1)

Fig. 71: Area of marshy and waterlogged ground - no distinct watercourse channel (2)

These works are those of desperation as the applicant is required to address flood risk issues regarding the outflow of surface water and flood waters from the site. They know that they are unlikely to obtain permission for a "new" outfall to the SAC and SPA, so they ask LCC to allow them to impinge on our client's property rights by creating a new "watercourse channel" from some marshy and waterlogged ground such as to find a way to discharge via our client's property into the SAC and SPA.

The applicant's Statement of Response to LRD Opinion for the refused LRD noted:

> *A number of measures have been introduced into the design of the scheme including providing a designated pipeline to convey the runoff from the lands to the South of the development to an* ***alternative discharge location****. It is also proposed to install pipelines of sufficient capacity and at strategic locations that will allow the flows to pass underneath the new roadway thus maintaining critical pluvial flow paths.* ***The proposed design for these pipelines means that the runoff will only flow in a South to North direction, as is currently the case for the runoff to reach the estuary*** [emphasis added].

The current LRD planning application doubles down on this. This "alternative location" is currently a marshy and waterlogged piece of ground which the applicant wants to fundamentally alter with pipes, etc. so as to treat our client's property as a drainage channel for the scheme.

Our client has not been consulted about these proposals and objects on the basis of this and because the works will cause the passage of surface and/or flood waters into their property. This would have

r[illegible] / implications for their property not least of which that they may not be able to obtain insurance in the future. Please refer to Sections 1.2, 6.7.1, and 8.0 of this Planning Objection Report.

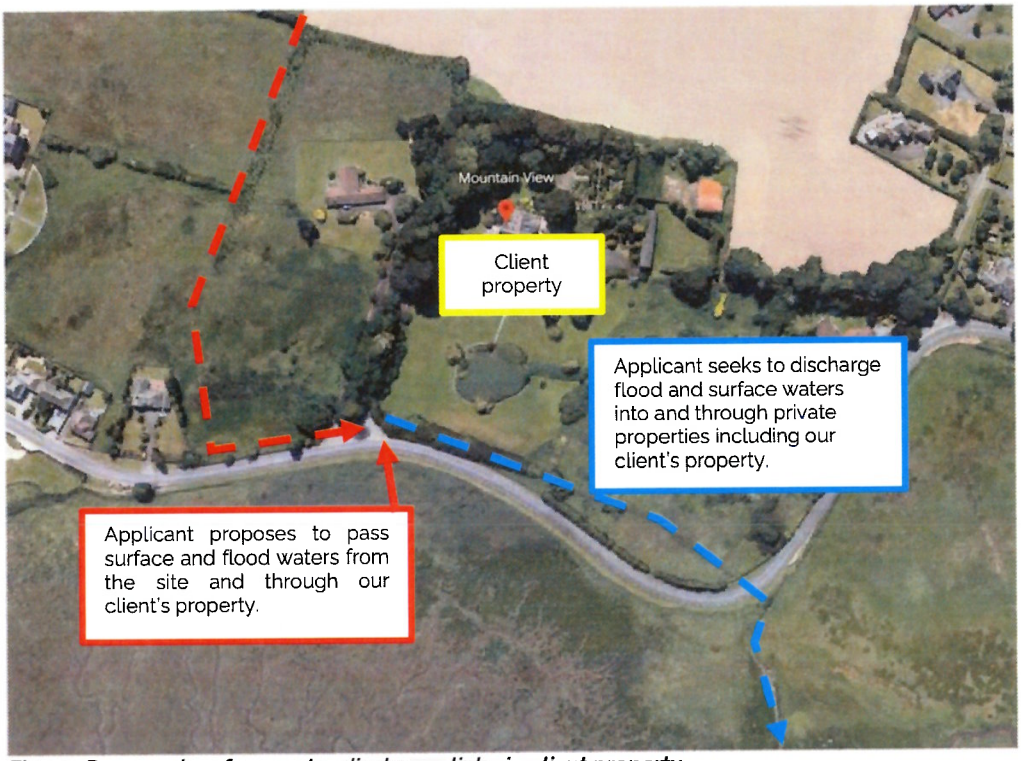


Fig. 72: Proposed surface water discharge link via client property

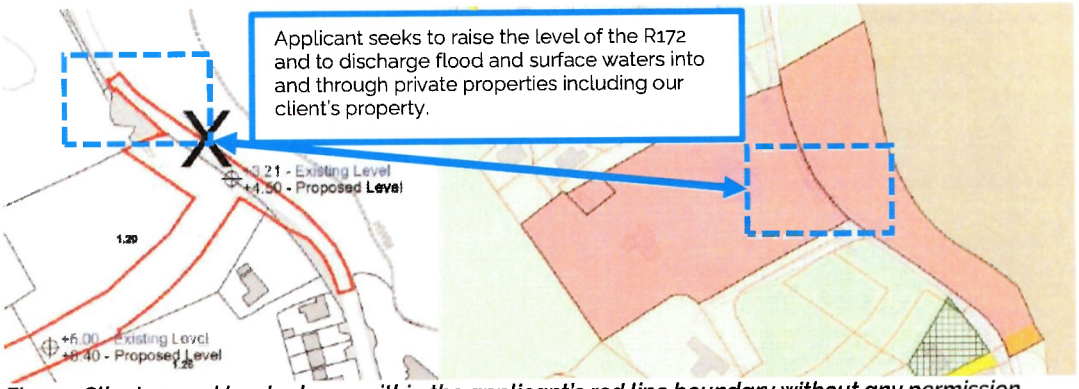


Fig. 73: Client owned lands shown within the applicant's red line boundary without any permission

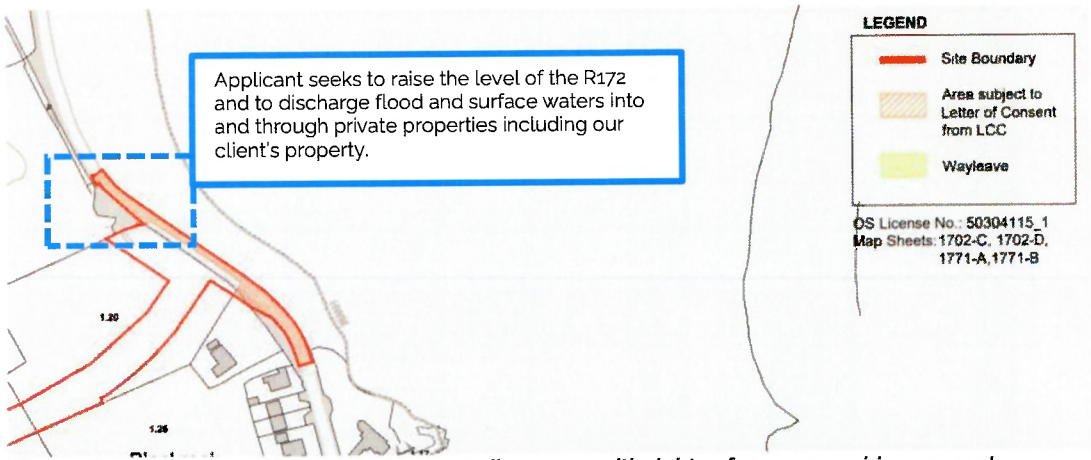


Fig. 74: Excerpt from applicant drawing regarding areas with rights of way or requiring consent

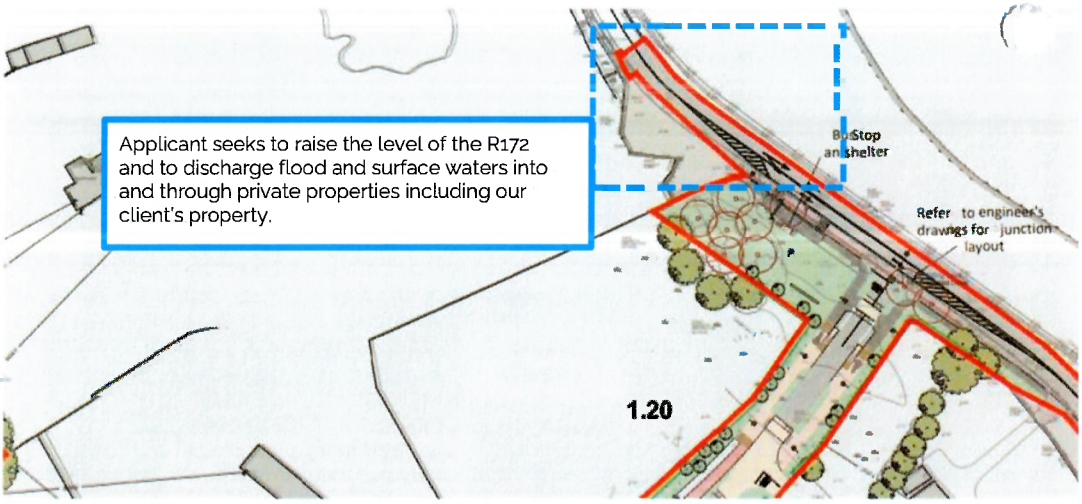


Fig. 75: Excerpt from applicant drawing regarding areas of client owned lands

9.4 Ground 4. Surface and/or flood water concerns are not addressed

Our client's property maintains underground springs and culverts which deliver water to their pond. Areas of the property regularly experience surface water saturation with visible areas of water rising above ground level.

Areas of the applicant site are also often under water arising from pluvial rainwater events. The site does not drain especially well (neither does our client's property), and the site also maintains underground springs and culverts not fully detailed - insofar as our client can see – within the applicant's drawings and reports.

Concerns arise that the addition of new internal roads, 824 parking spaces, 502 houses, and a creche will also serve to speed up the passage of surface water.

The site slopes and it slopes down towards our client's property. The OS spot levels even on the submitted Site Location Plan show a level of 10.38 OSD at the west end of the applicant site which drops to 5.04 OSD in the centre of the site while our client's property is sited at the much lower level of 2.79 OSD. BPS has identified a level of as high as 22.00 OSD at the western end of the site.

The applicant has not, insofar as our client can see from reviewing the planning application, provided a hydrological survey of the site showing direction of existing ground and surface water flows. In the absence of such a survey, our client must be guided by their own experience of this site's slope causing waters to pass into their properties during pluvial rainfall events.

Fig. 76: Direction of surface water flows across the site and into client property (based on OS spot levels)

have reviewed all the applicant's drawings, details and reports, including the Flood Risk Assessment Report, regarding how it is intended to try to slow down the passage of ground and surface waters. The extent of these attenuation measures including detention basins is extreme and calls into question whether this proposal is at all realistic on the site.

9.4.1 Scheme's SUDS & flood risk measures force water into/through client's property

A careful review of the applicant planning application is required to grasp that the applicant's red line boundary ends just north of our client's entrance (and within lands owned by them) yet the surface water management proposals (SUDS, etc.) and flood risk management measures propose to create a new watercourse to the east end of the site and to force scheme surface water and flood waters into and through private properties to the north including our client's property.

See Fig. 77 which is an excerpt from the Site Specific Flood Risk Assessment Hydraulic Analysis. The purported "eastern drainage channel" exists only within the private properties to the north and does not currently connect to the applicant site. Where are the photographs showing the purported "culvert" extending to the applicant site? There are no local authority or other records for this skite showing a watercourse, culvert or even a ditch at this location. It is a marshy area of land.

No permission has been given for this. The applicant's NIS author states that there is no existing watercourse visible at the east end of the applicant site. It is just a marshy and waterlogged area.

The applicant's entire Flood Risk Assessment regarding the areas of the site in Flood Risk Zones A and B is dependent on creating a new watercourse and pushing waters into this via massive pipes and then driving this piped water into the private properties to the north over which they have no control whatsoever and do not even refer to the possible consequences of this.

The applicant has not mapped out the area indicated in Fig. 77 by way of site visit as they have had no permission to do so. They do not know how successfully all this water will actually flow through these private properties. To enable them to overlook this issue, the authors of the FRA simply refer to the private properties to the north as "wetlands".

The applicant's proposed surface water pipe terminates at the southern pier of Plunkett Villa's gate at which point it is no longer managed or manageable by way of it being 'Taken in Charge'. The applicant is effectively treating the properties to the north of the pipe's termination point as part of the scheme's drainage proposals, but they are doing so in a manner that has no permission and which cannot be managed into the future. Applicants in urban areas are often asked for CCTV surveys of drainage infrastructure within, e.g. existing housing estates. to ensure it can take additional development. The applicant has not carried out any survey within our client's property to determine even 'if', in principle, the proposal is possible. Our client makes clear in this objection report that their property cannot take this water as it already floods during high rainfall events.

The SSFRA explains just how dependent the scheme is on piping surface and flood waters (pluvial and coastal) into our client's property and this is listed as one of the two main measures to address pluvial flood risk concerns pertaining to the proposed scheme access road and entrance. Yet the applicant does not control or have any right to attempt to control the route of these piped waters as they pass northward.

Compare this to the northern outfall where the applicant places a red line right up to the discharge point into the SAC and SPA. The southern outfall is into a private property.

The applicant repeatedly states in the EIAR:

> *During localised construction works around the northern and eastern drainage channels (to facilitate the installation of the proposed 2no. outfalls/headwalls), any minor volumes of stripped soils should be stockpiled a minimum distance of 10m from each channel and should be appropriately covered. A temporary stormwater management system should be implemented by the Contractor.*

Where is the detail of these works south of our client's property? If this involves construction works on whose permission is this work to take place as it may impact and may be sited on private property?

Our client asks that LCC not agree to grant planning permission for the passage of scheme flood and surface waters into their property by way of some claimed historic culvert which is not currently visible on the applicant lands. This would impact adversely on our client's property rights, amenities, would depreciate the value of their property, and would cause insurance issues as regards indemnity against future flooding (see Sections 1.2, 6.7.1, and 8.0 of this Planning Objection Report).

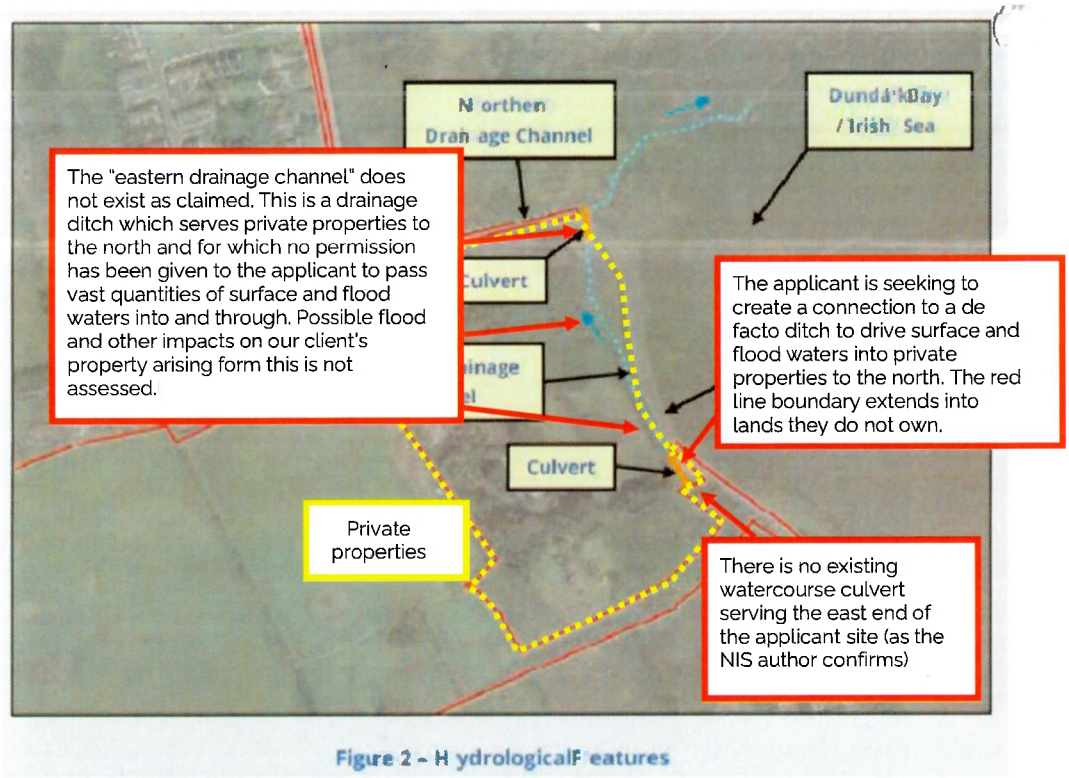


Fig. 77: The applicant's purported "eastern drainage channel" and requested connection, etc.

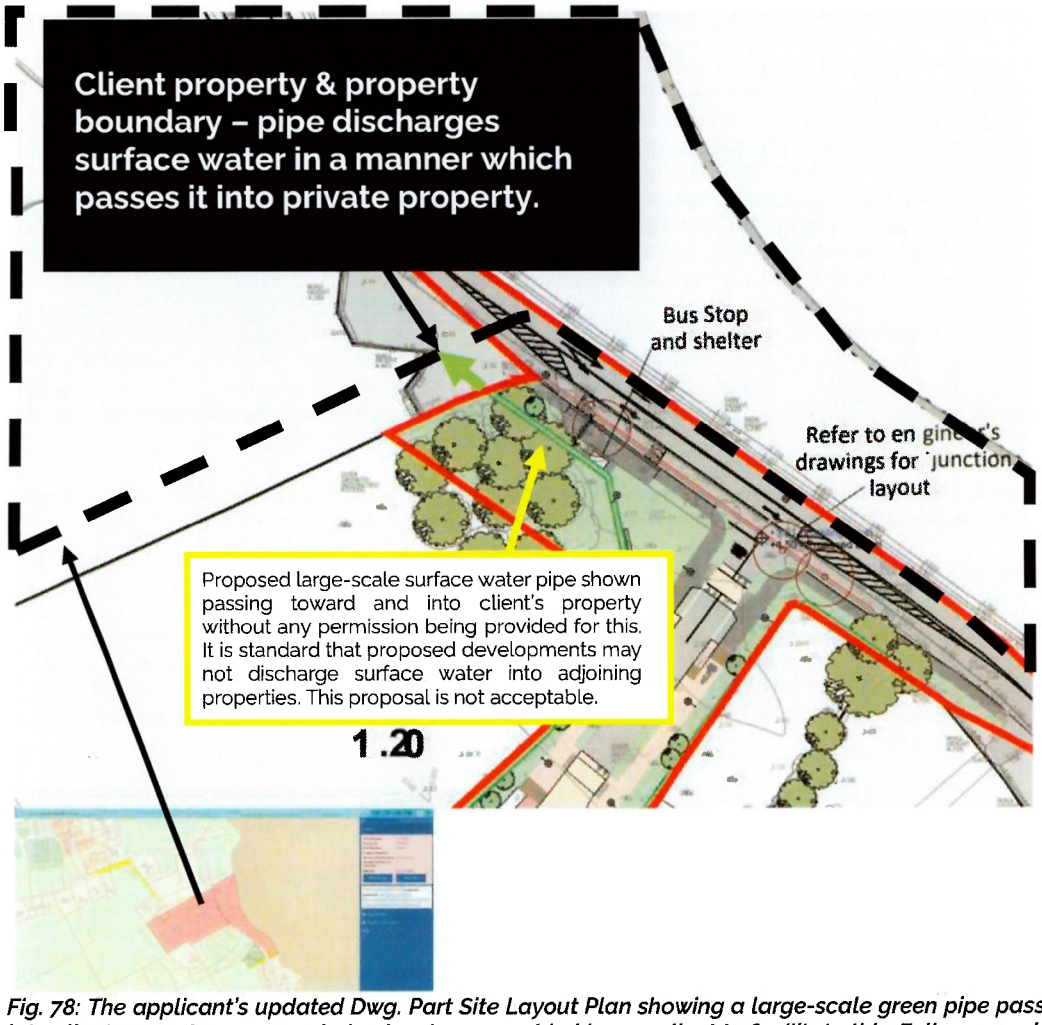


Fig. 78: The applicant's updated Dwg. Part Site Layout Plan showing a large-scale green pipe passing into client property – <u>no permission has been provided by our client to facilitate this. Folio map added</u>

t[illegible]now that the applicant cannot discharge surface water at this location without our client's permission (a 29th Century map does not give any inherent right to the applicant to force scheme servicing matters onto our client

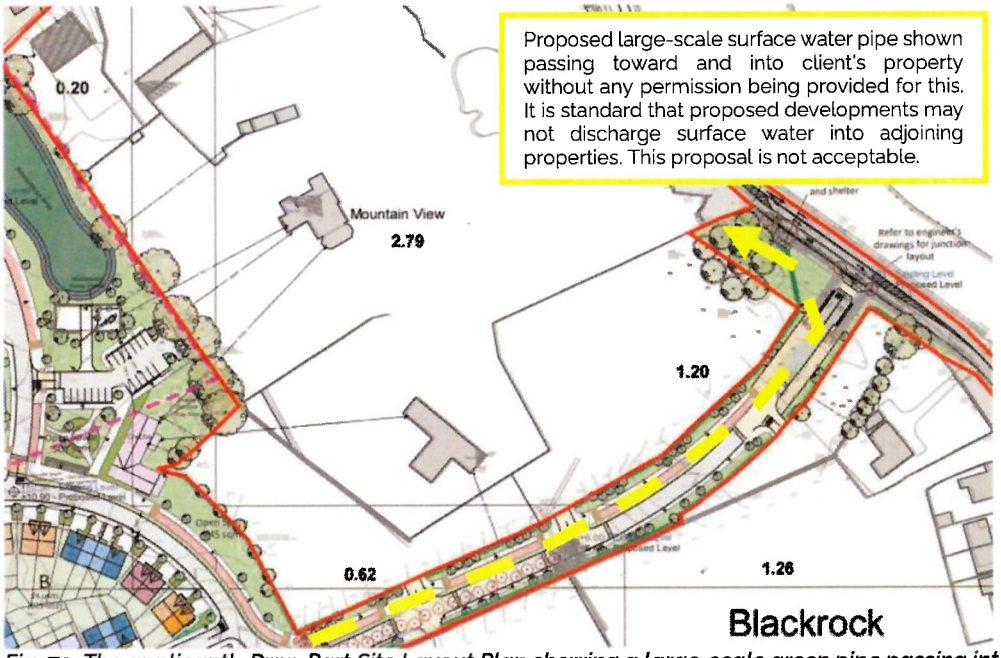


Fig. 79: The applicant's Dwg. Part Site Layout Plan showing a large-scale green pipe passing into client property that derives from the wider scheme

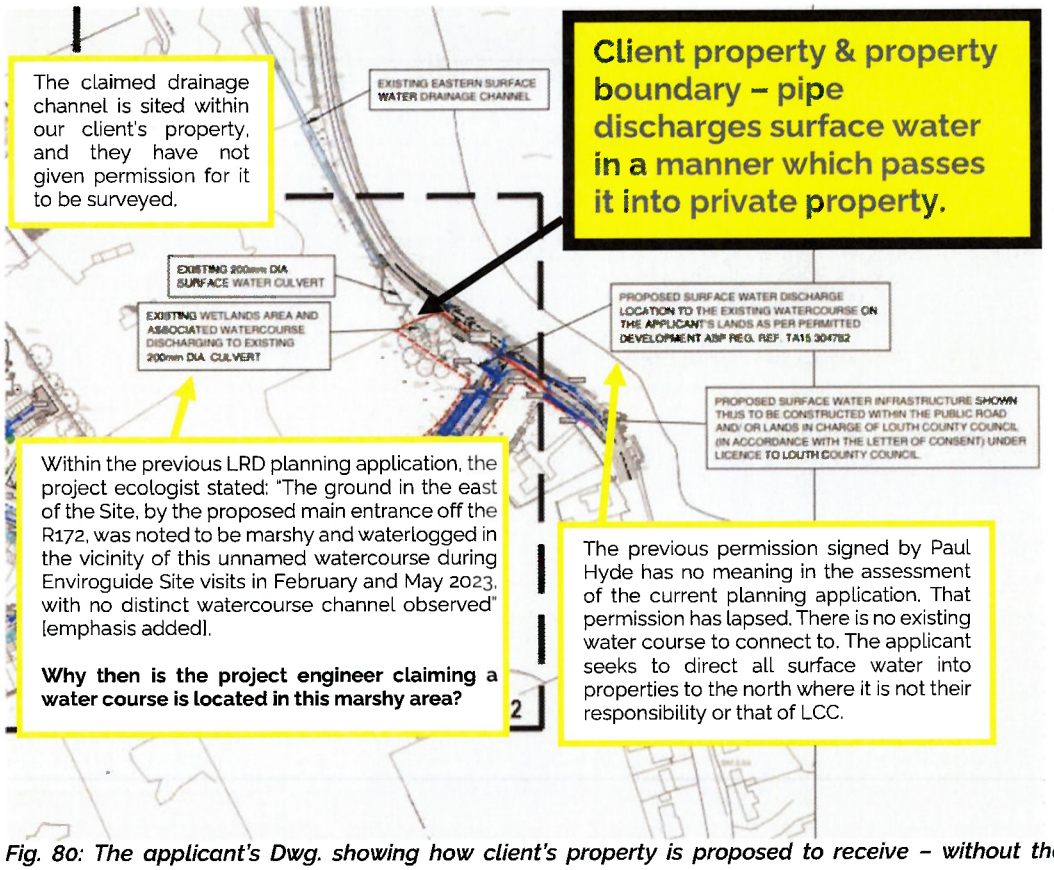


Fig. 80: The applicant's Dwg. showing how client's property is proposed to receive – without their permission – much of the scheme's surface water

Fig. 81: The applicant's purported "eastern drainage channel" does not appear to exist. The proposal is to pipe surface water into adjoining properties including our client's property

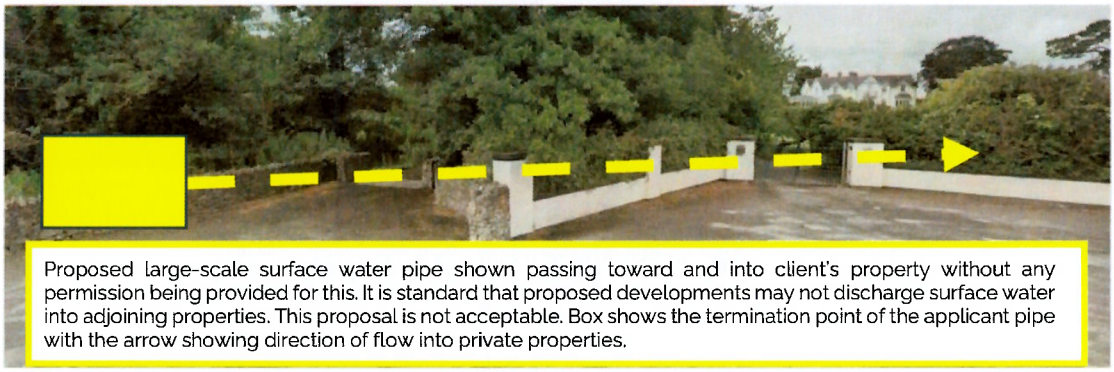


Fig. 82: Theapplicant 'sproposed surfacewater pipe terminatesa tthe southern pier of Plunke tt Villa's gate and is then to pass through this property into our client's property

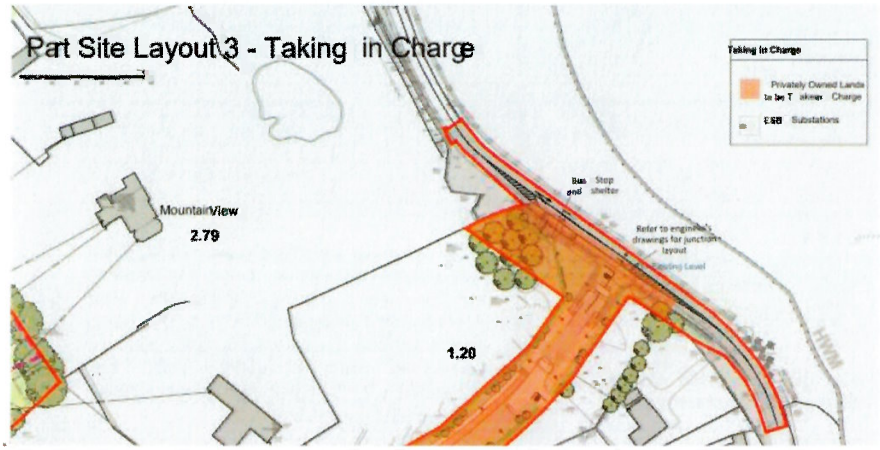


Fig. 83: The applicant's proposed surface water pipe terminates at the southern pier of Plunkett Villa's gate at which point it is no longer managed or manageable by way of it being 'Taken in Charge'

9.4.1.1 Client pro pertyhas experienced recent flooding and surface ponding

While the applicant appears to have no reservations about forcing surface and flood waters into our client's property, they wish to inform LCC that their property experiences regular flooding and ponding. They have to maintain a large pond as a de facto attenuation tank.

property cannot – given that it is located itself in Flood Zones A and B (complete folio) – reasonably form part of any flood water management proposals pertaining to the applicant site. If it is underwater, then no flows can be accepted, and any new flows will cause worsening flooding.

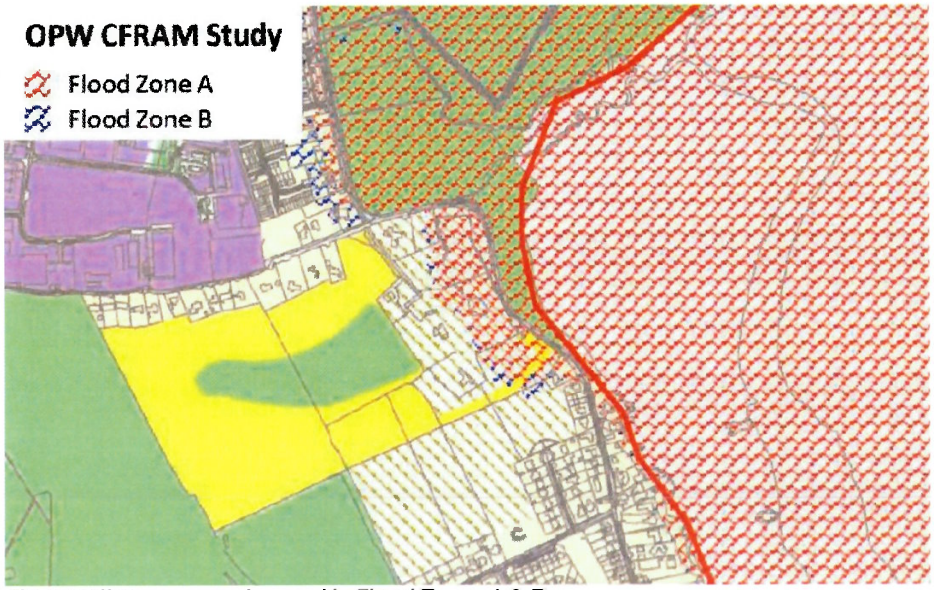


Fig. 84: Client property located in Flood Zones A & B

9.4.2 Cut & fill, raising of road & house levels, etc., and flooding of adjoining properties

The applicant argues that their site will not present a flood risk to adjoining properties, will not cause an increased flow of surface water into adjoining properties, will not cause surface waters to enter public roads or private driveways, etc. However, the applicant cannot raise the ground level of our client's property, the floor level of their home or the ground level of their driveway and road entrance.

These claims that the proposals are of no risk to our client's property are undermined by the fact that, despite concerns raised by LCC in its LRD Pre-Planning Opinion, the applicant proposes to:

- **Carry out cut and fill throughout the site to smooth it out and to try to remove all natural depressions which presently result in ponding on the site.**

  Objection(s): Where is this surface water to go? During the construction stage, the applicant appears to consider that ground and surface waters can just pass from the site to the SAC/SPA via (as required) new culverts or pipes under the Blackrock Road. This all seems a little unrealistic and likely to carry a great deal of risk. The site's slope means that any unaccounted-for ground or surface water will pass into their property as it does at present.

- **Raise the levels of the proposed houses by 50cm.**

  Objection(s): If proposed houses on higher ground levels than our client's property need to be raised by 50cm to address the flood water risks that face the site and which the proposed development will exacerbate, why then would our client's property not be placed at a greater risk? The applicant is not offering to raise our client's external and internal ground levels.

- **Raise the levels of the access road.**

  Objection(s): If the level of the access road needs to be raised by as much as 2m to address surface water and flood risk concerns/risks, then why is our client's driveway and entrance not also at risk? The applicant is not proposing to raise our client's driveway and entrance levels. Where will surface and flood waters from the raised road go? The applicant's proposals are extremely involved and would require permanent maintenance measures to be undertaken on a regular basis. The drawings suggest these waters will pass into the SAC/SPA which raises the concerns set out in Sections 9.4 and 9.7.1 of this Planning Objection Report.

- **Drain the access road to groundwater.**

  Objection(s): Despite the surface water and flood risk management measures requiring the raising of the access road to avoid being below flood water level, the applicant proposes various measures to try to drain waters into the ground. There are "Below ground filter drains", Grated manhole covers

to intercept offsite flows into adjoining properties, dry swale area, hydrobrakes, bypass s ep(or, relocation of gullies, etc. These measures are all meant to be applied along a limited stretch of internal access road into the scheme from the R172. Our client does not consider these proposals to be credible.

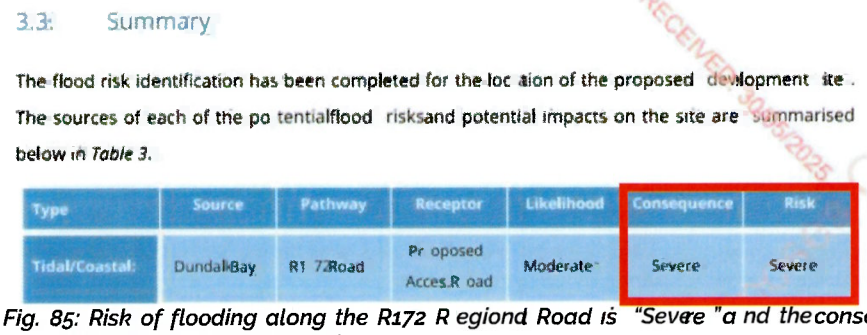
- **Relocation of existing naturally formed gullies.**

  Objection(s): Our client objects to any proposals to relocate natural gullies. These natural gullies exist because they have evolved naturally to manage surface water flows along desire lines. Proposals to try to force waters along other paths are not desirable and may have unintended consequences.

- **Raise the levels of the R172 Blackrock Road.**

  Objection(s): As Section 9.4 of this Planning Objection Report illustrates, the applicant intends to raise the level of the R172 Blackrock Road in a manner which could impact our client's property. Having reviewed the applicant's complete planning application, our client considers that the applicant proposals would place their property including their dwelling, external areas, driveway and entrance at a greater risk to receiving surface waters from the site and/or flood waters from the site than it does at present. No mitigation measures especially designed to protect their property (within the property) are proposed and/or none have been discussed with our client.

For the above reasons, our client submits that the proposed backland scheme is seeking to treat road frontage properties – such as their own – as de facto service areas or surface water/storm water/flood water receiving lands when they are private properties. While the applicant scheme offers a multiplicity of measures to protect their own assets (entrance, access road, houses, etc.) nothing is offered to protect our client's property and others. Works to raise the public road will displace flood waters but this is not of concern to the applicant. These proposals are unacceptable.
?

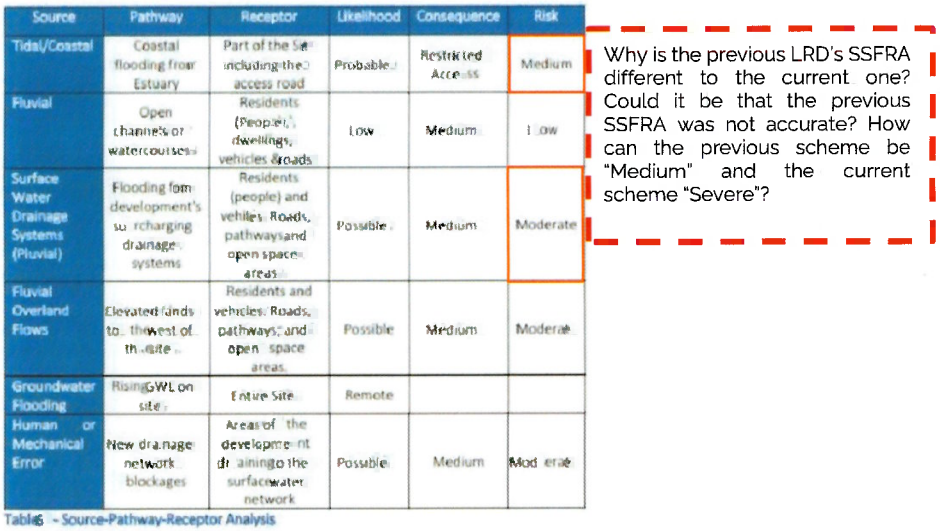


3.3: Summary

The flood risk identification has been completed for the loc ation of the proposed development ite .
The sources of each of the po tentialflood risksand potential impacts on the site are summarised below in *Table 3*.

Type	Source	Pathway	Receptor	Likelihood	Consequence	Risk
Tidal/Coastal	DundalkBay	R1 7JRoad	Pr oposed Acces.R oad	Moderate	Severe	Severe

Fig. 85: Risk of flooding along the R172 R egiond Road is "Severe "a nd theconsequences would be "severe" (Source: Current SSFRA)



Source	Pathway	Receptor	Likelihood	Consequence	Risk
Tidal/Coastal	Coastal flooding fromr Estuary	Part of the Sit including the access road	Probable	Restricted Acce ss	Medium
Fluvial	Open channels or watercourses	Residents (People), dwellings, vehicles &roads	Low	Medium	L ow
Surface Water Drainage Systems (Pluvial)	Flooding fom development's su rcharging drainage systems	Residents (people) and vehiles. Roads, pathwaysand open space areas	Possible	Medium	Moderate
Fluvial Overland Flows	Elevated lands to the west of th site	Residents and vehicles. Roads, pathways, and open space areas.	Possible	Medium	Moderate
Groundwater Flooding	RisingGWL on site	Entire Site	Remote		
Human or Mechanical Error	New dra.nage network blockages	Areasof the developme nt dr ainingto the surfacewater network	Possible	Medium	Mod erate

Table 6 - Source-Pathway-Receptor Analysis

Why is the previous LRD's SSFRA different to the current one? Could it be that the previous SSFRA was not accurate? How can the previous scheme be "Medium" and the current scheme "Severe"?

Fig. 86: Excerpt from the previously submitted Flood Risk Assessment – Table 6 – for the refused LRD. Why is this different?

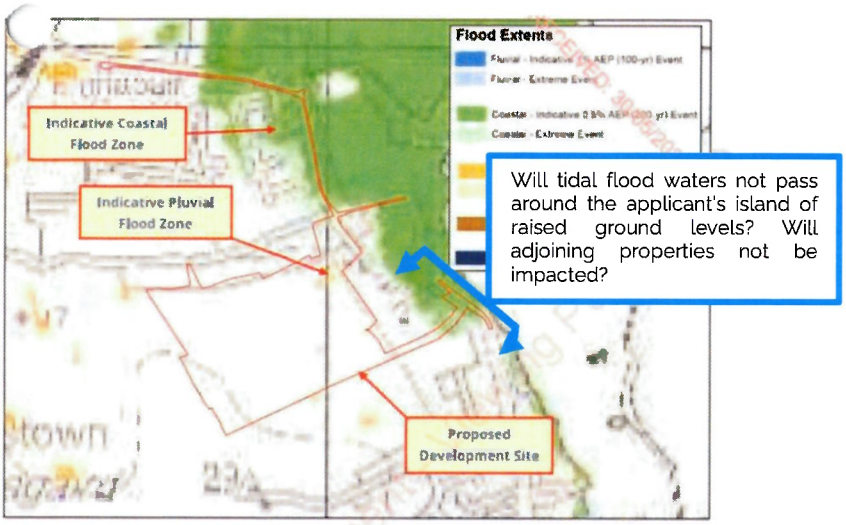


Figure 3 - OPW PFRA Mapping

Fig. 87: Coastal flood waters extend around areas which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

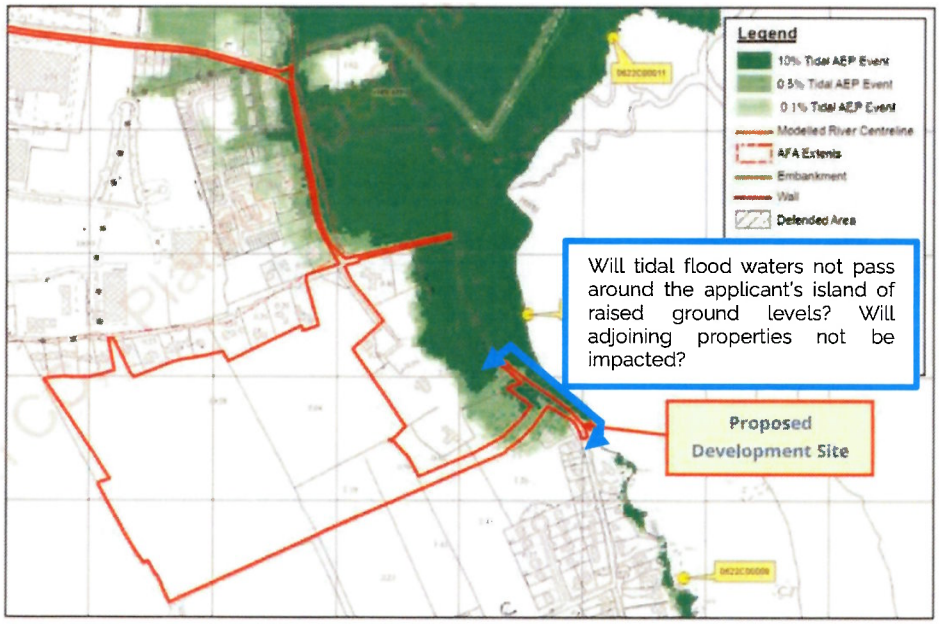


Figure 9 - CFRAMS Tidal Flood Maps

Fig. 88: Tidal flood waters extend around areas which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

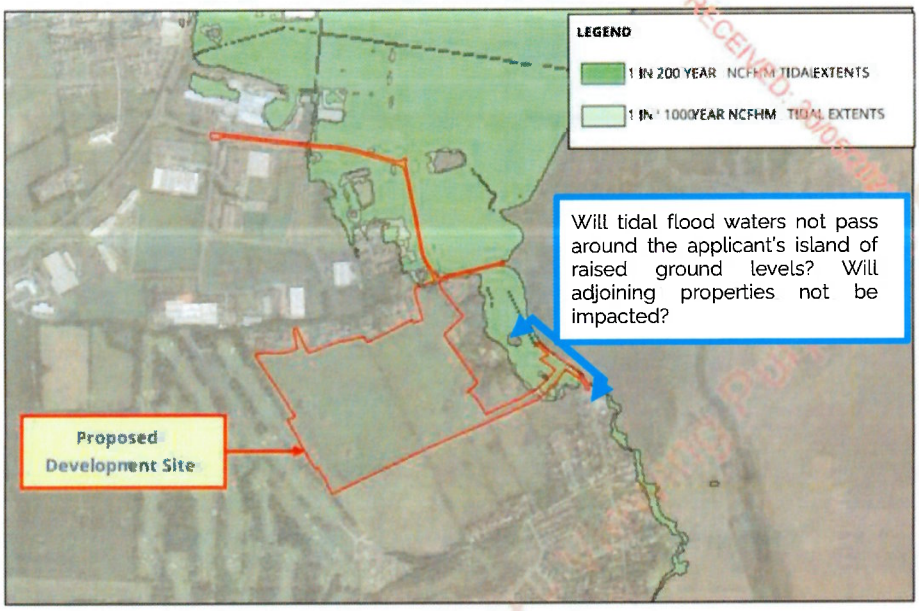


Figure 11 - NCFH M TidalExtents Present Day Scenario

Fig. 89: Tidal flood waters extend around areas which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

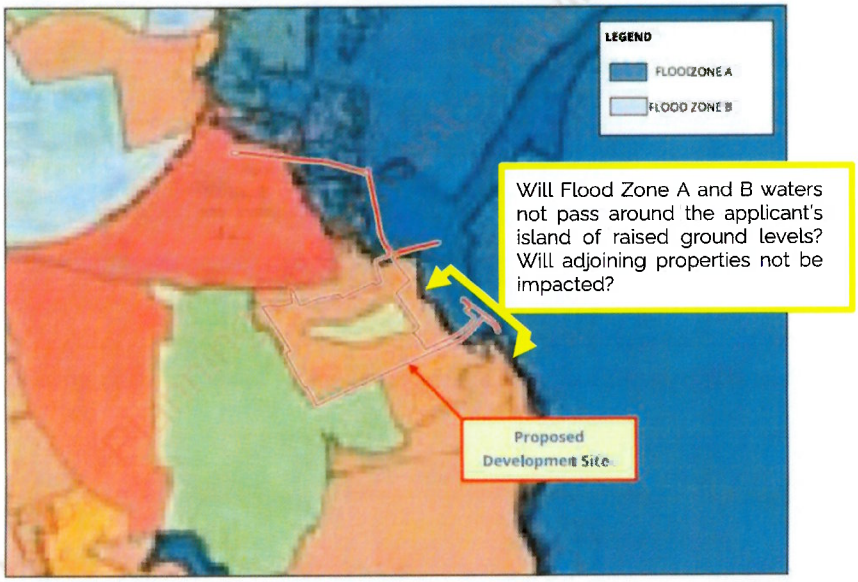


Figure 13 - L outhSFRA Flood Mapping

Fig. 90: Flood Zone A and B waters extend around areas which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

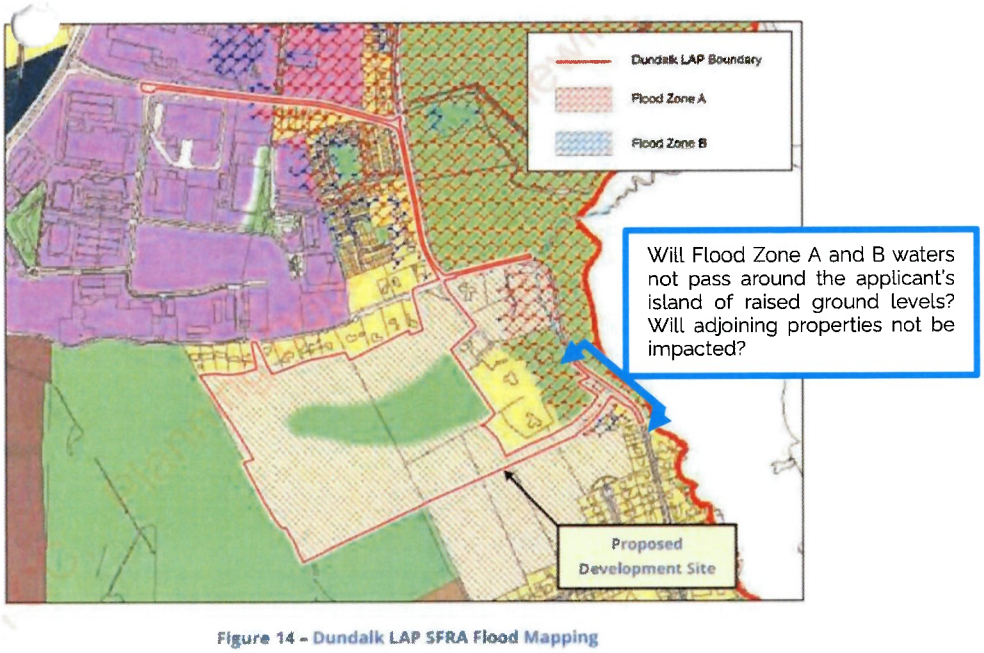


Figure 14 – Dundalk LAP SFRA Flood Mapping

Fig. 91: Flood Zone A and B waters extend around areas which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

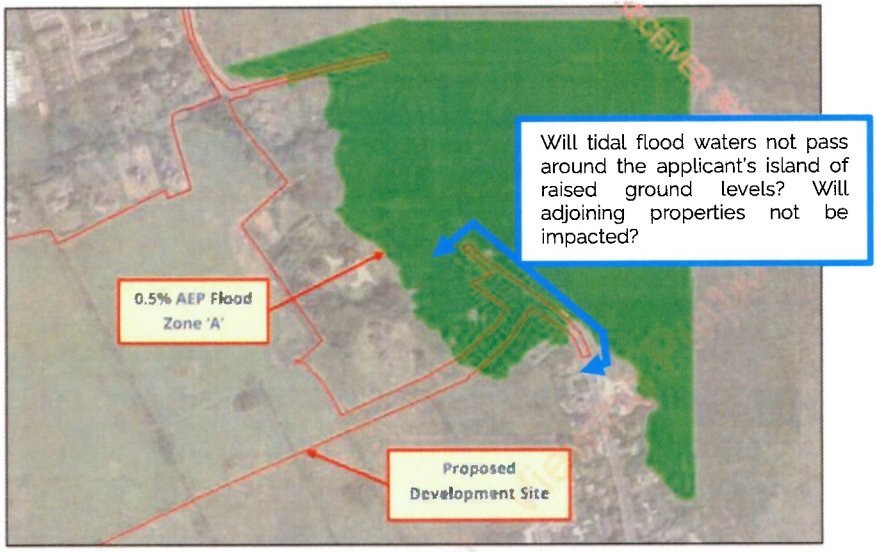


Figure 19 – Baseline Scenario 0.5% AEP Present Day Scenario Tidal Flood Extents

Fig. 92: Tidal flood waters extend around areas which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

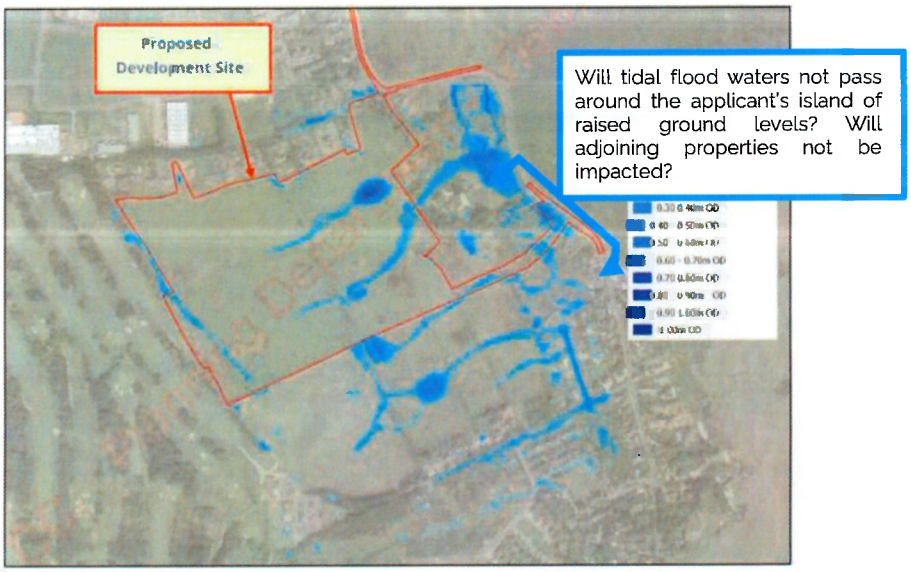


Figure 27 – 1% AEP 0.5Hour Present Day Scenario PluvialFlood Depths

Fig. 93: Tidal flood waters extend around areas which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

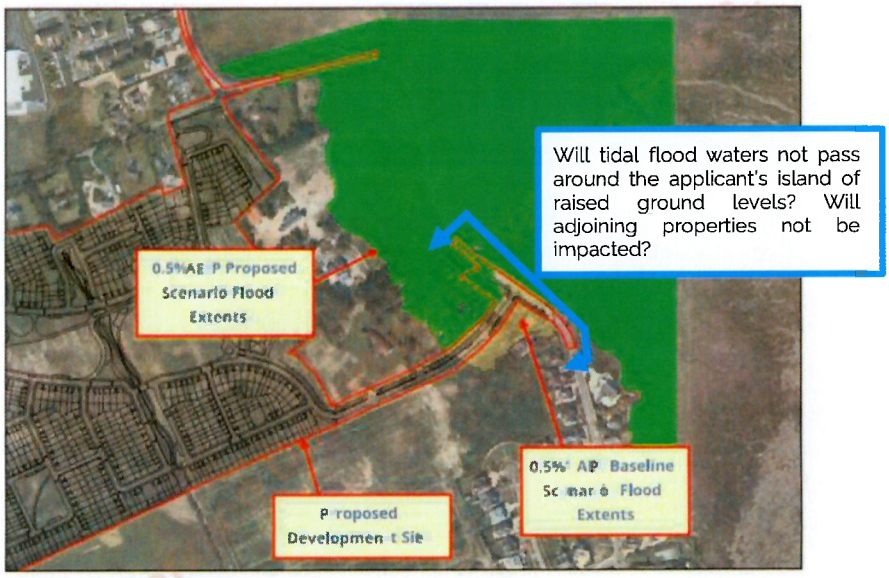


Figure 31 – Baselinev's Proposed Scenario 0.5% AEP PresentDay Flood Extents

Fig. 94: Flood waters extend around areas which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

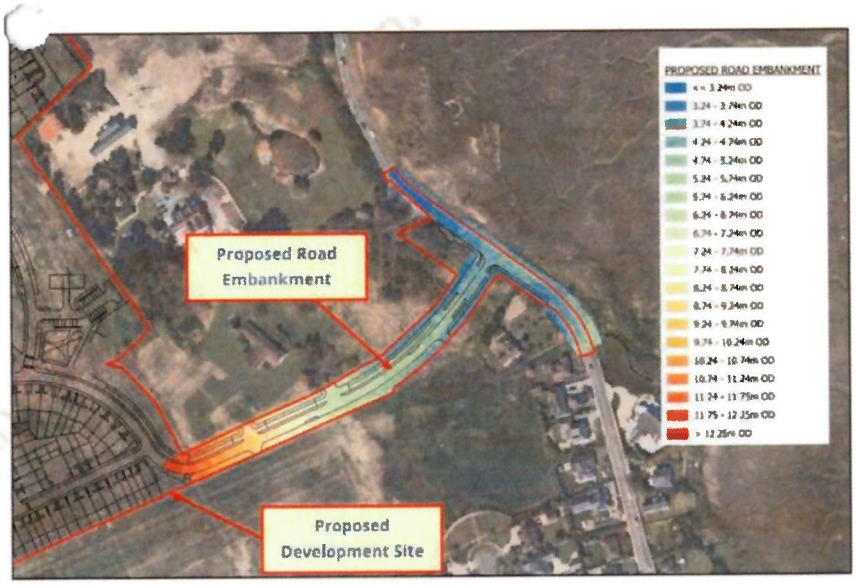


Figure 30 – Proposed Road Embankment included in 2D Domain

Fig. 95: Road embankment area in which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

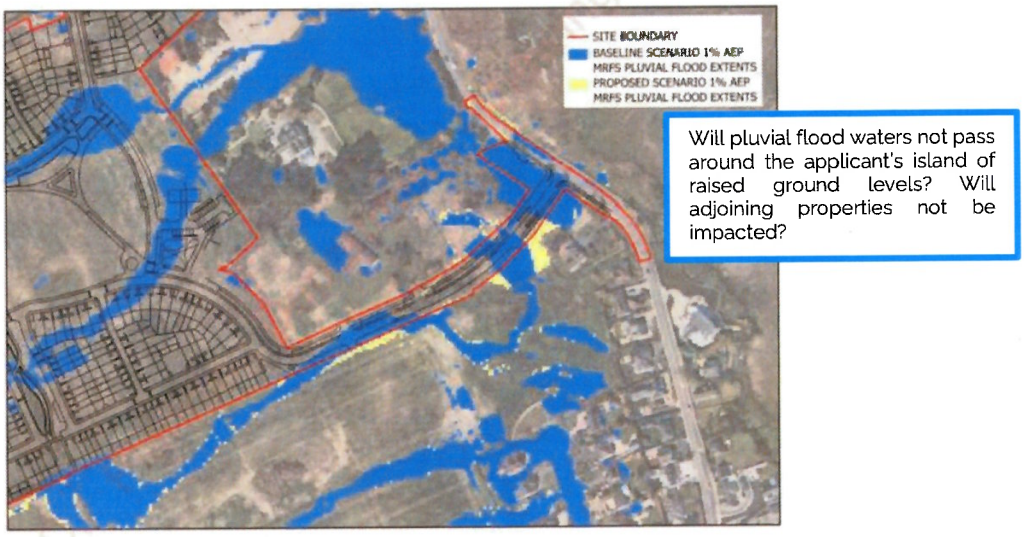


Figure 38 – Baseline v's Proposed Scenario 1% AEP MRFS Flood Extents

Fig. 96: Flood waters extend around areas which ground levels are to be raised – will flood waters not just pass around the raised areas? (Source: SSFRA)

9.4.3 The main entrance and access road is to be raised above client property

Our client notes how the applicant proposes to raise the ground level of the entrance and access road into the scheme. Concerns arise that these works will force surface and/or flood waters into adjoining properties.

A review of Fig. 97 suggests that the ground level difference between the access road and adjoining properties could be as much as 2m. This suggests that during a 0.5% (1 in 200) MFRS AEP Coastal Flood event where the predicted flood level for such an event is given as 4.14 m AOD, the applicant's access road and entrance would possibly be made safe, but all adjoining properties and lands would suffer more as a result, i.e. they stay dry while everyone else gets flooded. We note that the existing adjoining ground levels are not provided in Figs. 97 or 98.

The applicant SSFRA argues that the applicant's works will create a tidal barrier and will prevent pluvial flooding in the Flood Zone A areas within their site and our client's property. These works are limited to what is a modest section of road and to directing scheme waters into our client's property. With all due respect to what is now a very long SSFRA (this being the 3rd one produced by the applicant), can tidal flood waters not pass around the sides of the proposed works? And how can scheme waters be discharged into our client's property when it itself is flooded? This is all at a time of rising sea levels and

when precipitation in Ireland is worsening with more extreme events. Perhaps the precaut ary principle and common sense should apply?

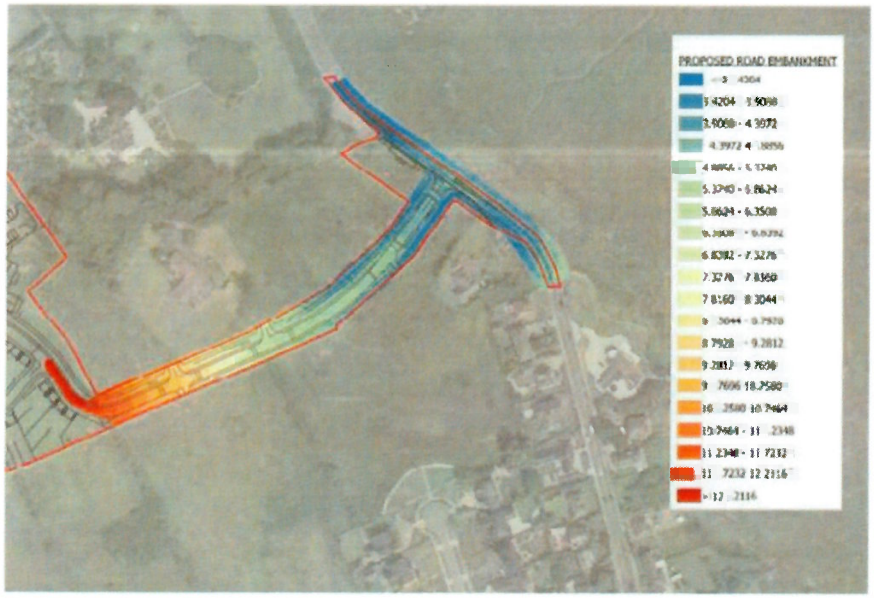


Fig. 97: Proposed levels for the scheme entrance and access road (no adjoining levels provided)

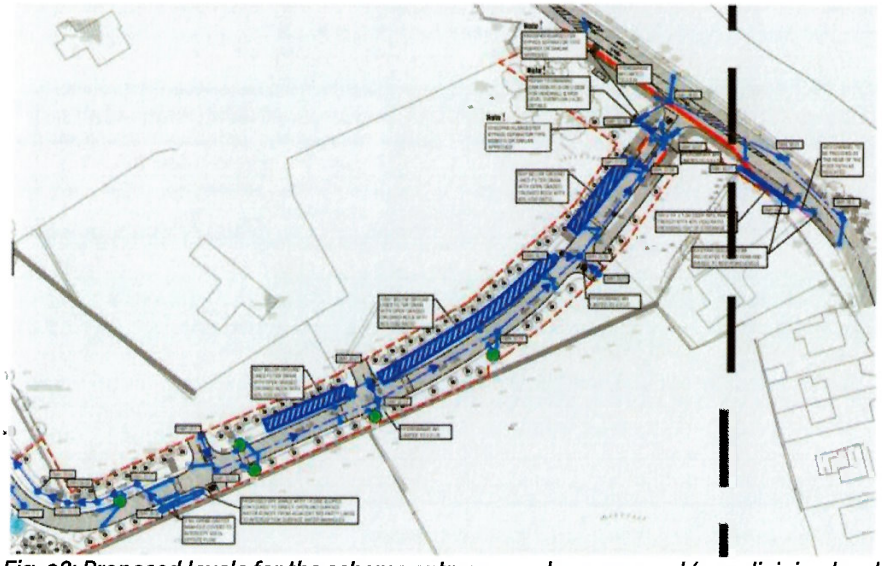


Fig. 98: Proposed levels for the scheme entrance and access road (no adjoining levels provided)

9.4.4 The R 172Blac krockRoad is t ob e raised to address flooding but not cli ent p rop erty

The applicant appears to have carried out flood risk modelling to assess likely impacts on their own scheme and on the extent of coastal flooding if they raise the R172 road's level. The applicant argues that this will benefit theproperty to the south of the site, but no mention is made of our client's property.

That is, the applicant seeks to carry out significant works on lands owned by our client, through which the R172 passes, and these works will alter how surface waters (not coastal flood waters) may pass into our client's property, and this will not have any net benefit for our client.

This proposal is not accepted. The applicant seeks to raise the R172 and their own access road which means that existing surface waters and new surface waters generated by the scheme's faster run-off may be trapped (in effect) in the areas not raised by the applicant. This includes our client's property. They are not convinced the applicant can prevent surface water from entering their property from these new raised areas.

Fig. 99 shows coastal flooding. This appears to be a distraction from the real concern which is surface water/pluvial flooding. The applicant's Statement of Response to LRD Opinion and FRA accepts that the scheme will cause "existing flow paths" to be "interrupted by the construction of the new roadway"

"there was the potential for the runoff being prevented from reaching the estuary". The applicant states: "A number of measures have been introduced into the design of the scheme". These measures amount to introducing pipes to take surface and/or flood waters from the site directly into the SAC/SPA. Concerns arise that these works would interrupt existing discharges which ensure our client does not receive certain waters and the works and pipes appear to be sited partly within our client's lands.

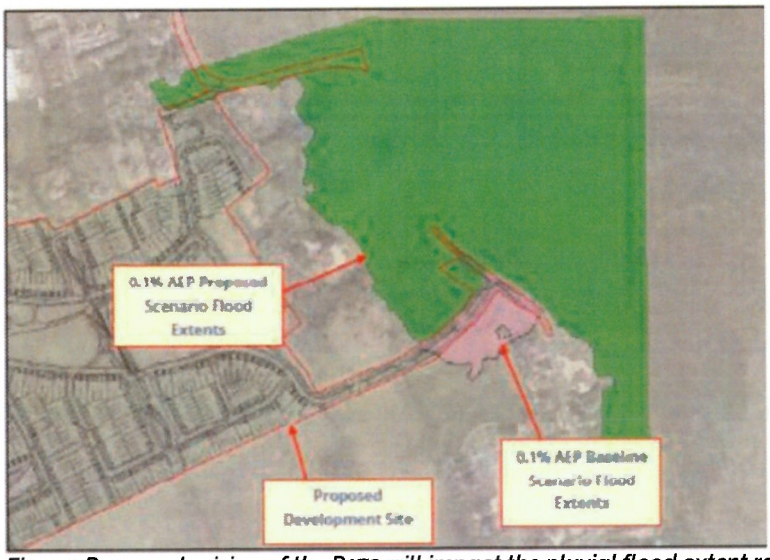


Fig. 99: Proposed raising of the R172 will impact the pluvial flood extent regarding client property

9.4.5 SSFRA mitigation measures rely on discharging flood water into client property

Our client does not accept the SSFRA as regards its 'Mitigation Measure 1' – see Fig. 100 (Fig. 39 of the SSFRA). The applicant scheme relies on discharging flood waters into their property in a manner that is unacceptable. These proposals rely on adverse flood impacts arising for private properties. The proposals are poorly considered and the SSFRA's conclusions cannot be supported.

Regarding flood waters deriving from the main site area:

> *The localised low points within the boundary of the site will be removed as part of the development of the site. Surface water runoff generated within the site boundary shall be incorporated in the proposed development stormwater management system.* ***Runoff shall be attenuated to greenfield runoff rates and discharged to the existing northern drainage channel located beyond the northeastern boundary of the site*** **[into client's property]** [emphasis added].

Regarding flood waters deriving from the Proposed Entrance Road Embankment:

> ***The proposed road embankment located in the eastern area of the site may result in an increased pluvial flood risk to adjacent lands and property as it has the potential to block and alter the existing undeveloped scenario overland flow path of surface water runoff in this location****. The 2D pluvial model was utilised to determine the potential impact of the proposed road embankment on the extent of pluvial flooding in the vicinity of the site. The model was updated to include the proposed road embankment in the 2D domain as illustrated in Figure 35 below* [emphasis added].

Regarding purported flood mitigation measures:

Section 7.2.2.3 'Proposed Mitigation Measures' of the SSFRA states:

> *The 2D pluvial modelling undertaken as part of this Site Specific Flood Risk Assessment indicates that the proposed road embankment construction* ***will result in an increased pluvial flood the lands adjacent to the north and to the south of the proposed road****. It is therefore proposed to* ***mitigate the increased pluvial flood risk*** *by the inclusion of* ***mitigation measures****. These measures are divided up into two locations based on their upstream catchment areas.*
>
> *Measure 1 - Greenfield pluvial runoff shall be intercepted where it intersects the southern area of the road embankment, as shown in Figure 39 below. There is no attenuation of this runoff proposed as this is greenfield runoff only. The design peak flow at this location has been taken from the baseline scenario pluvial model results for the 1% AEP M RFS, which is 403 Us. The greenfield*

> *pluvial runoff shall be diverted in a northerly direction in a proposed 600mm diameter drainage pipe and* ***will discharge to the existing drainage channel located to the north of the R172 road on the estuary side*** **[into client's property].** *The design of this system has been prepared by Donnachadh O'Brien & Associates Consulting Engineers and is shown on the stormwater design drawings prepared by the same. A schematic of this proposed drainage pipe is shown on Figure 39 below* [emphasis added].
>
> *The extent of pluvial flooding for the unmitigated scenario (Figure 36, Figure 37 and Figure 38 above) has been significantly reduced such that the flooding is reduced to a minimal area within the red line boundary with the inclusion of the proposed mitigation measures (see Figure 41, Figure 42 and Figure 43 above* **[into client's property]***). These mitigation measures (Measure 1* **[into client's property]** *and Measure 2) have been adopted and implemented into the infrastructure design of the development for which planning permission is sought. The proposed scenario pluvial flood extents for the 1% AEP and the 0.5% AEP Present Day scenario events and the 1% AEP MRFS event are shown in Figure 44, Figure 45 and Figure 46 below*

The SSFRA's conclusions rest on the above mitigation measure through our client's property, with it stating:

> ***In consideration of implementation of these proposed mitigation measures*** **[into client's property]** *the pluvial flood risk to and from the proposed development site is considered to be LOW. The development as proposed, and in particular the proposed road embankment, is not predicted to result in an adverse impact to the existing hydrological regime of the area or increase flood risk elsewhere* [emphasis added].

Section 8. 'Justification Test for Development Management' relies on our client's property to provide scheme mitigation stating:

> *With reference to the table above, the type and form of development proposed within Flood Zone 'A' is 'Highly Vulnerable Development', therefore development proposals for the site are subject to the Justification Test. It is noted that the proposed road levels have been designed so that it is located within Flood Zone 'C' and also so that it* ***does not increase flood risk elsewhere*** **[except into client's property]***., which is described in the following section below* [emphasis added].

The applicant should provide a direct outfall from the scheme to the sea which does not rely on passing scheme flood waters through private lands which have no relationship to this scheme and are under no obligation to take such waters. They can erect a flood barrier. LCC has no control over our client's property, and it had not ever even heard of any claimed drainage channel purportedly passing through their property before the applicant came up with this idea.

The purported drainage channel is in Flood Zone A which would itself be a flooded area during any tidal or pluvial flood event.

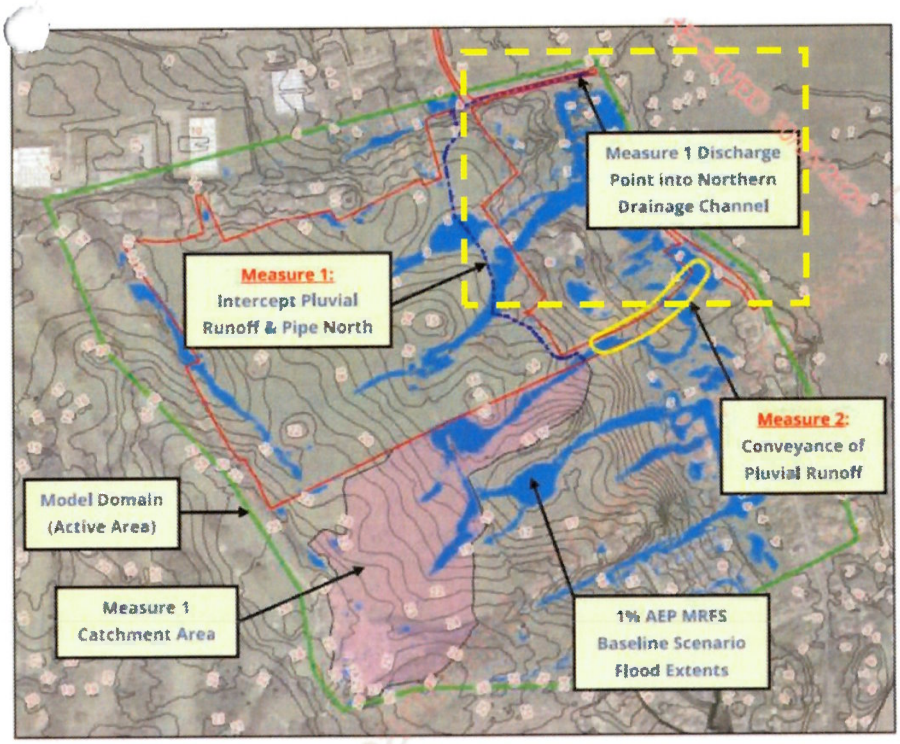


Figure 39 – Proposed Mitigation Measure Locations

Fig. 100: SSFRA's proposed mitigation measure locations showing increased flood risk to client property & proposals to direct flood waters into client property (Source: SSFRA)

9.4.6 During high rainfall events the scheme will comprise a series of unsafe lakes

The most defining aspect of this scheme's site layout plan and engineering site layout plan is the excessive (but required) quantum of attenuation tanks and detention basin areas within the scheme. In the event of a high rainfall event, this scheme will appear as a series of lakes.

Concerns arise that this site is unsuitable as a residential site. Ireland is a wet country and Dundalk's average rainfall means the detention basins are likely to be needed a great deal. The applicant has not proposed to fence these areas despite how the scheme will accommodate families with small children.

9.4.7 Attenuation/detention basins closely adjoining client property are excessive

As Fig. 102 shows, the applicant proposes to site a large-scale attenuation/ detention basin immediately alongside our client's property and a further one just a short distance further to the west.

These attenuation/ detention basins are to hold – above ground level – significant surface water/flood water and these are sited on top of attenuation tanks underground.

Our client considers the extent of works proposed in close proximity to their property to facilitate the storage of water within the site to be excessive and to present short, medium and long term risks to their property. Few families would agree to such largescale de facto lakes being located alongside their property boundary when this is an area which can experience repeated pluvial flood events within a short period of time.

The extent of these flood risk and surface water management measures even at ground level should raise concerns over the suitability of this site for a large-scale residential development.

Fig. 101: Extent of atten uationand detention basins within close proximity to client property

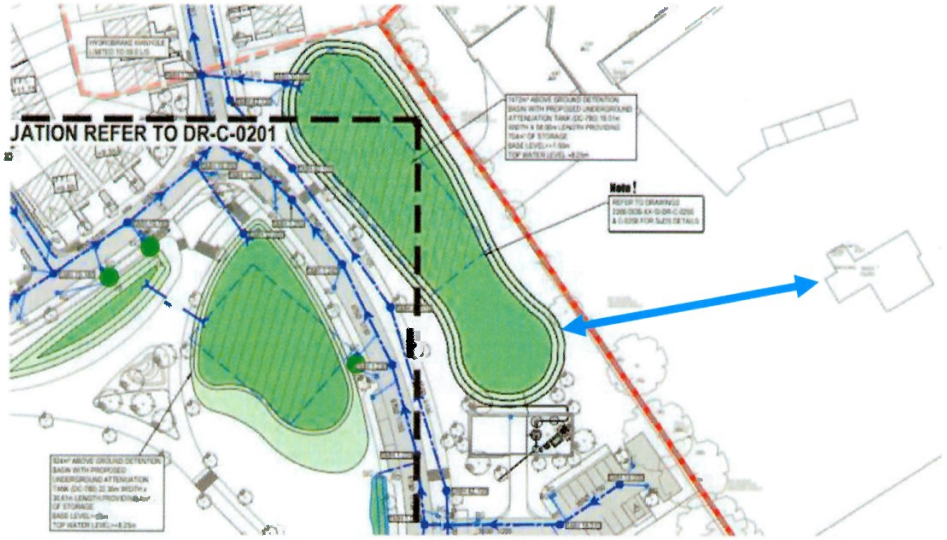


Fig. 102: Extent of attenuation and detention basins within close proximity to client home

9. 47 The prop osed foul pumping station & creche are located in a flood vulnerable area

The sustainable growth of County Louth is dependent on the provision of adequate waste water services and infrastructure. The scheme itself is dependent on having a creche to serve its future residents.

A concern arises that the applicant is seeking to install a foul water pumping station and a creche on the site within the area of the site with the lowest ground levels and therefore is that most vulnerable to flooding and/or pluvial surface water ponding, etc. When the site floods – and it is regularly subject to pluvial spot flooding – these low lying areas of the site may not be accessible.

One of the reasons why subject site is zoned Strategic Reserve is because the 'STRATEGIC FLOOD RISK ASSESSMENT (SFRA)' of the LCDP identified that this is the area of the site most prone to flooding. The zoning is meant to preclude inappropriate developments within the area of flood risk.

It is not clear to our client why the applicant would place the pumping station and creche in this flood prone area. Fig. 103 shows that the area is the area of most flood risk and as such contains no less than 3 x attenuation/detention basins. The applicant has sited a large-scale attenuation/detention basin immediately to the west of our client's boundary which acknowledges how this area is the most at risk of flooding and ponding, but yet just south of this massive attenuation/detention basin, the pumping station, creche and parking area for both are sited. This makes little sense.

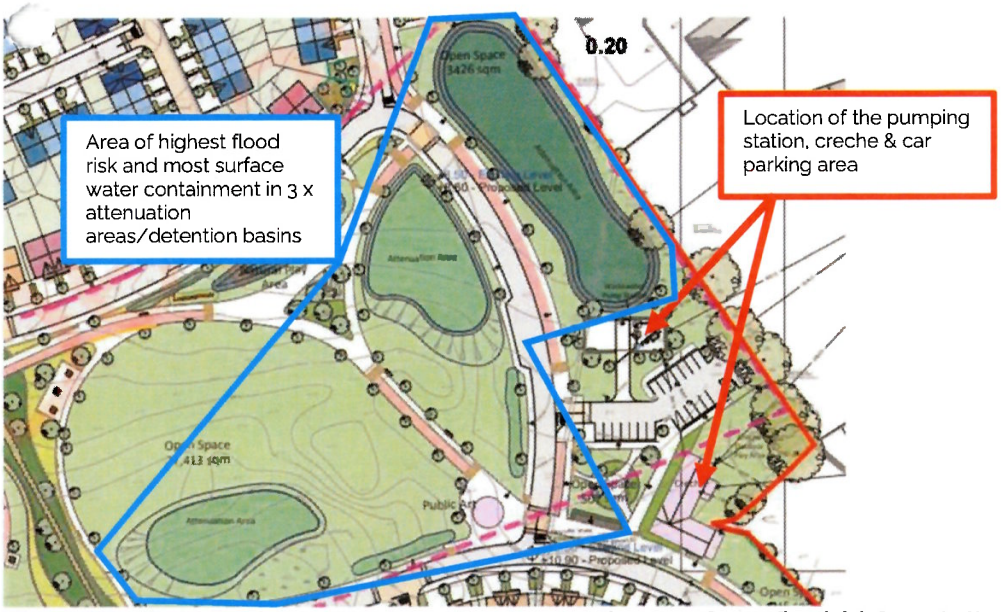


Fig. 103: The Strategic Reserve zoned area of open space, the area of most flood risk & most attenuation

Fig. 104: The pumping station, creche and car parking in the de facto scheme flood management zone

9.4.8 The refused LRD scheme's SSFRA also confirmed flood risk & failed to address it

The applicant's refused LRD included a Site Specific Flood Risk Assessment.

The submitted Flood Risk Assessment (FRA) confirmed that the eastern part of the site – the access road and entrance onto the R172 with its proposed bus stop, etc. – are all sited in coastal Flood Zones A and B. The applicant confirms this stating:

> *The Neagh Bann CFRAMS Coastal Flood Maps (N06BRK_EXCCD_F0_02) provides the predicted coastal flooding for the 10%, 0.5% and 0.1% AEP events. The relevant map includes the information for several nodes where one (0622C00010) is located within the estuary east of the site.*

The applicant accepted that:

> *More recent and updated coastal modelling has been undertaken by the OPW, where the available data for the hydrological estimation point (Node Point) NE4 (closest to the site) is included in Figure 4. The predicted flood levels for MFRS, HEFS, HE+FS and HE++FS for relevant AEP events are available. In taking that the MRFS is applicable for the proposed development, the predicted flood level for 0.5% or 1 in 200 is 4.14 m AOD.* ***This is 400mm above the expected flood level for the same event in the 2016 CFRAMS map*** [emphasis added].

That is, from 2016 to 2021, the flood extent rose by 40cm and is getting worse. The applicant still asks for permission to site the main entrance to the scheme in this worsening flood zone.

The FRA assessor includes Section 3.05 'Other Sources' which raises concerns. For example:

- The FRA assessor states that they saw no evidence of flooding in these lands when they visited the site, yet the AA and NIS author(s) state that the area of the site where the entrance is proposed, etc. was waterlogged and marshy. There appears to be a disconnect between the site visits. It is clear some project team members visited the site during dry spells and others during wet spells. The wet is what matters. Even a beach can be very dry at low tide.

- The FRA assessor relies on site investigations which this Planning Objection Report has shown as likely to have been undertaken during dry spells in summertime when the crops are growing in the field and trial holes and bore holes show no or little water. Again, it is the wet spells that matter.

- The FRA assessor states: "no existing network of surface water ditches traverses the site" yet the applicant incorrectly claims there is an existing watercourse at the proposed entrance to the R172.

Table 6 appears to be somewhat at odds with the practical realities faced by the eastern area of the site close to the R172. Table 6 places the eastern part of the site into a medium risk category despite it being in Flood Zones A and B for coastal flooding and being at risk of pluvial flooding. The likelihood of flooding is probable, and the consequence is restricted access to the entire scheme. How is this area of medium risk? It is of high risk.

The conclusion of the Stage 1 assessment is:

> *The area of the site adjoining the R172, where the proposed new entrance for the development will be constructed, will be subject to tidal/coastal flooding during extreme events.* ***This flooding will also affect the public roadway that fronts the property, which is the primary transport link between Blackrock and Dundalk****. In accordance with the Planning System & Flood Risk Management Guidelines, DOEGLG, 2009, this flood risk assessment has determined that* ***this area falls within Flood Zone A or Zone B and therefore, proposals for this part of the site are subject to the requirements of The Justification Test. Considerations are also required to assess the effects of pluvial flooding within and adjoining the development site*** [emphasis added].

The Stage 2 assessment

The Stage 2 assessment finds that the area of the site close to the R172 to the southeast will be under water at present under all future coastal AEP flood event scenarios. The FRA's answer to this conclusive finding is to propose to raise the R172, the entrance and the access road such that current forecasts are addressed. The solution is one of ignore the marshy and waterlogged context and future flood risk and pour in fill materials to raise levels to create an island of development above adjoining lower lying lands to allow the scheme to try to obtain planning permission. The FRA states:

> *Therefore the design of the proposed access roadway leading from the R172 public roadway will be constructed at a level above the 0.5% (1 in 200) AEP MRFS, where the vertical alignment of the public roadway will also be raised above this level to maintain access to the development during such events. The effects of such flooding will also need to be considered regarding the proposed attenuated discharges from the development, where provision must be made to allow discharge during extreme coastal flood events.*

Our client opposes this proposal which is so different to that for the SHD scheme because flood risk was shown to have increased in just a few years. These proposals read as a short term solution to a problem subject to a geological timescale. The risk proposed to be taken here is unjustified and would cause adjoining and surrounding lands to be likely flooded and would cause adverse impacts on the SAC and SPA arising from what are in fact significant works only needed to facilitate unjustifiable areas of the proposal.

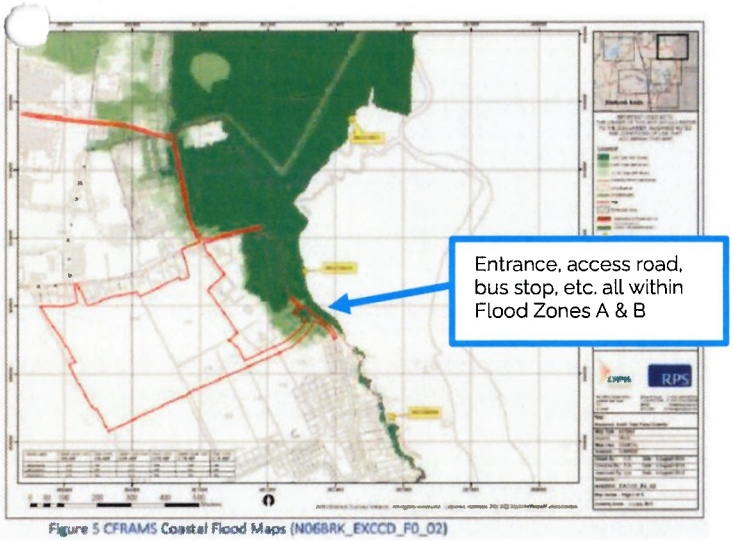


Fig. 105: Excerpt from the submitted Flood Risk Assessment – Fig. 5

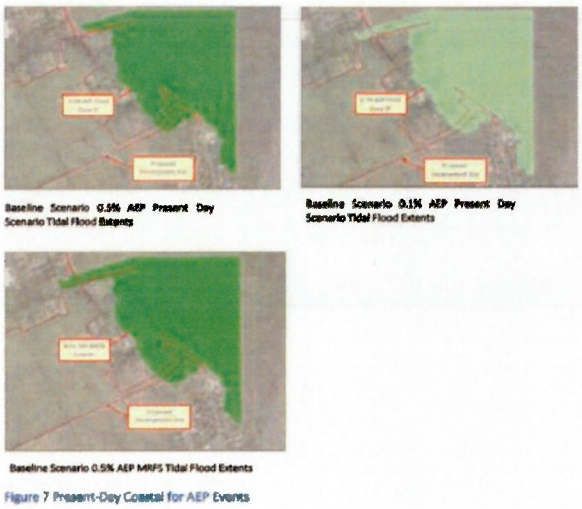


Fig. 106: Excerpt from the submitted Flood Risk Assessment – Fig. 7

Our client has also reviewed the proposals to address acknowledged pluvial flooding on the site and how the applicant intends to try to address this by way of attenuation measures and a myriad of devices which are unlikely to function permanently. They consider these proposals to carry too much risk. Each of the applicant reports which include references to surface and flood waters all point to what will happen in the event of the attenuation and flood management measures failing. The answer to this is that adjoining properties such as our client's will be flooded. This is not acceptable.

It is also not acceptable to try to create a watercourse at the entrance to the scheme and to seek to pass surfaced and flood waters into and through our client's property. The FRA note show when the:

> *... discharges from the development become surcharged at the irrespective outlets to the open channel and wetlands during an extreme coastal or tidal event, the discharge flows from the pipelines will be impeded. This will be alleviated where both discharge pipelines will have high level overflows at the discharge manholes to facilitate discharging during a coincidental extreme coastal/tidal event. See figure 8.*

The problem with this statement is that the applicant does not control and cannot maintain the areas of the proposed discharges which extend beyond their property boundary. The applicant proposes to direct surface water and flood water through our client's property but has no way of managing surcharges, etc. These surcharges will flood our client's property in an unmanaged way. The applicant's drawings make it appear that surface and flood waters will travel down to the proposed R172 entrance to the south of our client's property and end there. In fact, they are to be directed through private properties to the north. They have no permissions for this, and these areas are not included in the red line site boundary.

Our client does not maintain a culvert anything like that shown in Fig. 107 and their property cannot manage the surface and flood water from this area of the applicant scheme.

The FRA also clearly demonstrates that pluvial flood paths pass from the site into our client's p roperty and that the proposed entrance and access road into and out of the site to the R172 experience pluvial flooding. These issues have not been resolved to our client's satisfaction.

The FRA argues that the attenuation measures, etc. will never break down and that if they do this will be immediately fixed. This may work for a few years, but it is unlikely to be a permanent situation. The work required to maintain all the surface water and flood risk management measures would be significant and involve tasks beyond most management companies. The scheme proposals require LCC to accept excessive flood risk into the future. Our client's property may flood dramatically in 10 years' time dur to such failures by which time the applicant will be gone and conditions attached to the permission forgotten.

Our client does not agree with the conclusions of the previous LRD's Stage 2 Flood Risk Assessment.

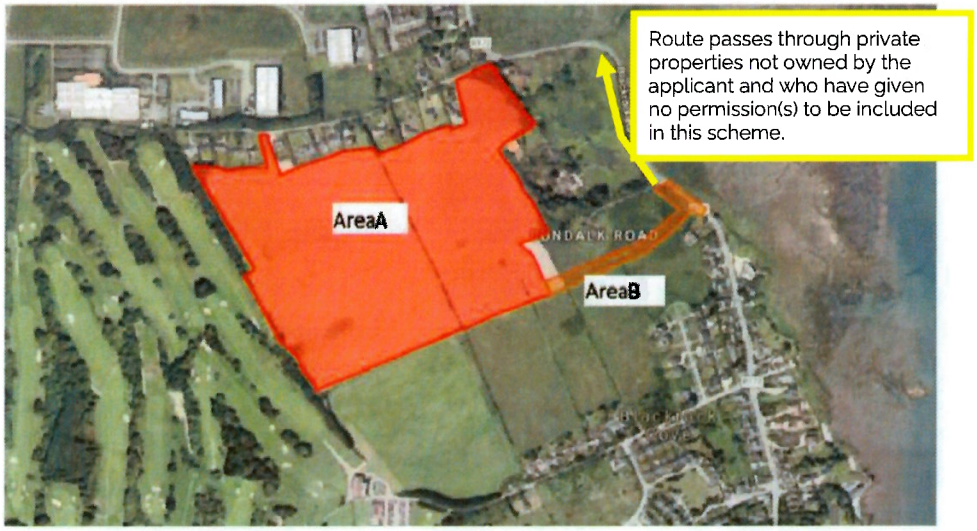


Figure 8 Development Catchment Areas

Fig. 107: Excerpt from the submitted Flood Risk Assessment – Fig. 8

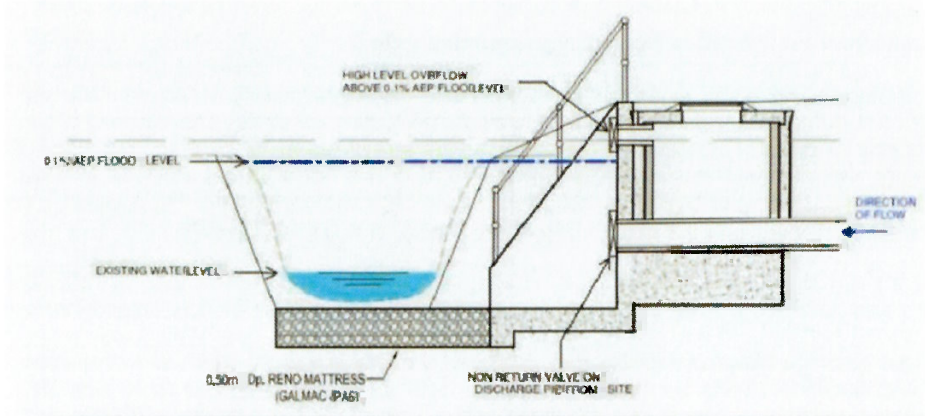


Figure 9 Di schage Outletto Op enChannel & Wetlands

Fig. 108: Excerpt from the submitted Flood Risk Assessment – Fig. 9

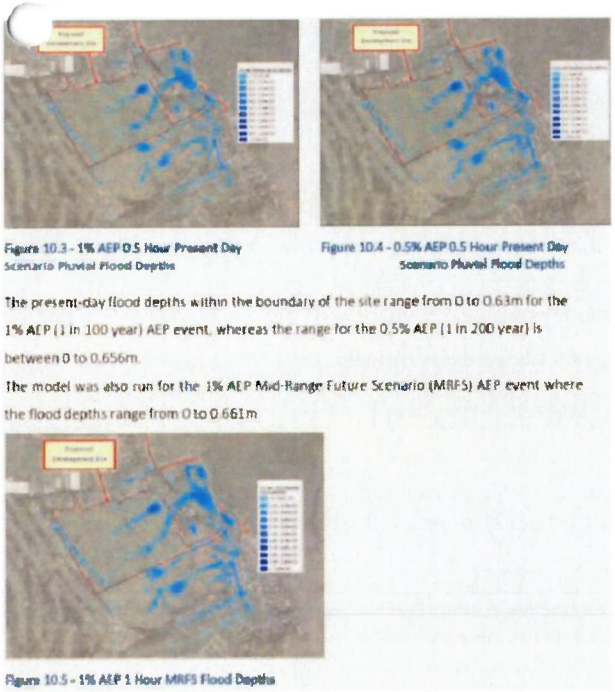


Fig. 109: Excerpt from the submitted Flood Risk Assessment – pluvial flood paths

The Stage 3 assessment

The FRA assessor argues in favour of the 'treat the symptom' approach to addressing the flood risk concern at the eastern side of the site by raising the road level. Our client does not support this. If an area floods and is in Flood Risk Zones A and B it should remain undeveloped. This is a backland site whose development should reasonably be limited by its location and inaccessibility. The proposed works to the road including embankments will, in our client's opinion, result in pushing surface and flood waters into adjoining and surrounding properties and into the SAC/SPA. The applicant and the FRA assessor repeatedly seek to argue that this is not the case, but where will this water go other than into and/or through private properties and into the bay?

Fig. 112 shows the applicant's simplistic view of how this hydrological and topographical problem can be addressed. That is, how do we make dry land in a sea of flooded areas? We create an island. The applicant proposes an island for themselves while all other adjoining and surrounding areas flood to a greater extent than before. There is no proposal to raise the levels of adjoining properties, etc. The assessor finds that the proposals do not create a greater flood risk for third parties. This is based on claims that the surface and flood waters can be channelised through third party properties including our client's. This conclusion is therefore not accepted.

Having proposed an island of dry land for the R172 entrance, etc. the applicant is then faced with the problem that the area of the access road and entrance is also sited in the existing flow path of pluvial flooding from the site. This pluvial flooding could and would cut off the island created to address coastal flooding concerns. The applicant's answer is twofold:

Measure 1: More attenuation and re-direction of surface and flood water flows. The proposal is to direct them northward where they would join existing flows which pass into our client's property from the site. Our client objects to claims that this could work as well as claimed.

Measure 2: The assessor states that the area outlined in yellow in Fig. 112 will be drained of its pluvial flood waters by:

> *... intercepting the flow paths with 3# 450mm diameter pipelines that will be installed below the new roadway and at a level where they will collect and convey the pluvial runoff from the adjoining lands to the south* ***and allow it to discharge into the wetlands to the north of the roadway.*** *Two 450mm diameter pipelines will also be installed underneath the new access roadway and closer to the junction with the R172 to allow any pluvial flooding that may accumulate in the area to flow underneath the new road. These two pipelines will have Tideflex valves fitted on the downstream end to restrict flows up the pipelines. See Figure 17* [emphasis added]

That is, the applicant proposes to collect all pluvial flood waters from the roadway and to pass them northwards through private properties including our client's property and into the SAC and SPA. **There are no wetlands north of the access roads - there are only private properties**. Our client has given no

permission for this, and the applicant has caried out no assessment of the likely impact this would have on their property which already floods.

The applicant proposals are poorly considered and appear to be inaccurate regarding adjoining private properties to the north.

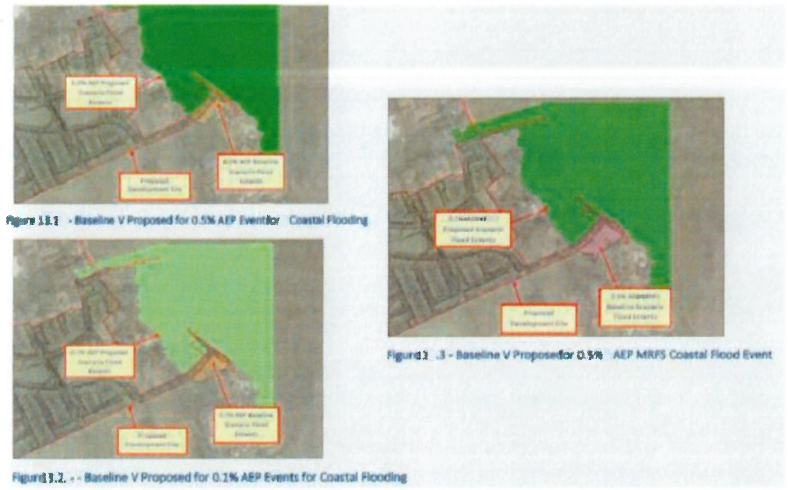


Fig. 110: The applicant's island of higher ground in a sea of future flooded areas

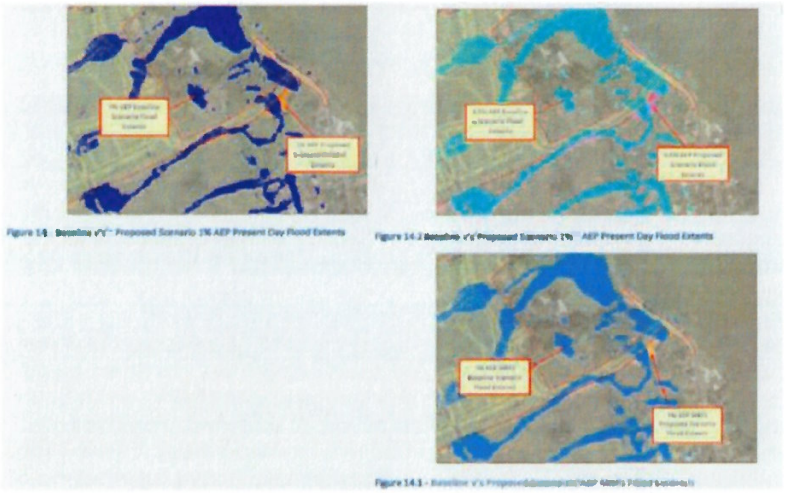


Fig. 111: The applicant's pluvial flooding problem would cut off the island

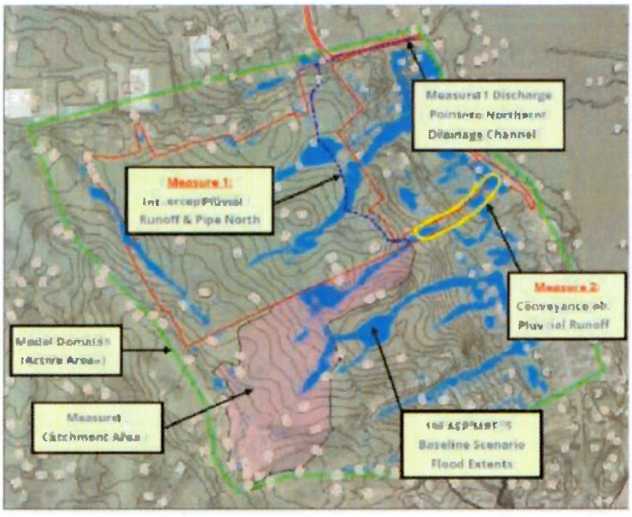


Figure 15 - Proposed Pluvial Flood Mitigation Measure Locations

Fig. 112: The applicant's pluvial flooding problem – measures 1 and 2

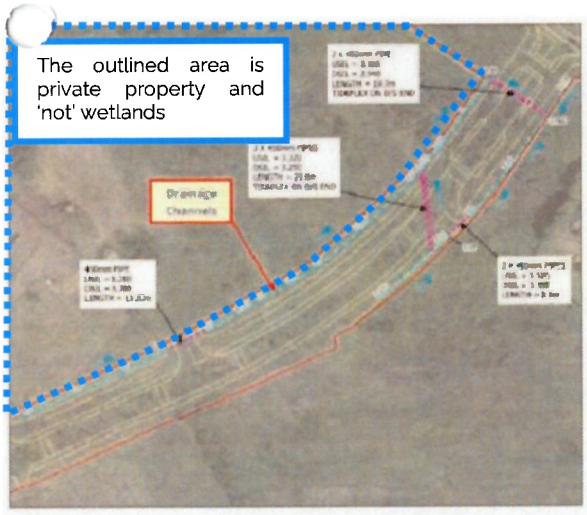


Figure 17 – Proposed Measure 2 Mitigation Measures

Fig. 113 – The outlined area is private property and 'not' wetlands

Section 6.0 Application of the justification test

Our client notes the applicant's applicant of the justification test. They do not agree with the conclusion reached. The new access roadway, entrance, bus stop, section of the R172 (to be raised), and embankment, is located within Flood Zone A and B. The Flood Guidelines do not permit development within a flood zone where an appropriate Justification Test cannot be satisfied. Coastal and pluvial flood risks cannot be satisfied in this case without impacting adversely on our client's property including via directing surface and flood waters through their property. The FRA assessor chooses to view properties north of the access road and entrance as "wetlands" and not private properties. This is not acceptable. The applicant has failed to set out credible proposals which would mitigate and manage flood risk to an acceptable level.

That the applicant site is zoned does not mean it can address flood risks. The zoning of the site is historic and pre-dates the LCDP 2021-2027 SFRA (it arises as the Dundalk Development Plan has been incorporated into the LCDP. The applicant seeks to rely on the zoning of the site despite the clear and unambiguous evidence that this area of the site is in Flood Zone A and B and experiences pluvial flooding. The proposal has not been subject to an adequate appropriate flood risk The proposed will increase flood risk elsewhere including to our client's property.

The previous LRD proposal failed to:

- Include adequate measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible.
- Include measures to ensure that residual risks to our client's property and the area and to the scheme can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of future flood risk management measures and provisions for emergency services access.
- The development proposed does not addresses flood risk concerns in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes. The scheme seeks to raise the R172 and to create an island of dry development surrounded by flooded areas in a manner which is visually at odds with the area, and which will require the import of fill and other artificial works that lack visual compatibility with the area. The proposals also fail to respect our client's residential amenities by seeking to force flood waters into their property and through it.

Our client considers the proposals to fail the justification test.

Summary & Conclusion as regards the previous LRD's SSFRA:

For the above reasons, our client disagreed with the applicant's previous LRD's SSFRA. They consider ed the document to be project focused and to ignore its context. Indeed, in areas the assessor fails to understand the context. The proposal to force flood waters into and through our client's property is not accepted and not permission for this has been given. The proposals to raise the access road, entrance and R172 are unjustified and fail to respond to the need to 'avoid' development in Flood Zones A and B.

9.4 9 Floodrisk as sessment& management measures are contrary to national guidar

For the reasons set out in Sections 9.4.1 to 9.4.8 of this Planning Objection Report and below, our client submits that the proposed flood risk assessment and management measures are contrary to 'The Planning System and Flood Risk Management - Guidelines for Planning Authorities' (2009).

The guidelines state of Flood Zones A and B:

- ***Zone A High Probability of Flooding.*** **Most types of development would not be considered in this zone. Development in this zone should be only be considered in exceptional circumstances, such as in city and town centres, or in the case of essential infrastructure that cannot be located elsewhere, applied.** Only water-compatible development, such as docks and marinas, dockside activities that require a waterside location, amenity open space and outdoor sports and reaction would be considered appropriate in this zone.

- ***Zone B Moderate Probability of Flooding.*** Highly vulnerable development such as hospitals, residential care homes, Garda, fire and ambulance stations, **dwelling houses,** strategic transport and essential utilities infrastructure **would generally be considered inappropriate in this zone**, unless the requirements of the justification test can be met. Less vulnerable development such as retail, commercial and industrial uses and recreational facilities might be considered appropriate in this zone. In general however, **less vulnerable development should only be considered in this zone if adequate lands or sites are appropriate level of detail to demonstrate that flood risk to the development can be adequately managed and that development in this zone will not adversely affect adjacent lands and properties.**

The applicant project is not exceptional. There are many other zoned sites in the surrounding area and many with planning permissions not yet commenced (including SHDs). This is not essential infrastructure. This is highly vulnerable development serving a housing estate. Flood risks cannot be managed without impacting adversely on our client's property by way of the purported "eastern" route for flood waters and surface waters which passes into and through our client's property. The applicant FRA argues that less vulnerable development should be considered appropriate at this location. Our client disagrees.

9.4.10 Proposed floodrisk assessment &management measures are co ntraryto the LCDP

For the reasons set out in Sections 9.4.1 to 9.4.8 of this Planning Objection Report, our client submits that the proposed flood risk assessment and management measures are contrary to:

- ***Strategic Objective SO 4*** Transition to a low carbon and climate resilient County supporting energy efficiency and reducing energy demand, through a combination of mitigation and adaptation responses to climate change. This includes for increased usage of renewable energy through developing indigenous energy resources, supporting the transition to a low carbon economy by 2050, and ensuring flood risk management. The Council will work with other bodies and organisations as appropriate, to identify and help protect critical infrastructure.

- ***Strategic Objective SO 5*** Ensure a more sustainable and integrated concept of development with regard to land use, transportation, water services, energy supply and waste management over the lfetime of the Plan.

The proposals are also contrary to and contradicts the LCDP 2021-2027's SFRA.

9.5 Ground 5: Concerns regarding likely scheme impacts on the Dundalk Bay SAC and SPA

9.5.1 Gro und water, surface wa ter and flood water concerns regardi ng the SAC and SPA

Our client has reviewed all the applicant's proposals and then considered the submitted Appropriate Assessment, Natura Impact Statement and Environmental Impact Assessment Report. They are also fully aware that their own property maintains a direct hydrological and hydrogeological pathway to Dundalk Bay SAC and SPA. Ground and surface waters entering their property end up in their large pond which maintains a direct historic piped connection to the SAC/SPA. Any waters entering their property from the applicant site which are in any way contaminated will impact them and the SAC/SPA.

They note how the applicant lands, as with their own, maintains direct hydrogeological and hydrological links to the SAC/SPA which cannot all be closed off and which indeed are not to be closed off but instead used as surface and flood water drains serving the site. Waters will pass through the site and into the SAC/SPA regardless of whatever measures are proposed. The applicant scheme is not located some distance from the SAC/SPA. It adjoins it.

s, not only are there to be historic hydrogeological and hydrological connections to the SCA/SPA, but the applicant proposes new connections to it for outflows at construction and operational phases including during pluvial flood events. One of these connections would see a large quantum of the applicant's future surface and flood waters passing through our client's property – this is not acceptable.

One must reasonably ask LCC to move to Stage 3 'Alternative Options' and find that this site cannot be developed in a manner which removes all likely significant risks to the SAC/SPA. Our client considers that Stage 4 applies. That is, the scheme cannot be developed at this location and there are no 'imperative reasons of overriding public interest' why this scheme should proceed (this is the test found in Article 6(4) of the Habitats Directive).

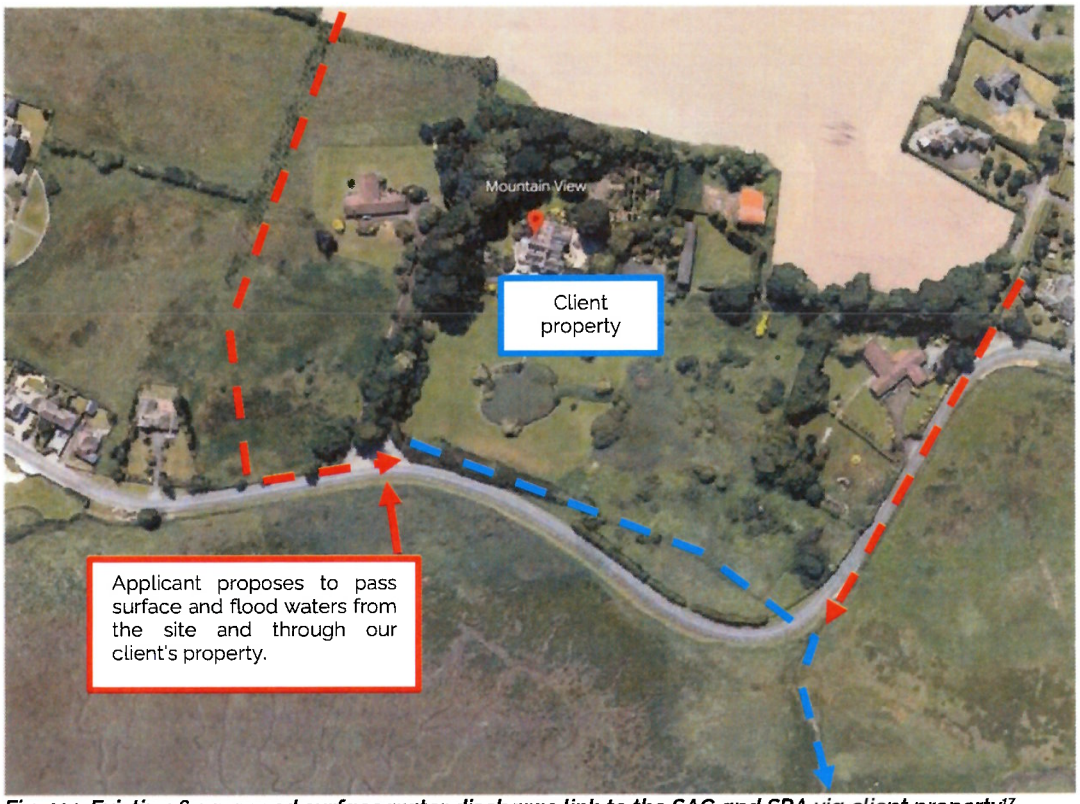


Fig. 114: Existing & proposed surface water discharge link to the SAC and SPA via client property[17]

9.5.2 Concerns regarding the applicant Appropriate Assessment Screening Report

The applicant has employed Enviroguide Consulting to set out an Appropriate Assessment Screening Report. A range of concerns arise from a review of the report:

1. The 'Report limitations' section extends to over a page of detailed reasons why the report's content comprises only a best guess. For example, the firm does not warrant the report content as being fully accurate, the report's content is described as only as good as the information provided to the firm to assess, the assessment is based on a range of assumptions, that sub-surface details are impossible to verify, etc. That is, issues of concern identified by our client may or may not have been addressed.

   Despite this section's many caveats, Section 3.7 'Limitations' states: "No limitations were encountered which would prevent robust conclusions being drawn as to the potential impacts of the Proposed Development on the relevant European sites".

2. Section 2.1.1:

   - It does not mention the extreme proximity of the Dundalk Bay SAC and SPA to the site. They adjoin. Given this is an Appropriate Assessment Screening Report, this may be the most important site location point to raise.
   - It does not refer to our client's property or to other adjoining properties. These are described as residential lands and not established properties.

[17] This is an approximation only.

- It does not refer to the fact that the site is regularly characterised by areas of retained pluvial rainwater.
- It does not refer to how the site maintains underground culverts and groundwater springs.
- No mention is made of how water currently flows downslope toward the SAC/SPA.

3. Section 2.1.3.1.1 'Existing surface water situation' does not refer to the fact that the site is regularly characterised by areas of retained pluvial rainwater. It also does not refer to how the site maintains underground culverts and groundwater springs. No mention is made of how water currently flows downslope toward the SAC/SPA. Reference is made only to the unnamed watercourse which runs along the western side of the R172. Under the refused LRD, the NIS stated:

   This existing watercourse flows northwards through private properties prior to crossing beneath the R172 and discharging in a north-easterly direction towards the Irish Sea.

   The current AA Report has been amended to repeat the content of the Infrastructure Design Report (IDR). There is no formal surface water drainage on site. The AA now refers to "an existing watercourse which is evident along the eastern boundary adjacent to the R172 Blackrock Road" and refers to a Figure 3 which is a repeat of a misleading illustration included in the DOBA Report. The image purports to show flows passing through our client's property via a stream. In fact, the photo is taken looking southward from the proposed scheme entrance. This has been addressed in Section 8.0 of this Planning Objection Report. It is of concern that each member of the project team is now relying on details which are not correct and are only included to give a misleading impression regarding our client's property. Their property does not offer a drainage channel for the applicant scheme.

   The AA's content is significantly weakened by this. It refers to how: "surface water run-off from the existing greenfield site and thus the subject lands, which does not infiltrate to ground, flows overland in an easterly direction towards the existing watercourse. This existing watercourse flows northwards via existing culverts and conveyance channels prior to crossing beneath the R172 and discharging in a north-easterly direction towards the Irish Sea (See Figure 3)". It is not as simply as this as the SSFRA confirms. The entire scheme relies on forcing scheme surface, storm and flood waters through our client's property.

   The AA relies on the lapsed SHD to state: "the surface water discharge locations, as illustrated on DOBA Engineering drawing series C-0200 pertaining to the Proposed Development, are located in the same positions and use the same existing culverts and conveyance channels as was previously granted by An Bord Pleanála case reference TA15.304782 – SHD development ...".

   Concerns arise that the assessor does not mention that these waters enter the SAC and SPA.

   Reference is made to a "topographical survey and geotechnical investigations carried out on Site" and the assessor states "it is apparent that surface water run-off from the existing greenfield site, which does not infiltrate to ground, flows overland in an easterly direction towards this existing watercourse".

   Our client considers this to be an excessively simplistic analysis given the scale of the proposals and the proximity of the SAC and SPA. Why have full hydrological and hydrogeological surveys not been carried out to inform this assessment? It has historically been the case, as experienced by our client, that this site maintains underground culverts and springs and significant volumes of water pass underground towards and into the SAC and SPA. The applicant assessor refers to "surface water run-off from the existing greenfield site, which does not infiltrate to ground" yet it is this below ground water which makes up the most volume. It is what causes the ground to become saturated across areas of this site and our client's property resulting in surface ponding, etc. The applicant is seeking to develop a site which is characterised by an extremely high water table and numerous below surface water channels. Details of this are not provided.

4. Section 2.1.3.1.1 'Proposed Surface Water Management' makes reference to the extremely large number of surface water and flood water management measures which characterise the layout of the proposed development. We note how mitigation measures are irrelevant to an AA and should not be included. In any case, again, these measures apply only to the surface of the site and fail to address the below ground level culverts and springs. Given that the site needs large volumes of surface water and flood waters to pass into ground water, this is hard to understand. The volume of SUDS measures proposed arises because the site's ground conditions are such that they cannot absorb surface waters and flood waters deriving from pluvial rainfall/flood events.

   Our client maintains serious concerns regarding proposed outfalls from the site to the SAC and SPA for surface and flood waters. No site located further from the SAC and SPA would seek to pass so much possibly contaminated water into Dundalk Bay.

.spite the high water table during periods of high rainfall and the underground springs and culverts, the applicant proposes to collect and manage surface water at the site through a suite of Sustainable Urban Drainage System (SUDS) measures, prior to discharge to Dundalk Bay; a) via a new headwall constructed along an existing drain to the north-east of the main Site area, and b) to the existing drainage infrastructure within the R172 road in the east of the Site, at the proposed main entrance.

The applicant argues that they do not need to obtain a Foreshore Licence for these outfalls but argue that LCC should just allow them to discharge surface and flood waters permanently into the SAC and SPA.

The applicant also proposes to alter the culvert/water course to the R172 to the south of our client's entrance and to use this as an outfall for its surface and flood waters which would then flow/flood northwards through private properties, including our client's property, prior to crossing beneath the R172 and discharging in a north-easterly direction towards the Irish Sea. This would take place through and under our client's property and lands in their ownership. They consider this would place them in a flood risk situation as the water course would be required to absorb surface waters and flood waters from much of the site and they consider these proposals to be contrary to the best interests of the SAC and SPA. Despite all the claims to the contrary, our client does not believe that the quantities of surface and flood waters being discussed could be treated as claimed prior to entering the property and lands.

5. Section 2.1.3.1.2 refers to foul drainage and immediately sets out that the scheme can be served by mains foul drainage subject to Coe's Road pumping station being upgraded in 2030 (3 years after the previous 2027 estimate provided to ABP). We note ABP's justification for refusing planning permission which states: "... on balance and in these particular circumstances, the Board considered the estimated timeframe for the required upgrade was not substantiated by demonstrable commitments from Uisce Eireann and, in the absence of this and there being no realistic alternative proposed by the applicant, the Board decided the proposed development would be premature by reference to the existing deficiency in pumping station capacity". Temporary on-site measures are not acceptable.

6. Our client understands that there are also issues with the Blackrock Waste Water Treatment Plant and that while the applicant connection may be feasible, Uisce Eireann has stated that this is "subject to upgrades". The applicant assessor sets out details of how the entire scheme's sewage will pass down slope to the proposed pumping station before being pumped to Blackrock Waste Water Treatment Plant. The assessor offers no opinion or evidence regarding the capacity and current operating condition(s) of the treatment plant. This is of concern as the EPA's investigations into the plant suggest this is something the assessor has overlooked (see Section 9.5.2 of this Planning Objection Report).

7. Regarding understanding underlying hydrogeological and hydrological conditions, Section 4.3 'Desk Study' states:

   Information on waterbodies, catchment areas and hydrological connections obtained from the Environmental Protection Agency (EPA) at www.gis.epa.ie;

   Information on bedrock, groundwater, aquifers and their statuses, obtained from Geological Survey Ireland (GSI) at www.gsi.ie;

   While Section 4.5 refers to:

   Identification of potential pathways between the Site of the Proposed Development and any European sites within the ZOI of any of the identified sources of effects.

   The catchment data were used to establish or discount potential hydrological connectivity between the Proposed Development and any European sites.

   Groundwater and bedrock information used to establish or discount potential hydrogeological connectivity between the Proposed Development and any European sites.

   There are no maps provided showing the underlying hydrogeological and hydrological conditions.

8. Section 5.1 'Management of European Sites' states: "The Proposed Development at Haggardstown, Dundalk, Co. Louth is not directly connected with ... the management of any European sites". The applicant site directly adjoins the SAC and SPA. The proposed development seeks permission to directly connect to the SAC and SPA by way of surface water and flood water run-off via outfalls and temporary sewage storage measures are proposed on the site. There are significant concerns that

failings in the temporary measures (needed for years) would impact adversely on the SAC / SPA for many years.

9. Comments on Section 5.2 'Existing Environment'.

   Section 5.2.1 'Hydrology, Geology and Hydrogeology'. The applicant assessor accepts the following points raised by our client:

   - There is a water course - "the MARSHES_UPPER (IE_NB_06H080570) a 1st order stream" located adjacent to the R172. The assessor states that this passes toward and joins up with local water mains (whatever this means). According to our client, this waterbody passes through their property, crosses the road (still in their property) and it drains into the Inner Dundalk Bay transitional waterbody (IE_NB_040_0100).

   - The assessor accepts that the WFD status for the MARSHES_UPPER stream has previously been modelled as poor for the assessment period 2016- 2021 but it has been improving since. **The applicant scheme threatens this.**

   - The Inner Dundalk Bay transitional waterbody has been assessed as having Moderate status for the assessment period 2016-2021 and is **at risk** of not meeting its WFD objectives. **The applicant scheme threatens this.**

   - The assessor acknowledges the site is located on the Louth groundwater body. The groundwater vulnerability across the site is described as mapped as **having extreme vulnerability to contamination from human activity**, with areas of rock at or near surface or Karst in the west and north-east of the site.

   - The assessor refers to the nearest EPA water quality monitoring data (the station located along the FANE watercourse), located c. 2.7km south of the site. This is irrelevant to the current development as it is too far away and the watercourse that passes along the R172 moves in a northerly and then northeasterly direction. **Table 1 should be disregarded.**

   - Table 2 confirms that **Inner Dundalk Bay is at risk under the WFD** and **the closest river water body has a poor WFD water body status.**

10. Comments on 5.2.2.1 'Non-breeding (Winter) Bird Surveys'. Our client agrees that Common Snipe winter on the site and they have also seen Lapwing and Oystercatchers on the site. Our clients are permanently located adjoining the site and see more of these protected birds than the assessor could in a few visits. The assessor states: "Common Snipe is not directly listed as a QI for Dundalk Bay SPA (004026) but would form part of the wetland and waterbird QI". That is, they are protected birds within the SPA but not on this site. The site is a stepping stone to the SPA and should be protected as such.

11. Section 5.3.1 'Potential Sources of Effects' sets out construction and operational phase elements of the proposed development likely to cause significant effects on European sites. Our client agrees with these lists but notes how many the applicant's engineering reports and drawings refer primarily to the operational phase. Concerns arise that the construction phase will not have all the many mitigation measures in place that are proposed to address operational phase concerns.

12. Our client agrees with Sections 5.3.2.1 Direct Pathways, 5.3.2.1.1 Hydrological pathways, 5.3.2.1.2 Hydrogeological pathways and 5.3.2.1.3 Air and land pathways. However, they do not consider this to be a complete list. They are aware of underground culverts and springs which the applicant does not appear to have surveyed.

13. Section 5.3.2.2 Indirect Pathways refers only to Snipe recorded using the Site as an ex-situ foraging resource. Our clients have also recently seen Lapwing and Oystercatchers on the applicant site and in their own property (which is in the same vicinity) and they have seen many other birds over many years using the applicant site. There is the potential for loss of ex-situ habitats relied upon by waterbirds as a result of the Proposed Development.

14. Comments on 'Section 5.4 Assessment of Likely Significant Effects'

    - Section 5.4.1 'Habitat Loss and Alteration' – Our client consider this site to maintain ecological links with Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026). They consider that there will be loss or alteration of QI listed habitats as a result of the Proposed Development. The applicant refers to this as minor, when to the birds impacted it may not be.

    - Section 5.4.2 'Habitat / Species Fragmentation' – Our client is concerned at this large agricultural field which has historically offered a habitat to many birds will be impacted by the

loss of trees and open field areas in which to forage. The introduction of a largescale housing estate so close to the SPA will disrupt birds.

- Section 5.4.3 'Changes in Water Quality and Resource'

- Dundalk Bay SAC/SPA is directly connected to the site via hydrological and hydrogeological pathways. The assessor refers to how existing channels under the R172 (including that which passes into and through our client's property) will "accommodate the main surface water discharge channel for the proposed development's operational drainage network. Where will the construction phase surface water go? There are likely significant impact on the QI listed habitats for this SAC (1330 & 1410) arising from the discharge of surface and flood waters from the site into the SAC and SPA. The entire applicant site slopes downward to the SAC and SPA. The assessor accepts that "Surface water may potentially flow in discrete permeable zones immediately beneath the subsurface in this area, prior to discharge into Dundalk Bay. Hence, a hydrological pathway exists via surface water run-off down the eastern slope of the Site to the various QIs of Dundalk Bay SAC/SPA".

  The assessor states: "There is the potential for the generation of suspended sediment in surface water runoff during the Construction Phase. The EPA indicate that "the water quality of the transitional waterbody that is the Inner Dundalk Bay is 'moderate' in terms of ecological status, 'moderate' in terms of general conditions, 'failing to achieve good status' in terms of its chemical surface water status, and its WFD Risk status is 'At Risk'.

  The assessor states:

  > *In the absence of appropriate design safeguards and mitigation measures, the Construction Phase will have the potential to result in emissions of potentially polluting materials to the Marshes Upper Stream, to the watercourse draining along the northern portion of R172 adjacent to the Site, via surface water flow, and via groundwater contamination. Adverse impacts to water quality as a result of the emission of potentially polluting substances will have the potential to result in impacts of minor to major negative significance to aquatic habitats and fauna occurring within Dundalk Bay SAC/SPA.*

  Our client agrees with the list of potentially polluting substances arising at construction phase but considers that the assessor has not listed all of the potentially polluting substances that would arise at operational phase, and which have a direct path to the SAC and SPA.

- Section 5.4.4 refers to 'Disturbance and / or Displacement of Species' – our client understands that the proposed development is not sited in the SAC and SPA, and they have not given permission for any applicant development, including a mooted bus stop, to be installed within their property which would have included SAC and SPA lands. However, unlike many sites, the proposed development lies adjacent to Dundalk Bay SPA (004026) which supports both roosting and foraging SCI bird populations. Our client considers that there could be significant adverse impacts on these birds due to loss of stepping stone habitat and foraging areas. Our client does not consider sufficient detail to have been provided to fully rule out significant impacts involving loss of ex-situ habitat are envisaged. Ongoing monitoring of the site over a period of time would be needed to achieve this.

- Section 5.4.5 'Changes in Population Density' – The applicant assessor states:

  > *In the previous section, it was determined that the potential for water quality impacts, habitat loss and species fragmentation/disturbance owing to the Proposed Development, direct or indirect, may be envisaged. As a result, adverse effects on the SCI species, vegetation, and plant community structure of the habitats of the relevant European sites are possible in the absence of mitigation. Therefore,* ***the potential for likely significant changes to population densities of QI/SCI species within the relevant European sites cannot be ruled out*** [emphasis added].

  Our client agrees with this and notes how the assessor accepts that the only way to try to address these likely significant impacts would be by way of mitigation measures.

- Section 5.4.6 'Potential for In-combination Effects' includes Section 5.4.6.1 'Existing Planning Permissions' which reviews other planning permissions granted in the area which may also significantly impact the SAC and SPA on their own or in combination with the current scheme. As each of these schemes required mitigation measures to address significant concerns, the risk to in-combination effects is high. For there to be no significant adverse impact(s) each scheme would need to operate perfectly in line with all proposed mitigation measures and each of those measures must have made all the correct assumptions. Our client does not consider this to be possible. Section 4.4.6.2 'Relevant Policies and Plans' states that the assessor has reviewed each of the planning applications – many of which were permitted before the LCDP 2021-2027 was adopted.

The assessor claims that as each has undergone AA and some NIS that this is sufficient. Our client does not agree, and, in any case, the assessor acknowledges this cannot be accepted stating: "The above listed plans are not being relied upon to rule out potential significant effects on European sites".

It is of genuine concern that so many planning permissions located such short distances from the SAC and SPA and each requiring eventual discharge of surface, flood and treated foul waters to Dundalk Bay are all assessed to be fundamentally the same. That is, to all raise significant concerns yet every possible concern can be mitigated. This is not considered credible. The assessor is required to believe that everything the project engineer proposes by way of mitigation will work perfectly and all assumptions and caveats do not come to pass.

15. Section 5 'APPROPRIATE ASSESSMENT SCREENING CONCLUSION' accepts that:

> ***... the possibility cannot be excluded that the Proposed Development will have a significant effect on any of the European sites listed below: Dundalk Bay SAC (000455). Dundalk Bay SPA (004026) ... On the basis of the screening exercise carried out above, it can be concluded, on the basis of the best scientific knowledge available and objective information, that the possibility of any significant effects on the above listed European sites, whether arising from the project itself or in combination with other plans and projects, cannot be excluded in light of the above listed European sites' conversation objectives. Thus, there is a requirement to proceed to Stage 2 of the Appropriate Assessment process; and a NIS has been prepared and submitted with the LRD application under a separate cover*** [emphasis added].

The Appropriate Assessment Screening Report confirms that, to any reasonably informed person with a knowledge of the site and its direct and indirect connections to the SAC and SPA, the proposed development would if built as proposed, and without any mitigation measures, cause significant adverse impacts on the SAC and SPA.

9.5.3 Concerns regarding the submitted Natura Impact Statement

The 'Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities' states regarding 'Stage 2. Appropriate Assessment':

> *This stage considers whether the plan or project, alone or in combination with other projects or plans, will have adverse effects on the integrity of a Natura 2000 site, and includes any mitigation measures necessary to avoid, reduce or offset negative effects. The proponent of the plan or project will be required to submit a Natura Impact Statement, i.e. the report of a targeted professional scientific examination of the plan or project and the relevant Natura 2000 sites, to identify and characterise any possible implications for the site in view of the site's conservation objectives, taking account of in combination effects. This should provide information to enable the competent authority to carry out the appropriate assessment. If the assessment is negative, i.e. adverse effects on the integrity of a site cannot be excluded, then the process must proceed to Stage 4, or the plan or project should be abandoned. The AA is carried out by the competent authority, and is supported by the NIS.*

The Appropriate Assessment Screening Report has already determined that the project would likely cause significant impacts on the SAC and SPA were it to proceed without "any mitigation measures necessary to avoid, reduce or offset negative effects".

The question arising for the Natura Impact Statement ("NIS") is whether the ecologist / project assessor has been able to work with the applicant to address every possible concern arising and there are many.

Our client notes that the NIS Is mostly the AA:

1. The report once again lists many 'Report Limitations' but states in Section 3.6 that the report's content and conclusions form a sufficient basis for its conclusions. This appears to essentially state that the report's assessment can be trusted unless it cannot and then refer back to the caveats.

2. Sections 1.0 and 2.0 are mostly repeats of the AA.

3. Section 2.4 confirms the AA conclusion.

4. Section 3.0 refers to methodology and repeats much of the AA but also notes the differences between an AA and an NIS.

5. Section 4.1.1.1. 'Hydrology, Geology and Hydrogeology' makes a new point regarding the claimed "watercourse channel". This purported channel is claimed to be available to the applicant for

ainage to the SAC and SPA. In the previous NIS, the assessor stated: "The ground in the east of the Site, by the proposed main entrance off the R172, was noted to be marshy and waterlogged in the vicinity of this unnamed watercourse during Enviroguide Site visits in February and May 2023, with no distinct watercourse channel observed". That is, there is no existing watercourse channel at this location. It is just marshy ground. It does not connect to our client's culvert. The applicant had been seeking to create a direct hydrological connection to Dundalk Bay from the site via our client's property and that NIS had queried the veracity of this. The current NIS accepts that "There are no EPA recognised rivers or streams draining the Proposed Development Site according to the EPA mapping resource (EPA, 2025)". Without any influence from the applicant Project Team, it appears clear that Enviroguide would not mention any purported channel passing from the proposed site entrance onto Blackrock Road northward through our client's property. LCC could reasonably ask Enviroguide on what basis – as it has not been through a site visit – they have come to the view that such a channel exists. This is important as the AA and NIS rely partly on this claim.

6. Sections 4.2, 4.3 and 4.4 are repeats of the AA.

Having repeated much of the AA, Section 4.5.2 moves onto claimed mitigation measures. Significant concerns arise regarding the construction phase:

- The assessor does not indicate that he or she has been involved in the design of any of the proposed mitigation measures nor does she or she express an expert understanding of the assessed mitigation measures. The assessor appears to blindly accept the applicant's other report's mitigation proposals (even where these "mitigation" proposals themselves require construction works, etc.

- Section 4.5.2.1 states: "A CEMP based on the mitigation commitments presented in the various EIAR Chapters and this NIS, will be prepared for the Construction Phase". That is, there is no full CEMP in place, only an Outline CEMP (whose final content Enviroguide cannot yet know) and the assessor must make assumptions based on a report not yet produced and regarding the future actions of a contractor not yet appointed. Apparently:

> *The Construction Phase CEMP* ***will collate and set out the environmental control measures*** *required to minimise, and control adverse environmental impacts associated with the Proposed Development* [emphasis added].

- The CEMP and this NIS is based on the anticipation of future conditions to be applied by LCC (which cannot be informed by the NIS as the NIS needs to be informed by LCC?). The assessor states:

> *... the CEMP will be a live document, which will capture all Construction Phase environmental mitigation measures included within the EIAR, NIS and* ***any other measures which become apparent through the EIA consultation process*** *and/or are* ***prescribed through planning conditions etc.*** [emphasis added].

In this way, the mitigation measures are not specific and not yet formed. The assessor refers to the EIA consultation process which has been completed already. The document appears to have been cut and pasted from another job.

- Apparently, "The CEMP will include enabling and decommissioning works". These works being works not already assessed by the AA would seem to be additional works and themselves will require NIS assessment.

- Though not yet available to review and comment on, "The CEMP will detail the general pollution prevention principles and measures which are to be implemented, water and sediment management measures to prevent pollution during the construction phase and measures to ensure the potential for pollution fuel, oil, chemicals and other construction materials is minimised". **These measures must all be included in the NIS.**

- The assessor states: "The Contractor shall engage a suitably experienced ecologist, the Project Ecologist ... to arrange for any mitigation requirements to be incorporated into the CEMP and any site-specific method statements". **This is non-specific and general as regards how the SAC and SPA will be protected. Specific mitigation measures must all be included in the NIS.**

- The assessor states: "The construction management of the Site will take account of the recommendations of the Construction Industry Research and Information Association (CIRIA) guides 'Control of Water Pollution from Construction Sites' and 'Groundwater control - design and practice' to minimise as far as possible the risk of pollution". **'Insofar as possible' is not an acceptable phrase in this context and the reference is too general.**

- The assessor states: "The Contractor shall take all necessary precautions to prevent pollution or siltation of surface or groundwaters from construction activities. The following management, control

and mitigation measures will be implemented" – **these are all measures applying to a co[illegible]ctor not yet appointed. The applicant must commit to all mitigation measures, and these must be specific.**

- **The NIS lists measures for which the applicant has not provided sufficient or sufficiently detailed accompanying drawings and details or for which they cannot be confident of completing as claimed:**

  - "a temporary in-situ water treatment system" is proposed – **the planning application lacks sufficient details of this and where all treated water is to proceed to, etc.**

  - **Where will all the water from the de-watered lands proceed to?**

  - "Surface water attenuation measures **are to be designed** which will not be overwhelmed by one-off adverse precipitation events" [emphasis added]. **Where are the drawings and details of these measures?**

  - "**Where practical**, cut-off V drains will be utilised to divert water entering site and reduce the amount of water to be managed on-site" [emphasis added] – **are they or are they not practical and where will they be located? How will they be designed?**

  - "Attention will be given to the maintenance and protection of all drains and temporary channels to minimise scour and the mobilisation of suspended solids (e.g. lining with hessian or clean stone, check dams, silt fencing etc.)" – **how often and who will do it? Where is the detail?**

  - "Runoff will be directed to and intercepted by temporary settlement lagoons. The size of the settlement lagoon will be determined from predicted flow rates and retention times based on sediment particle size and density" – **where are the drawings and details of these? Where will water go once it is released from these lagoons?**

  - "Neither groundwater nor surface water runoff from the working areas will be permitted to discharge directly to the environment. Runoff generated within the site during construction will be filtered and treated to remove hydrocarbons and sediment" - **where are the drawings and details of these filters? Where will water go once it is filtered?**

  - "Total Suspended Solids (TSS), pH/EC and colour will be monitored daily and outlets from sedimentation ponds will incorporate a turbidity monitor with alarm at a high level". **Where are the drawings, details and report content pertaining to these suspension ponds? Where are they located. Where will water be discharged to from the ponds?**

  - "**Subject to consent**, water that is unpolluted, aside from its silt content, may be pumped out over adjacent vegetated ground, where appropriate, with consideration given to groundwater level and saturation, wildlife importance and proximity to drainage channels" [emphasis added] **– the applicant does not yet have consent for one of their primary mitigation measures. How will the applicant seek consent and when? How will the applicant ensure such waters are clean? What happens during high rainfall events? Will this silt not just be washed into the surrounding area?**

  - "In the event of surface water failing to meet the required standards water will be recirculated to the inlet of the sediment pond to provide further time for settlement. A penstock will be provided on the outlet from the sediment pond to control discharge from the site". **Where are the details and drawings of this? How exactly will this work if the sediment pod is overflowing with pluvial surface and/or flood waters?**

  - "The performance of the surface water drainage network will be maintained and monitored throughout the construction of the proposed development, noting that the proposed storm system will include permanent hydrocarbon separators". **What construction stage surface drainage network? This is a greenfield site – has this sentence been cut and pasted from another job? Where are the details and drawings of the construction stage network, etc?**

  - "Where the Contractor utilises pumping to drain works areas, a back-up pump and generator must be provided on site for use in the event of the primary pump failing". **How is this a mitigation measure? The applicant does not explain in detail where pumping will take place, where the pumps are located, etc. That a pump may break down requires some context.**

  - "Procedures are to be put in place to ensure the identification, remediation and correct reporting of any **silt or other pollution incidents that may occur** [emphasis added]. **The applicant includes potential failures of the mitigation measures as a mitigation measure?**

"During localised construction works around the northern and eastern drainage channels (to facilitate the installation of the proposed 2 no. outfalls/headwalls), any minor volumes of stripped soils should be stockpiled a minimum distance of 10m from each channel and should be appropriately covered. A temporary stormwater management system should be implemented by the Contractor" [emphasis added]. That is, when carrying out works on lands the applicant does not own, the contractor will create a new watercourse where there is none at present to the southeast corner of the site, will stockpile soils on those lands, and will put in place some stormwater management system to stop surface and flood waters entering the R172, etc. This is not credible nor has the applicant the permission(s) in place to allow these works to take place. Construction and operational phase surface and flood waters would be pushed into the public road and/or into our client's property.

- "Areas should be designated where stockpiles will be established in order to facilitate the efficient transfers of material within the site. Stockpiles will be stabilised as soon as possible (e.g. sealed, closed over, seeded or covered using geotextile mats), and bunded by earth or silt fences at the toe to intercept silt-laden runoff during rainfall events". **The applicant has not yet designated where there will be stockpiles of soil and subsoil from which surface water run-off containing sediment, etc. will occur. The proposals are undeveloped and lack detail.**

- "Appropriate working practices to avoid the repetitive handling of excavated substrates, minimise vehicle movements, limit the size, number and frequency of stockpiles, reduce the compaction and erosion of soils etc. and control the generation of dust". **These measures are very general and lack sufficient detail for NIS assessment.**

- "The implementation of a construction traffic management plan and controls on the locations of plant and materials will minimise the compaction and erosion of soil. Excavation is to be restricted during high winds and heavy rainfall to minimise dust generation and contaminated surface runoff". **These measures are claims which may or may not take place. They are not credible measures which can be conditioned by LCC.**

- "**Excavated materials are to be inspected for signs of possible contamination, such as staining or strong odours**. Should any be noticed, substrates are to be segregated and samples analysed for contaminants to determine appropriate means of disposal to licensed/permitted facilities appropriate for the waste classification" [emphasis added]. **Why have these investigations not already taken place with boreholes, etc? The plan appears to be to open the site and to see what is inside. This is insufficient for the NIS.**

- "In order to prevent any potential surface water/groundwater impacts via release of hydrocarbon/chemical contaminants the following standard measures will be implemented". **These measures are all "standard" – they are not extra measures proposed to address the concerns raised by the AA. The details are insufficient for the NIS to reach conclusions.**

- "In order to prevent any potential surface water/groundwater impacts via release of cementitious materials the following measures will be implemented". **These measures are all "standard" – they are not extra measures proposed to address the concerns raised by the AA. The details are insufficient for the NIS to reach conclusions.**

- The planning stage CMP is basic and lacks sufficient detail to allow the assessor to reach the conclusions later reached in the NIS.

- The proposed sources of aggregate, fill material and topsoil are not listed.

- The proposed location of a facility licensed having regard for local waste management is not provided.

- Waste may be stored on the site prior to disposal – no details are provided.

- Waste stored on the site may also cause contaminated surface water run-off but "the contractor will control" this. The contractor is not yet appointed.

- "The CEMP will include an Emergency Response Plan (ERP) based on the Contractor's Risk Assessment, to be reviewed and approved by the Project Ecologist". **Why does this not form part of the NIS and why has the ecologist not had view of it to date? The list of possible risks arising from release of any sediment into a watercourse, spillage of chemicals, fuel, oil or other hazardous materials or wastes; etc. is long.**

- "While it is expected that the site drainage system will be installed and commissioned early in the site construction programme, and will therefore be operational for much of the Construction Phase, there will be a period of the construction phase during which the site drainage system

will not be operational. The CEMP is required to cover this period and to deal with other issues during the Construction Phase". **No details are provided as to how the site will manage surface waters, contaminated waters and flood waters during the period when the "site drainage system" is not operational (about which there is little detail provided in any case). We are told this will just be managed by the contractor – how?**

Having effectively long fingered all possible mitigation measures to the future contractor and CEMP which are not yet appointed or written, the assessor moves onto Section 4.5.2.2 'Mitigation 2: A Waterbird Sensitive Construction Programme' which refers:

- To parts of the CEMP which have not yet been written: "**The CEMP will include a section setting out the construction programme and will include all the environmental control measures required to avoid disturbance to SCI species, as set out below**" [emphasis added]. **How can the NIS base any assessment on this lack of detail?**

- To how "The CEMP will also set out general measures to manage noise and vibration from construction activities that may be employed at the Site. All rock breaking, blasting and other high-intensity construction activities as may be required within the site are to be programmed to take place outside of the wintering season for SCI waterbird species (i.e. to take place between May and September) to ensure that disturbance to wintering species is avoided. All discrete elements of Site construction close to the shore of Dundalk Bay (establishment of the main site access, construction of the bus stop and installation of proposed outfall and site drainage and discharge infrastructure in the north-east) are to be programmed to take place outside of the wintering season for SCI waterbird species (i.e. to take place between May and September) to ensure that disturbance to wintering species is avoided." **Is LCC going to apply a planning permission which states that construction works can only take place between May and September? This does not appear credible, and it is not stated elsewhere by the applicant's CMP. How are site drainage (surface and flood waters) works to take place only when the applicant decides? Nature decides. If a flood arises that will decide. The applicant cannot programme these matters and the NIS cannot assume this is the case. LCC cannot reasonably enforce such a condition. Are we saying that it does not rain during an Irish summer?**

The assessor moves onto Section 4.5.2.3 'Mitigation 3: Dust Control' which includes further less than credible proposals:

- "It is not expected that significant adverse dust related impacts are likely to occur at sensitive receptors as a result of the Proposed Development". **What is the basis for this assessment? The applicant proposes significant excavation works involving large scale earthworks across the site. These works will generate dust which will pass toward our client's property and the SAC and SPA. The assessor's position is not credible.**

- "However, appropriate mitigation measures, as outlined will be employed as necessary to further prevent such impacts occurring". **These measures are all standard, they are not extra measures proposed to address the concerns raised by the AA. The details are insufficient for the NIS to reach conclusions.**

Having failed to provide credible construction phase mitigation measures on which to base the NIS conclusions, the assessor then moves onto repeating the applicant's proposals for the <u>operational stage</u> which are contained in other reports. These include:

- The assessor states: "Storm and surface water arising from the Site will ultimately discharge to the SPA/SAC". Our client submits that this places too high a risk on any decision LCC or ABP makes were planning permission considered. A permission for this scheme is a permission to discharge all surface and flood waters directly from the site to the SAC and SPA. It cannot be more direct.

- The applicant sets out a myriad of proposals to try to "collect and attenuate storm/surface water arising from the Site and discharge same at the allowable greenfield runoff rate to the outfalls alongside the R172", but **these proposals are characterised by risk. During times of high rainfall all lands draining to these outfalls will add up to create an excessive outflow of water into the SAC and SPA, including via our client's property.**

- **Our client does not trust the proposed SUDS measures to last permanently. Their successful operation would require infinite maintenance in a way that a site located a greater distance from the SAC and SPA would not.**

- The assumptions made by the applicant and the inward site focused measures proposed all carry risk. Without involvement in the design of these measures, the NIS assessor states: "There will therefore be no significant adverse effect relating to erosion or scouring of habitats within the

AC/SPA at the proposed outfall points". **Our client disagrees. To them the passage of scheme waters through their property and into the SAC and SPA is significant and they are opposed.**

- Section 4.6 finds the assessor raising a number of points over which our client is concerned.

- The section lists the various "silt removal traps and Class 1 hydrocarbon separators within the drainage network". **These must all work perfectly permanently just for this scheme to possibly have no 'significant' impact on the SAC and SPA. Meanwhile the assessor and the applicant offer a great number of points pertaining to what happens when they fail. The assessor must assume they will all be installed correctly. All work as designed. That all are able to function during pluvial flood events, etc. It is not credible.**

- The NIS assessor notes that all that lies between contaminated water causing significant damage to the SAC and SPA and the scheme are "the traps and separators". **The assessor states that these have been specifically designed yet the engineering drawings refer to 'off the shelf' product names and note "or similar". The applicant has not yet decided exactly what measures to take yet the assessor portrays the scheme as water tight (excuse the pun).**

- Apparently, despite the site experiencing periodic but regular pluvial flood events, the applicant is able to predict "the capacity/flow for each part of the site's drainage network with a minimum retention time to allow immiscible hydrocarbon pollutants to accumulate on the surface and suspended solids to sink to the bottom of the unit". **This level of precision is desirable but not achievable in practice. The NIS speaks to an optimistic best case scenario which is unrealistic.**

- The assessor lists the "most likely sources of contamination of the surface and storm runoff" and then seeks to dismiss these concerns stating: "the risks to the designated sites from these forms of contamination is significant, the likely volumes are expected to be low and to remain within the design capacity of the traps and interceptors, maintained and cleaned in line with the manufacturer's recommendations". **That is, the assessor chooses to make the assumption that the likely volumes will fall below the design capacity of the traps and receptors and chooses to believe they will be maintains and cleaned in perpetuity and long after the applicant has built and sold the scheme. While our client is left to live beside the scheme permanently and the SPA and SAC deteriorates into the future. Is anyone in LCC Planning Department aware of a scheme management company which maintains and cleans traps and receptors?**

- The assessor refers to how in the event of a fire the "runoff [will] be temporarily stored in the detention basins and removed off site via tankers". **Where is the detail of this within the planning application? This would appear to be a wholly unlikely scenario and not one that would likely still be followed ten years after construction. Why take the risk of such contaminated water reaching the bay.**

- This new NIS fully by-passes the issue of mitigating foul water disposal. The previous NIS included Section 4.5.3.3 'Mitigation 3: Foul Water Disposal' which raised a number of concerns:

  - The current assessor ignores the ABP decision to refuse the last planning application on infrastructural prematurity grounds pertaining to foul wate disposal.

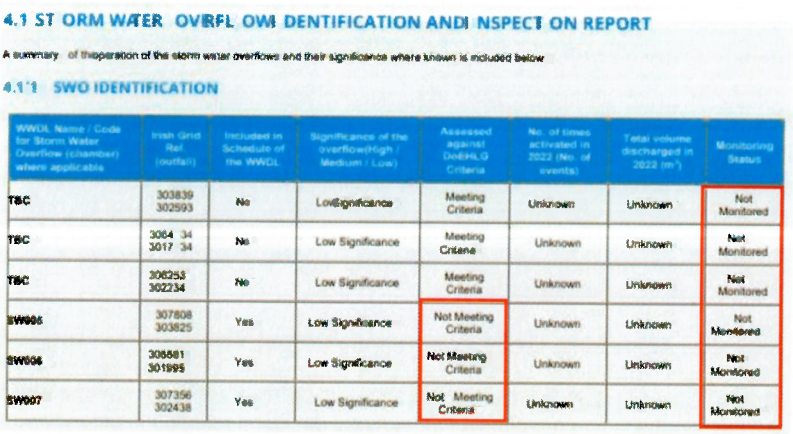
  - The assessor then made no comment regarding the ongoing issues regarding the Coe's Road Pumping Station. which are addressed in Sections 2.1 and 9.5.2 of this Planning Objection Report.

  - The assessor then acknowledged how "The Connection & Developer Services (CDS) Response noted that a new wastewater connection is feasible subject to upgrades". No details are provided regarding whether these upgrades have been made. The project appears premature pending the upgrade of the Coe's Road Pumping Station which is not completed. The assessor repeated the applicant's general description of the pumping station, etc. and avoids entering into a discussion of the impact that overflow or emergency discharged foul water has had on the SAC and SPA for the past number of decades.

- Section 4.5.3.3 'Mitigation 3: Foul Water Disposal' raises a number of concerns:

- The assessor also does not refer to the Storm Water Overflows from Dundalk WWTPs. It is in this situation that that the assessor finds no concerns regarding possible adverse foul drainage impacts on the SAC and SPA "following mitigation" arising from temporary storage of foul water on the site and years to wait for the upgrading of the Coe's Road Pumping Station.

- **The assessor does not answer the question of 'How can it be allowable to add another major storm drain to the Natura 2000 site when so many unmonitored and unmeasured are already in existence by UE's own admission?'**



4.1 ST ORM WATER OVERFL OW IDENTIFICATION ANDI NSPECT ON REPORT

A summary of the operation of the storm water overflows and their significance where known is included below

4.1.1 SWO IDENTIFICATION

WWOL Name / Code for Storm Water Overflow (chamber) where applicable	Irish Grid Ref. (outfall)	Included in Schedule of the WWOL	Significance of the overflow(High / Medium / Low)	Assessed against DoEHLG Criteria	No. of times activated in 2022 (No. of events)	Total volume discharged in 2022 (m³)	Monitoring Status
TBC	303839 302593	No	LowSignificance	Meeting Criteria	Unknown	Unknown	Not Monitored
TBC	3064 34 3017 34	No	Low Significance	Meeting Criteria	Unknown	Unknown	Not Monitored
TBC	306253 302234	No	Low Significance	Meeting Criteria	Unknown	Unknown	Not Monitored
SW005	307808 303825	Yes	Low Significance	Not Meeting Criteria	Unknown	Unknown	Not Monitored
SW006	306581 301995	Yes	Low Significance	Not Meeting Criteria	Unknown	Unknown	Not Monitored
SW007	307356 302438	Yes	Low Significance	Not Meeting Criteria	Unknown	Unknown	Not Monitored

Fig. 115: Storm water overflows points

- Section 4.5.3.4 'Mitigation 4: Site-Specific Environmental Management Plan (EMP)' is another example of kicking the can down the road regarding mitigation measures. The assessor does not yet know what is proposed so states: "The following mitigation measures ... **should form part of a site-specific Environmental Management Plan (EMP) during the Operational Phase**" [emphasis added]. **These are standard measures, but it appears that the assessor has literally had to cut and paste them from other projects.**

- "A detailed Site Management Plan should be put in place for the Operational Phase of the development. This plan should clearly outline standard operating procedures for each of the following" [emphasis added]. **The assessor clearly has not yet seen a detailed Site Management Plan and is referring to the types of general items included in such plans. Where are the specifics?**

- The assessor keeps using words such as: "The management plan **should** include"; "A nominated person (site maintenance manager) **should** be responsible"; "Contact details of an alternative site maintenance contact **should** be included within the management plan"; "The roles, responsibilities, and contact details for all site maintenance operators and emergency services **should** be contained within the management plan" etc. [emphasis added]. **Why are these details not included in the planning application for the NIS assessor to review in order to protect the SAC and SPA?**

- "All contaminated water **should** be disposed of to a suitably licenced offsite waste facility, in accordance with all relevant waste management legislation" [emphasis added]. **It should but where is the detail to confirm that the scheme will do so in accordance with details submitted to date? What licensed offsite waste facility is to be used and has this been assessed as to the route of haulage vehicles and possible contamination along the route?**

- "Procedures and checks would have to be put in place to ensure that the valves are returned to their normal states once the contaminated volume of stormwater is removed from the basin and storm drainage network". **Will this realistically continue to happen (if it ever happens) 10 years after the scheme is completed? Why take the risk?**

The assessor then moves onto monitoring which despite the scale and phased and future permanent nature of this large-scale residential scheme takes up little more than half of one page. The following concerns arise:

- Section 4.6.1 'Construction Phase' states: "During the Construction Phase, the following monitoring will be carried out by the construction contractor to ensure the implemented mitigation measures are maintained effectively". The contractor is not yet appointed, and no CEMP is yet in place. This is a prediction and set of assumptions. The assessor then refers to how:

  - "Surface water and groundwater protection measures (As described in Section 4.5.2.1) will be checked weekly to ensure they remain effective, and more often during moderate to heavy rainfall events as appropriate". **Our client submits, with respect, that during high rainfall events and flood events when these measures are most required, it will not be possible to carry out checks, etc. These proposals are riddled with risk.**

  - "Dust control measures (Mitigation 1) will be checked on a weekly basis, and more often during dry weather, to ensure they remain effective. The R172 and its grassy verge located east of the main site area will be checked for any potential dust impacts, and the dust control measures reviewed if impacts are noted". **Our client respectfully finds the dust proposals to be a**

distraction as there is nothing the applicant can do to address dust beyond a small list of items. The best way to avoid dust impacts on adjoining properties and the SAC and SPA is avoidance. The site is so close to the SAC and SPA that these impacts cannot be mitigated and certainly not if they worsen. What else can possibly be done?

- Section 4.6.2 'Operational Phase' states: "During the Operational Phase, no additional monitoring is recommended bar the standard maintenance checks that will be carried out to ensure all SUDS measures and the wastewater pumping station are operating correctly". **What about all of the traps and interceptors to which are meant to address contaminated water? What about timescale? Will this be done weekly forever? At some point the SAC and SPA will still be protected but the applicant will no longer be involved with the site. Who exactly will manage the excessive myriad of drainage and other measures needed to prevent contaminated waters entering the SAC and SPA?**

The AA Screening Report found that significant adverse impacts on the SAC and SPA were likely. The applicant's NIS lists standard and repetitive mitigation measures which may be implemented on the site subject to a contractor being appointed in the future and a CEMP and other plans being put in place. Our client has carefully line by line shown how the applicant's mitigation measures do not offer a credible basis for the conclusion claimed by the applicant assessor that "once the avoidance and mitigation measures are implemented as proposed, the Proposed Development will not have an adverse effect on the integrity of the above European sites". Indeed, it is not clear what the assessor even means by "avoidance" in this context. What exactly has been avoided? The only things standing in the way of significant adverse impacts are reliant on too many assumptions, too many mitigation measures that lack detail and considerable hope value.

The applicant NIS is not complete, precise and definitive. It has not been concluded, beyond reasonable scientific doubt, that the proposed development will have no significant adverse effects on the QIs, SCIs and on the integrity and extent of Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026). Our client considers that the proposed development will adversely affect the integrity of these European sites.

For the above listed reasons, our client does not find the applicant NIS to be credible as regards its reliance on proposed mitigation measures (for which there is no detail) to reach the conclusion that LCC does not need to need to progress the AA to Stage 4.

9.5.4 Concerns over the proposed bus stop sited in a marshy wetland area

The AA and NIS reports each address how the applicant proposes to build a bus stop in a wetland woodland area. The reports make a range of assessment points and reach a conclusion that the proposal would be acceptable.

Our client does not accept this. The ecologist has not visited the site when pluvial flood waters are high (see Figs. 116 and 117).

LCC is asked to read the NIS's relevant sections having viewed Figs. 116 and 117:

*Most of the pressures on estuaries come from various sources of pollution, including domestic wastewater, agriculture and marine aquaculture (NPWS, 2019a). This habitat is located along coast ca.20m east of the Site at its closest point (near the proposed main entrance/**bus stop**.*

*Hydrological connection. Construction Phase surface water containing pollutants/contaminants may inadvertently reach the estuary during the construction of the new surface water headwall in the north-east of the Site, and the main entrance and **bus stop** in the east of the Site.*

In a worst-case scenario, significant effects on this habitat could occur due to construction-related pollution events at the Site, potentially reducing water quality in the SAC.

*... the Pacific oyster (Magallana gigas) (NPWS, 2019a). At its closest point this habitat is present ca.20m east of the Site (near the proposed main entrance/bus stop). Construction Phase surface water containing pollutants/contaminants may inadvertently reach the estuary during the construction of the new surface water headwall in the north-east of the Site, and the main entrance and **bus stop** in the east of the Site.*

Based on data from the Saltmarsh Monitoring Project (McCorry and Ryle, 2009). One sub site (Dundalk Bay) was mapped, giving a total estimated area of 35ha for Salicornia mudflat, which is one of the largest areas of this habitat in the country. NB further unsurveyed areas may be present within the site. See coastal habitats supporting document for further details. As this habitat is dominated by annuals it can be ephemeral or transient in nature and is highly susceptible to erosion. Its distribution can vary considerably from year to year, and it can move in response to changing conditions, e.g. in estuaries with shifting river channels. However, no significant pressures

*were identified that would affect the long-term viability of the habitat (NPWS, 2019a). At its clos point this habitat is present ca.205m east of the Site (offshore near the proposed main entrance/**bus stop**).*

*The scale and nature of these effects are difficult to describe given the lack of information available for the Dundalk FRS, however, the contribution to in-combination effects of disturbance to wintering birds along the coast associated with the Proposed Development would be short-term in nature given the nature of the works proposed along the R172 (**bus stop installation** and service connections), regardless of the duration of the Dundalk FRS works*

*Disturbance impacts on the SPA's waterbird assemblage - Noise and vibration from piling, rock-breaking, blasting and other intensive construction activities can result in significant disturbances to avifauna, even over a distance of several hundred metres. It is unlikely that piling will be required but rock breaking or blasting may be required to install services and the wastewater pumping station. - **Certain elements of the Proposed Development which must take place close to the SPA, such as the creation of the main site access and the potential bus stop on the R172 Blackrock Road, and the installation of the surface water drainage outfall in the north-east of the Site, may result in localised sources of disturbance*** [emphasis added].

This area is located immediately alongside the applicant's proposed vehicular entrance and areas where it is proposed to raise ground levels. Where will all the storm and flood waters go?

In the October 2023 flood, the waters rose to the height of the wall shown in Figs. 116 and 117. How can the applicant build a bus stop in this area without impacting on the Dundalk Bay SAC?

Fig 1 16: Storm nd floodwaters gathering around the area of the proposed bus stop

Fig. 117: Storm and flood waters gathering around the area of the proposed bus stop

Description	Impact Pathway(s)	Assessment of potential for Adverse Effects on QI / SCI	Mitigation Requirement
bay, adjacent to the east of the Proposed Development	surface water containing pollutants/contaminants may inadvertently reach the estuary during the construction of the new surface water headwall in the north-east of the Site, and the main entrance and bus stop in the east of the Site.	habitats these waterbirds rely on for foraging and roosting, potentially affecting localised food sources.	Sensitive timing of the construction works to avoid disturbance of waterbirds is detailed in Section 4.5.2.2. Construction Phase dust control is detailed in Section 4.5.2.3. **Operational Phase:** No surface water or groundwater mitigation measures are required due to embedded SUDS measures included in the project design

Fig. 118: Excerpt from the NIS re. the proposed bus stop's construction in a flooding area

9.6 Ground 6: The site and its trees are home to bats and this is not adequately addressed

Appendix 11.4 of the EIAR appendices sets out the bat survey results of surveys undertaken between May 2023 and October 2024 . Bats are recorded. The bat species are Leiler's Bat, Soprano Pipistrelle Bat. The recordings extend from 3750 005 to 3750154. There is therefore significant evidence of bat activity on this site.

The applicant's various reports seek to play down the impact this scheme would have on the identified bats. Our client does not agree with this. They are aware that their mature trees are home to many bats and that the trees proposed to be removed by the applicant are also.

There is no doubt that the proposed development has the potential to significantly impact the existing bat population in an adverse and permanent manner. The applicant has failed to address this by way of avoidance and/or mitigation.

The matter of existing bats is addressed in the EIAR but not in the AA or NIS reports (likely because bats do not form part of the QIs); bats are protected, and this scheme fails to ensure those protections are upheld.

Our client is concerned that the submitted bat survey and EIAR are incomplete on this issue.

Table 6: Mammal species identified in the Blackrock study area

Mammals		
	Species	Scientific Name
1.	Hedgehog	*Erinaceus europaeus*
2.	Pygmy Shrew	*Sorex minutus*
3.	Daubenton's Bat	*Myotis daubentoni*
4.	Leisler's Bat	*Nyctalus leisleri*
5.	Common Pipistrelle	*Pipistrellus pipistrellus*
6.	Soprano Pipistrelle	*Pipistrellus pygmaeus*
7.	Brown Long-eared Bat	*Plecotus auritus*
8.	Rabbit	*Oryctolagus cuniculus*
9.	Irish Mountain Hare	*Lepus timidus hibernicus*
10.	Red Squirrel	*Sciurus vulgaris*
11.	Grey Squirrel	*Sciurus carolinensis*
12.	Wood Mouse	*Apodemus sylvaticus*
13.	House Mouse	*Mus musculus*
14.	Brown Rat	*Rattus norvegicus*
15.	Red Fox	*Vulpes vulpes*
16.	Irish Stoat	*Mustela erminea hibernica*
17.	American Mink	*Mustela vison*
18.	Badger	*Meles meles*
19.	Eurasian Otter	*Lutra lutra*
20.	Grey Seal	*Halichoerus grypus*

Fig. 119: Mammals recorded in and around Dundalk Bay[18]

Our client has reviewed this matter and considers that it has not been addressed.

9.7 Ground 7: Parking and traffic concerns

Our client notes how the applicant scheme has retained its proposed 861 parking spaces as proposed under the SHD scheme. These are very significant numbers of permanent car parking spaces for a single scheme.

This will be a wholly car-based scheme with car reliance permanently 'designed in'. The result is a much higher rate of vehicular trips than would be the case in a better sited scheme and one served by high quality public transport and not only by a limited route infrequent bus service. The local bus does not have the capacity and does not offer sufficient connectivity to draw people out of their cars.

As a result of the significant numbers of vehicles which will be permanently available to the residents of this scheme and the lack of alternative realistic means of avoiding their use, vehicle trips will be high.

The applicant has not however provided a Traffic and Transport Assessment Report, a Parking Demand Report, or a Mobility Management Plan. This scheme has been treated as though it is a small infill housing estate when it is for over 500 units and has the potential to cause traffic impacts on the area.

9.7.1 Site of the R172 entrance is marshy and boggy most of the year (when not flooded)

In discussing the proposed R172 entrance with BPS, our client noted how this area of land is regularly visibly wet and is unsuitable to serve as an entrance area. It is for this reason that no one has ever proposed a single house in the area. It was deemed undevelopable. BPS has reviewed this area, and we find that it is indeed a *de facto* area of wetland.

When the AA and NIS assessor(s) visited this part of the applicant site for the previous LRD, they noted:

> ***The ground in the east of the Site, by the proposed main entrance off the R172, was noted to be marshy and waterlogged in the vicinity of this unnamed watercourse during Enviroguide Site visits in February and May 2023, with no distinct watercourse channel observed*** [emphasis added].

That is, it is an area of marshy and waterlogged land. It is not suitable for the entrance. In order to play this role for the scheme, extremely detailed proposals have been made by the applicant to raise the ground level, import and lay gravel, install large pipes, try to create a watercourse, etc. Our client objects to this entrance on the basis that it is not suitable for this use.

[18] Excerpt from The Ecology of Blackrock: An Ecological Survey of Blackrock, Co. Louth. The Heritage Council.

The applicant is seeking to effectively toy with nature. This is an area of land that has always had a very high water table, and it needs to be respected. Fig. 120 shows how the area has developed so as to leave marshy and waterlogged areas undeveloped. The houses to the south and north of the applicant's proposed entrance are so sited to avoid waterlogged areas. Our client's property is setback to avoid the waterlogged area of their property in which they maintain a pond which acts as a large attenuation area (and they have a culvert which runs under their property and under the R172 to Dundalk Bay. Approx. half of our client's property and all the applicant's proposed entrance area, and some of its access road, are sited in the designated flood risk area. Why has the applicant sited the main entrance to the scheme, in this flood zone?

The entrance proposal should be refused. This is the primary entrance to the site even for emergency vehicles. It cannot be at risk of flooding as the OPW has made clear (see Fig. 1B).

Fig. 120: Areas traditional left undeveloped due to surface ponding and/or flooding – marshy areas

Fig. 121: Area of the proposed entrance as fully flooded (under 2 feet of water) on 31/10/2023. Photo taken from the public footpath (Source: client)

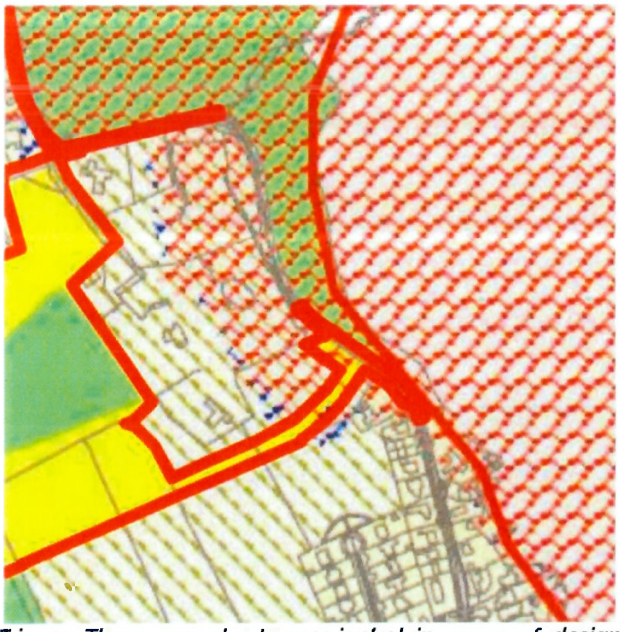


Fig. 122: The proposed entrance is sited in an area of designated flood risk[19]

Fig. 123: Existing marshy and waterlogged area with stone wall acting as an embankment

[19] Excerpt from Dundalk Zoning and Flood Zones Map.

Fig. 124: New raised road and entrance in Flood Zones A and B

9.7.2 Are 65m sightlines adequate? Can they be achieved in a northward direction?

Our client has reviewed the applicant plans which propose the scheme's main entrance just south of their own. They are concerned that the applicant proposes only 65m sightlines despite the large bend in the road to the north. This sightline distance is not sufficient for this stretch of road which many drivers drive at high speeds well above the speed limit. Few drive this road at 60kph (our client invites LCC to stand at their road entrance and to point to one driver doing this). Engineering Dwg C-0580 is concerning also because they can only be achieved by carrying out "upgrade" works which will impact the current appearance of this area of the road and the setting of our client's entrance. The proposals amount to siting a major housing estate entrance between single residential houses on large plots.

Please bear in mind that this entrance is purportedly designed to facilitate pedestrians and cyclists.

The Road Safety Audit has raised concerns at how a bus pulling up to the bus stop to the north of the proposed entrance will reduce the sightline. This has not been fully addressed. Vehicles will pull out into the road to see around any stopped bus by way of dangerous manoeuvres.

Our client opposes the proposed siting of a bus stop as shown. This bus stop would be poorly located and should better be located to the north at Bothar Maol. While a limited 65m sightline to the north is proposed, this will not be available to those exiting the site if a bus is pulled into the bus stop. The siting of the bus stop is poor and unsafe in this regard. Fig. 125 shows only the bus stop – bus drivers often barely pull into bus stops.

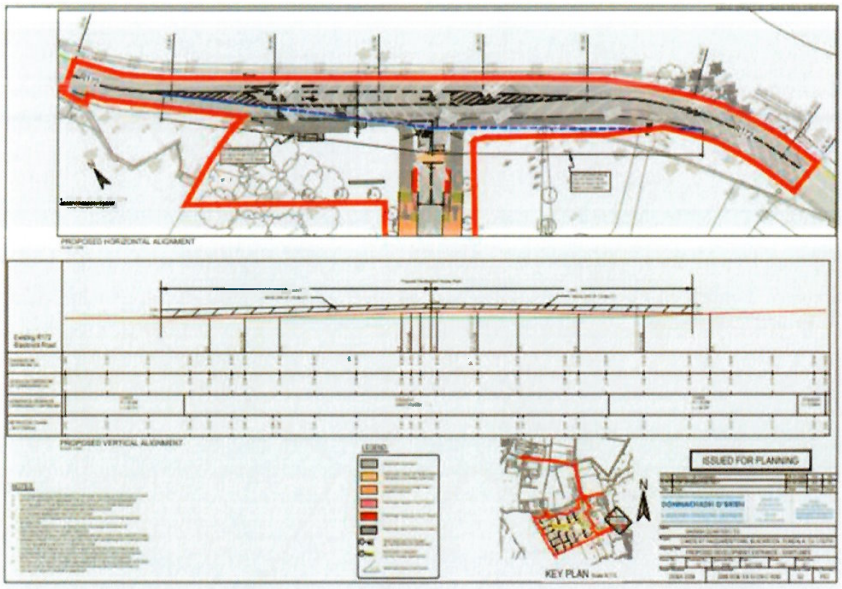


Fig. 125: The proposed entrance sightlines on made ground (refused LRD)

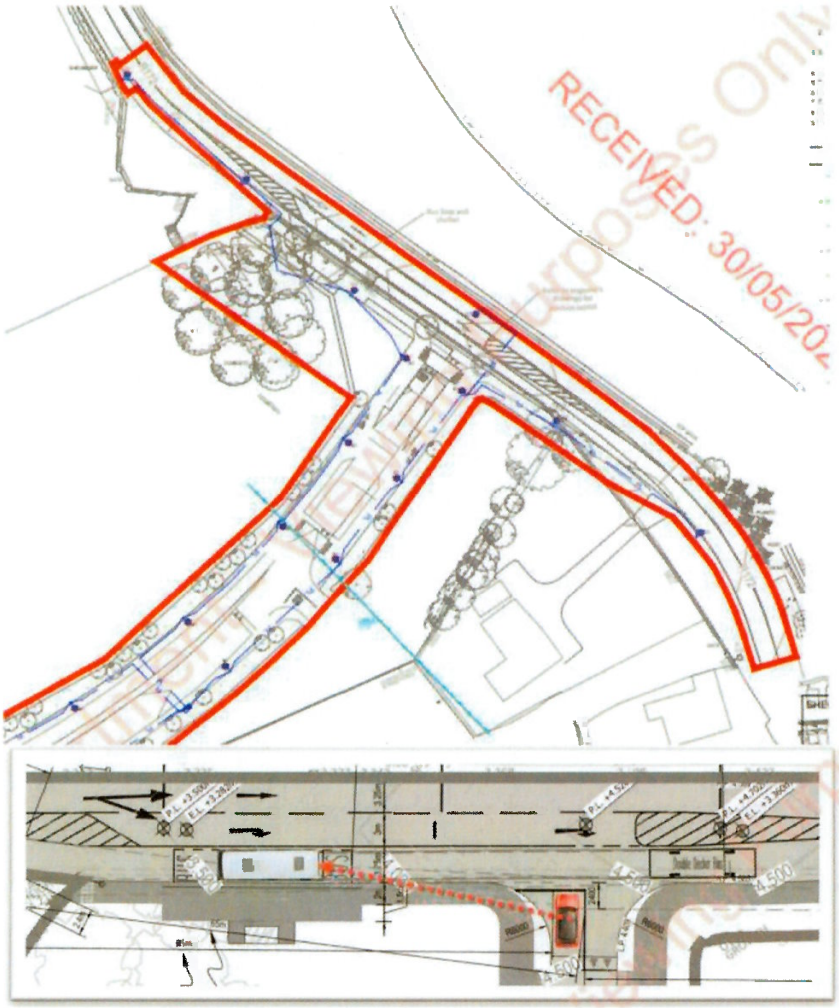


Fig. 126: The proposed entrance with the Road Safety Audit concern shown (current LRD)

Fig. 127: The existing view north with a large bend in the road

Fig. 128: The existing view south with a bend in the road

9.7.2.1 R172 collision data is not included in the application – this required review

BPS looked for collision data along this stretch of the R172 as we are concerned it may not be safe. We could not find this within the applicant's Transport Assessment report. Our client was forwarded this data by another party. We have read this and quote (and agree with) the following concerns:

> *Prior to 2014, the Gardaí completed a form (C(T)68) on the initial investigation of each road traffic collision in which a fatality, serious or minor injury had occurred. Since 2014, the Road Safety Authority (RSA) receives an electronic copy of this information. The forms, and now the electronic versions, are completed by the Gardaí and forwarded to the Research Department of the RSA for statistical analysis. The data, relating to fatal, serious, and minor injury collisions occurring on a public road, is then analysed, and included in the Road Collision Factbook published annually by the RSA. The information in this report is extracted from the RSA collision dataset and database. The data relates to fatal, serious, and minor injury collisions only. Material damage collisions and collisions not reported to An Garda Síochána are not included in the analysis. Material damage collisions are collisions where no deaths or injuries occur, but damage is caused to a vehicle or property. Data covering a period from 1996 to 2015 was used in this analysis. Please be advised that every effort is made to ensure the accuracy of the location of collisions and the inclusion of all relevant collisions[20]. However, this is dependent on the initial reporting of the incident. For instance, some collisions are reported after the fact. Therefore, it may not always be possible to get accurate location information. Casualty collisions on specific stretch of the R172, County Louth Between 1996 and 2015 there were 12 road traffic casualty collisions* on specific stretch of the R172, County Louth, …* [please see Fig 72B]. *The red points illustrate where a casualty collision occurred.*

The applicant proposals, including entrance proposals, pertain to a very unsafe stretch of road. The siting of the main entrance is a poor choice as there have been at least two collisions only a short distance to the north. The northward looking sightline is not adequate to prevent future accidents. BPS is not aware of any traffic calming measures proposed for this stretch of road.

[20] A casualty collision is a collision in which at least one road user was injured. The road user was either fatally injured, seriously injured or minorly injured.

Fig. 129: Collisions on specific stretch of the R172, County Louth, 1996-2015

9.7.2.2 No permission for bus stop and footpath on client lands

The applicant contacted our client only recently and abruptly asked if they could build a bus stop and footpath on their lands located on the east side of the R172. This request was not made at the time of the SHD and comes very late in the process. It seems designed to try to address the poor public transport accessibility of the site. Our client refused permission on the basis that this scheme adversely impacts their property, and they wish to protect the SAC and SPA lands. They are also aware that this is a very dangerous road with many collisions taking place over many years. There will never be a bus stop or foot path sited on their lands.

9.7.3 The existing footpath north of the s chemeentrance are too thin & substandard

The section of footpath to the north of the proposed site entrance is thin, substandard, and unlit by public lighting. The alternative of walking through the site – claimed by the applicant – is not realistic. The scheme would be car-based as walking is not attractive and there are no cycling facilities.

Fig. 130: Locations of areas of thin and substandard footpath

Fig. 131: Area of thin and substandard unlit footpath to the north of the site entrance

Fig. 132: Area of thin and substandard unlit footpath to the north of the site entrance

9.7.4 Concerns regarding the 'Transport Assessment'

Our client wishes to raise the following objections to the submitted 'Transport Assessment':

- The report refers to works to the R172 which are sited within our client's lands but over which the applicant either claims a right of way or seeks permission from LCC. They ask th70t LCC clarify the legal situation wherein the applicant wishes to carry out works on their lands (within their folio) but these lands also include a section of the R172.

- The report refers to the possible installation of a bus stop on our client's lands. They have not given permission for this.

- The report claims the proposals align with the Climate Action Plan 2023, the National Planning Framework, the RSES, the National Sustainable Mobility Policy (2022), Quality Housing for

Sustainable Communities, the Sustainable Residential Density Guidelines, The Urban Design Guide, and DMURS yet proposes 762 car parking spaces and an overall scheme design which is unsustainable, and car based. Claims that future residents may walk, cycle or take the bus are not credible. The scheme's design would be contrary to the objectives of these plans regarding the reduction of car use. This scheme provides 1.51 parking spaces per unit regardless of unit size. This is excessive.

- Similarly located schemes in urban areas in other counties are providing less than 1 car parking space per unit. **The scheme appears to be providing at least 322 too many parking spaces.**

- The applicant report might as well in fact refer to the previous 2018 SHD scheme as it sets out its parking provision which is close to identical despite how climate, sustainability and planning policies all seek vast reductions in car parking provision. The provision provided of car parking is excessive.

  Section 13.8.18 Car and Cycle Parking of the LCDP makes provision for significant reductions in car parking provision so long as a 'Transport Mobility Management Plan' is provided. The applicant has provided this but nonetheless seeks parking space numbers – 861 - which are at odds with this being a scheme lodged in 2023 and not in the 1980s.

- The creche is offered 20 parking spaces yet the scheme is meant to be designed such that all demand for creche spaces comes from the scheme itself and parents can walk their children to the creche. 20 spaces is colossal for a creche. It is larger than the car parking that is provided to serve neighbourhood shops.

- Chapter 7 of the LCDP 2021-2027 seeks a reduction in carbon emissions and a switch to more sustainable modes of transport yet this is a 1980s style housing estate where every individual and family gets a parking space or 2. This is not a sustainable scheme.

  The proposals are contrary to:

  Objective Mov 7 which aims:

  > ***To support a modal shift away from the private car to more sustainable forms of transport****, such as public transport, cycling and walking and the attainment of any national targets relating to modal change published during the life of this Plan* [emphasis added].

  Objective MOV 9 which aims:

  > *To support investment in sustainable transport infrastructure that will make walking, cycling or public transport more attractive and appealing, and facilitates accessibility for all, regardless of age, physical mobility, or social disadvantage.*

- **The claims regarding cycle accessibility have no basis:**

  1. No bike to rent scheme bikes are provided so residents would have to buy their own bikes. While the applicant provides bike parking spaces this is mostly a waste of time as the scheme is dominated by houses where bikes can be stored in outdoor or indoor areas. The applicant refers to "bike hire hubs" but no firm is appointed for this. Discussions are "ongoing". In the absence of a letter from such a company confirming agreement, LCC cannot apply a condition in this regard.

  2. The site is heavily sloping which will discourage bike use.

  3. Is it realistic to believe any person will cycle to work to a creche at 6am to 7am in the morning when most creches open?

  4. The immediate area has no cycle infrastructure at all. There are no cycle lanes – the few referred to are bits and pieces some distance from the site. The applicant's references to cycling have no basis as few residents with cars will take a bike in all weathers when the only cycle routes are on roads without cycle lanes (thin roads).

  5. The applicant states that the train is "accessible" with a 25 minute cycle journey. It takes 25 minutes to cycle from Dublin City Centre to past Dun Laoghaire and this is a train route with many stops along the way. The site is not accessible. The cycling "catchment" is given at 40 minutes which is sufficient time to cycle from Dublin City Centre to Bray. This is not realistic.

  6. Future cycle initiatives noted are very general in nature and will not help residents get to schools, work, shops, etc. There are no immediate plans to improve cycle infrastructure such as the Cycle Connects proposals. These appear to be some years away.

- **Under the SHD's assessment, the Board considered this site close to employment and other areas. This is not in fact the case. BPS has reviewed the surrounding area and the distances to employment areas, schools, etc. are not walkable. The following concerns arise:**

  1. The applicant has failed to open up a pedestrian route between the N52 to the west and the proposed Bothar Maol entrance. The proposals are premature pending this.

  2. This is a site that slopes heavily from bottom to top and is not unduly attractive to even walk within it let alone to walk from the site to other areas. It will encourage car use because the site is 1980s in its housing estate design approach. It is a modest density scheme spread over a large area.

  3. The scheme offers a creche only and no other mixed uses such as shops or other services. It is essentially a largescale dormitory development from which residents will need to travel to and from by car for almost everything except child care (and then there is insufficient capacity in that as smaller units are discounted as though children do not live in them).

  4. The applicant confirms long walking distances to shops, schools, the church, etc. People will use their cars as the site is not located within 500m of necessary facilities, services and amenities. Dundalk Town Centre is 3.7km walk away. This is far further than any person will walk. This is given as a walk time of 17 minutes which suggests all future residents take part in regular running training. 3.7km can take up to 45 minutes for an average unfit person to walk and that's in good conditions. The result is that people will use their cars.

  5. The applicant confirms 19 to 43 minute walks to any employment location in this area. These distances are longer than any person would walk to work in all weathers. People will use their cars.

  6. The applicant confirms a minimum walk time to school of 23 minutes and maximum of 35 minutes. No school child will willingly walk these distances. Car use for even small trips such as these is inevitable. No details of arrangements for a school bus are provided.

  7. A pedestrian greenway is proposed in the future but, again, this is some years away as there are no current plans available for it.

- **The site is not really served by public transport in the sense of a quality high frequency service that would justify a single large scale residential development of the size proposed:**

  1. The application is not offering to fund a permanent shuttle bus between the site and Dundalk Town Centre, etc.

  2. The site is served by one single infrequent hourly bus service – the 169 – which stops 230m and 600m from the site at present. This bus serves limited places but does serve Dundalk Town Centre. It is a commercial bus and would be costly to use for every trip. It is of no use to commuters as it only operates from 9:16am to 5:25pm. If you wait for the bus for an hour, it will take you to town in 7 minutes (during the limited hours). The bus does not operate during the peak traffic hours on the R172 or during the proposed peak trip generation hours of the scheme.

  3. The capacity of this local bus is not provided by the report and the report does not set out how full the service is each hour. Is there any capacity at all? Our client submits that the lack of these details is unacceptable. To justify an LRD, an applicant is required to "demonstrate" that the site is well served by high frequency transport links. In Ballyboden Tidy Towns v An Bord Pleanàla[21] the application had addressed capacity but not frequency and so the application and so was flawed resulting in Holland J quashing the grant of permission by the Board.

  4. The scheme follows poor consultation with existing residents. Our client was only recently asked about a bus stop being sited on their and in the SAC and SPA, but this was an abrupt request with no adequate discussions, etc. The applicant has otherwise sought to take advantage of our client's lands, etc. The proposals are premature pending improvements to the existing bus service(s) and associated infrastructure. One new bus stop outside the scheme entrance – a long distance from many of the units – will not improve the poor-quality bus service.

  5. Proposals for new bus services – the same proposals set out under the SHD scheme – have not progressed since and there is no basis for LCC to rely on future possible transport provision

[21] [2022] IEHC 7.

to justify this scheme. Fig. 133 sets out details of the poor and infrequent bus service pa g the site.

Table5: Bus Capacity Survey Service: 168 Blackrock – Dundalk

Scheduled Bus Timetable Northbound (to Dundalk)	Actual Arrival Time	Number of Boarders	Number of Alighters	Number of Occupants when leaving	Bus Capacity	Spare Capacity
08:03	08:10	1	0	14	77	63
09:29	09:35	3	0	22	77	55
10:18	10:20	0	0	9	77	68
-	11:14	0	0	7	77	70
11:43	1 1:54	0	0	4	77	73
13:38	13:54	2	0	10	77	67
15:23	15:31	0	0	6	77	71
16:38	1 6:48	0	0	17	77	60
17:38	17:52	0	0	15	77	62
			AVERAGE	12	77	65

Scheduled Bus Timetable Southbound (to Blackrock)	Actual Arrival Time	Number of Boarders	Number of Alighters	Number of Occupants when leaving	Bus Capacity	Spare Capacity
08:18	08:25	0	0	3	77	74
09:08	09:15	0	0	7	77	70
10:02	10:03	0	0	6	77	71
11:27	11:32	0	0	4	77	73
-	12:41	0	0	5	77	72
13:22	13:28	0	1	23	77	54
15:0	15:12	0	0	17	77	60
16:22	16:24	0	3	39	77	38
16:32	1 6:35	0	1	18	77	59
17:22	17:29	0	0	22	77	55
			AVERAGE	14	77	63

Fig. 133: The poor and infrequent bus service passing the site (Source: Transport Assessment)

6. The applicant states that "the rollout of new services has begun ..." This may be the cas e,it has just not begun for this site. The proposals are premature pending significant improvements in public transport that reduce the need for such a vast quantum of cars.

- **Our client maintains significant concerns regarding the R172 road and the main road entrance proposed to serve this site:**

1. The proposed entrance onto the R172 is sited in Flood Risk Zones A and B and may not be able to serve the scheme during coastal and pluvial floods. Our client cannot understand why LCC would take a risk on this point.

2. The section of the R172 proposed to serve this scheme is characterised by bends and poor forward visibility. It is just 6.5m wide and the applicant suggest that this be shared with cyclists from the scheme.

3. The sightlines proposed from the entrance onto the R172 in either direction are too short. Motorists do not drive at 60kph at this location.

4. The siting of the entrance may cause traffic hazard concerns for our client's property entrance and for that immediately to the north of the entrance.

5. The entrance is not to have traffic lights and, as such, there is likely to be constant queuing to get out of the scheme and into the scheme at peak times.

- The applicant has used the TRICS database to provide the estimated trip rates for this site. Our client considers that a similarly located existing housing estate served by one poor infrequent bus service, no cycling infrastructure and long walk times to everything should be used instead. The TRICS database often uses data which arises from sites in the UK and elsewhere which are credibly served by alternative modes of taking trips (this is certainly the case here when one reviews Appendix B). This is not the case here as this site will be car based.

  Table 17 of the Transport Assessment sets out a mammoth 1899 trips generated by the scheme each day. Given 861 parking spaces, this is, respectfully, likely an underestimate and, relative to the previous LRD assessment, it is. The report suggests that in the morning peak from 8am to 9am, 203 people will exit the site (down from 423 people under the previous scheme) will exit the site and 54 enter (down from 112 entering under the previous scheme). In the evening peak of 5pm to 6pm, the numbers are 69 departing and 133 arriving. It appears that it is anticipated that few people in the scheme will work as so few cars exit in the morning and return in the evening. Similar anomalies

arise throughout the table which does not appear regular. Our client considers the trip rates to be an underestimate.

In any case, the scheme is a car-based one and the reliance on car trips would be excessive.

5.3.11 **Table 17** shows the predicted vehicle trip generation of the development, based upon the proposed 502 residential units and Census 2022 data.

Table 17. Vehicle Trips (Census 2022)

Hour Starting	No.Vehicle Trips		
	Arrive	Depart	Total
07:00	29	124	153
08:00	54	203	257
09:00	53	65	118
10:00	45	58	102
11:00	49	54	103
12:00	58	55	113
13:00	59	58	116
14:00	60	71	131
15:00	160	72	231
16:00	123	67	191
17:00	133	69	202
18:00	113	68	181
TOTAL	937	962	1899

5.3.12 **Table 13** shows that during the AM and PM peak hours, the development is expected to generate a total of 257 and 202 two-way vehicle trips, respectively.

5.3.13 There is a spike in travel expected between 15:00 and 16:00, which relates to parents travelling to, and pupils returning from, school.

Fig. 134: The significant volume of trips the proposed development would create by car (Source: Transport Assessment)

Regarding modal split, our client would expect almost 100% of adult to drive their cars for most trips. The applicant has tried to find ways to avoid confirming this and has used Census data. This data includes adults and children, and it is not clear from what area this data has been collected.

Our client does not consider it credible that 10% of future residents will cycle for all trips, that 20% of all trips will be by walking is possible but seems an over-estimate at this location. While there is little chance and insufficient capacity and frequency in the local bus service to support 20% of the scheme population using the bus. These figures are not credible.

The report would have LCC believe that the local hourly (at best) bus will accommodate 100s of residents each day. This is not likely possible. The same report would have significant trips made by bike – this is extreme unlikely even if free bikes were given out to all residents.

The submitted modal split figures are wishful thinking. The applicant seriously argues that these figures could be achieved when no reasonably informed person aware of this site's location and characteristics could believe them.

The applicant then refers to data provided with the original SHD scheme which is more realistic and shows at least 73% of all trips being taken by car or van to get to work or college.

Table 17 offers a somewhat unrealistic picture of likely car use from the scheme. It shows a total for vehicular trips of 1899 trips by car (down from 2057 under the previous LRD which had less spaces) across a day. This means that every car in the scheme will be driven at least 2.2 times per day from 7am to 6pm on a trip outside the scheme and some will be driven more than this. This is likely an under-assessment, but it is still very high.

Add to this all the trips from 6pm until 11pm and one likely has a further 100 to 150 per hour. This adds to 500 to 750 more trips This is a total of well over 2500 trips per day by cars and vans in the scheme.

The scheme will generate constant traffic in and out off the R172 on a 24/7 basis with morning and evening peaks that are far higher than they would be at a more sustainable location.

This scheme is not defensible on the basis of the quantum of car and van trips it will generate into this area.

While the surrounding road network is not operating at capacity and there is capacity to al[illegible] b the scheme's traffic; the level of vehicular trips proposed for this one site onto the R172 is excessive.

The Mobility Management Plan – concerns:

- The targets set for the MMP are unachievable:

1. The applicant cannot alter the location of the site which is not within walking distance (500m to 1000m) of almost anything except houses.
2. The scheme offers a creche but no other services so walking trips will be minimal.
3. The local bus service is hourly with poor capacity and route choice.
4. The applicant cannot rely on cycle infrastructure that does not exist.
5. The likelihood of shared car journeys at this location and for a new estate is minimal to zero.
6. 2% of people may work from home but not every day – car trips are required.

The measures set out by the MMP are not credible and will not alter the extremely high level of proposed car use. Mobility manager's notice board, surveys, monitoring, etc. cannot alter the fundamental fact that this is a car-based scheme.

9.7.4.1 LCC emails to the applicant confirm significant concerns over a car-based scheme

Our client notes emails sent from LCC to the applicant regarding the poor proposed modal split and the excessive volume of parking spaces. They ask that LCC note how their own concerns regarding this car-based scheme. The problems is the 861 (up from 762 under the previous scheme) parking spaces.

One of LCC's emails to the applicant (see Fig. 135) politely states that the 73% modal split of trips set out in Census Data 2016 does not support this scheme. In fact, LCC states: "this doesn't match the targets in the Climate Action Plan 2023 or the National Sustainable Mobility Policy (2022)". These policy documents require a much higher percentage of sustainable trips to be taken without a car or van. LCC quote the highest percentage of trips by car that the NTA is trying to reach is 45%. The applicant remains vastly above this at 73% with the MMP having no hope of reducing this.

The applicant has not been able to revise the scheme to address 2022 and 2023 policy documents which post-date the SHD scheme decision. The LCC Draft Climate Action Plan[22] is also now available online and the applicant needs to respond to this.

The current proposals are from another time when ABP would grant schemes that later were found to be non-compliant with planning law and policy. This scheme is non-compliant with national, regional and local transport planning law and policies. It is a 1980s throwback scheme at odds with its context which argues that the scheme can be different, but it cannot (see Sections 2.1 and 2.2 of this Planning Objection Report).

[22] https://consult.louthcoco.ie/en/consultation/draft-climate-action-plan

AIL FROM NOEL TRAYNOR, Louth CC, 22/05/23

Hi Glen,

Further to your request below, I had a conversation with my Planning Colleagues this afternoon and on foot of this, I have emailed Paul Doyle regarding other infrastructure issues relating to this site of + 500 + residential units.

My Planning colleagues are due to issue an "Opinion Letter" this Thursday, which shall clearly outline all infrastructure issues therein.

With regards to your interim TIA, I am satisfied with the content, however I have one caveat / comment that shall be addressed.

I am glad to see that you are proposing to furnish a supporting Mobility Management Plan (MMP) to enable residents to travel to and from the development by sustainable modes, however, I would be of the opinion that this MMP shall not be a stand-a-lone document but should form part of the TIA, as modal share shall be analysed as one i.e. car, public transport, cycle, walking. All junctions, and routes to destinations of choice shall be assessed for all these modes. For example, Rock Road / Sandy Lane priority junction may be adequate for vehicular, but sub-standard for pedestrians and cyclist.

You are proposing to use 2016 Census modal split i.e. 73% for van/car/passenger, however this doesn't match the targets in the Climate Action Plan 2023 or National Sustainable Mobility Policy (2022), which has a higher percentage towards Active Travel modes, hence some of the existing junctions in proximity to the development are sub-standard for Active Travel.

For guidance ... in the NTA's 'Smarter Travel: A Sustainable Transport Future (2009 to 2020), a key target cited was to reduce the proportion of travel to work trips by car from 65% to 45%, which suggests that significant interventions are required including increased infrastructure, services and demand management measures to reach this target for this development. i.e. bus stops, increased footpath widths / crossing points with and in proximity to the development.

Regards
Noel Treanor | Senior Executive Engineer |

Fig. 135: Email dated 22/5/23 to the applicant from LCC

9.8 Ground 8: Creche, pumping station and parking area, should be setback westward

Our client maintains a number of mature trees on their western boundary and within their property which screen their property from the applicant site. The acknowledge this. They understood however that their property (which currently adjoins farmlands) would, if these lands were developed, be sited adjoining Strategic Reserve zoned lands.

They had expected the applicant to propose a tree belt to the eastern boundary adjoining their property as a way to comply with the zoning, further screen their property, offer a carbon sink, offer a tree-filled backdrop to the scheme in eastward views and so on.

Instead, the applicant has decided to treat the eastern portion of the site – that most likely to flood – as a de facto service area for the scheme. Our client considers that the creche, pumping station and parking area to the east of the applicant site and close to their property when coupled with the detention basin and attenuation tank represent inappropriate forms of development sited just off the scheme's main access road into and out of the site.

Fig. 136: The creche's siting located to the west of client's tree-filed property & boundary

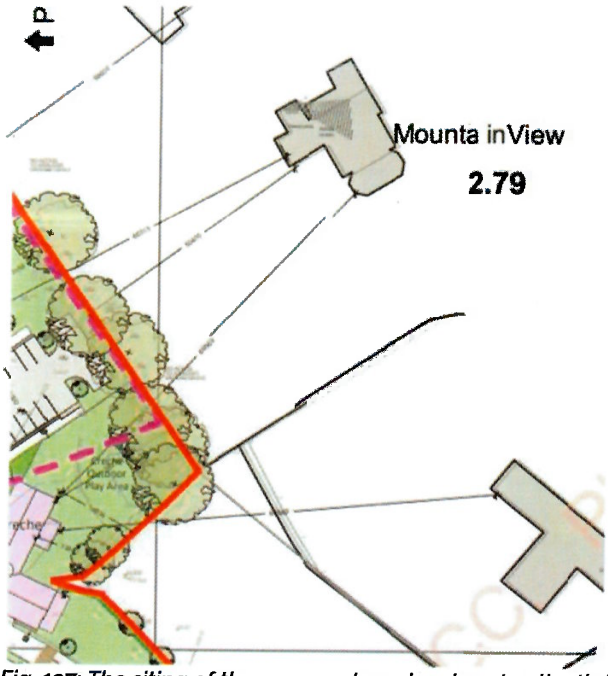


Fig. 137: The siting of the proposed creche close to client's boundary

9.81 Creche is located too dose to the red line boundary

The proposed creche is sited hard up to the red line boundary in a manner which is unnecessary. The creche needs to be setback. The creche cannot even be built as proposed without encroaching on the adjoining property. The applicant's contiguous cross sections are misleading in this regard.

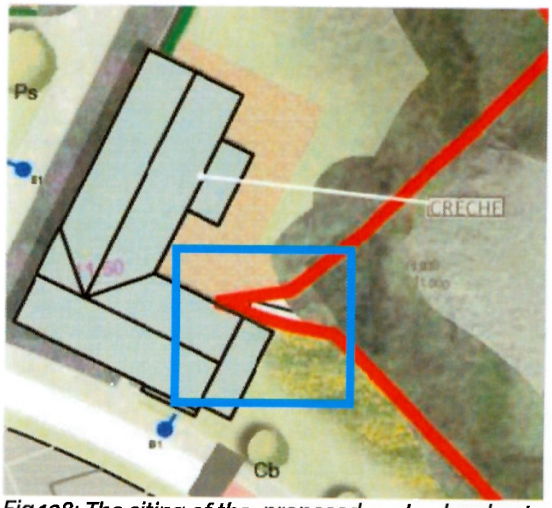


Fig 138: The siting of the proposedcreche hardup to the red line boundary

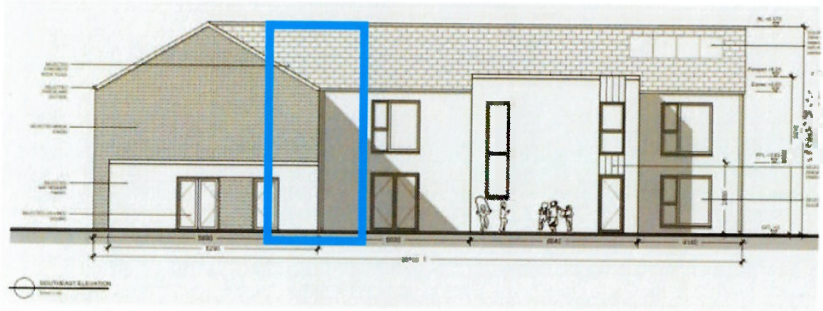


Fig. 139: The proposed creche as it addresses the red line boundary

9.8. The sewage pumping station is sited too close to the creche & client property

Our clients object to the siting of the sewage pumping station and what are to be surface stored foul waste water tanks (up to 2030) as this is setback metres from their property boundary and has the potential to generate odours which arise from a large-scale scheme to which they have no relationship. The pumping station should be located in the centre of the scheme.

Further, the creche is located too close to the pumping station. In the event of odours, it is not clear that any resident of this scheme would want their children Located close to the pumping station.

A revised scheme layout is required which identifies a less risky location for the pumping station.

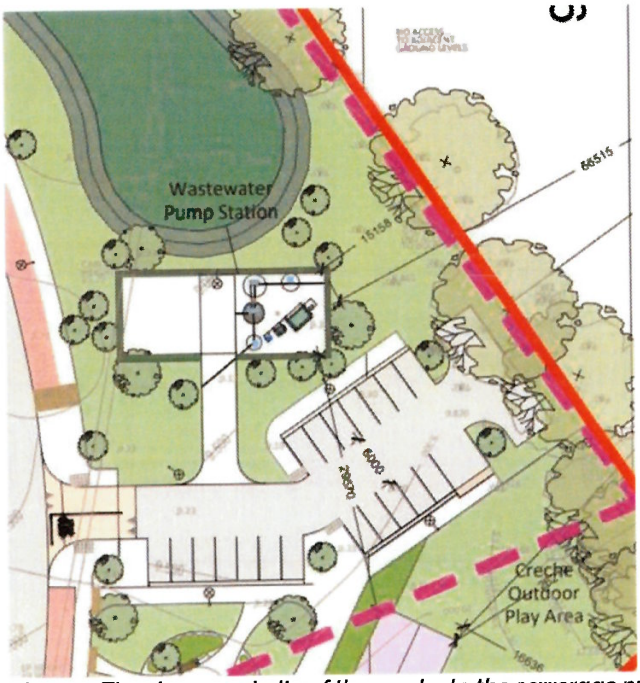


Fig. 140: The close proximity of the creche to the sewerage pumping station

9.9 Ground 9: Concerns regarding the protection of existing trees & boundaries

9.9.1 All trees sited to the west of client boundary should be retained

Our client notes that the applicant's 'Development Impact Plan' shows no trees being removed in the areas of the applicant site to the west of their property. As Fig. 141 shows, these areas are tree-filled and ensure screening of their property.

They are concerns that the proposed creche is sited very close to two large mature trees and its outdoor play area is sited too close to trees – the gravel board boundary treatment may also adversely impact the trees. They consider that the creche building should be setback to protect these trees. Indeed, the entire area within which the creche is sited is tree filled and the creche may impact on the trees and vice versa. A future insurance policy may require these trees be removed. It would be better for LCC to anticipate this concern and to relocate the creche.

Our clients note that these trees offer a carbon sink and offer groundwater drainage; they should be conditioned to be retained under all circumstances.

Fig. 141: The existing tree-filled visual appearance of the area to the west of client property

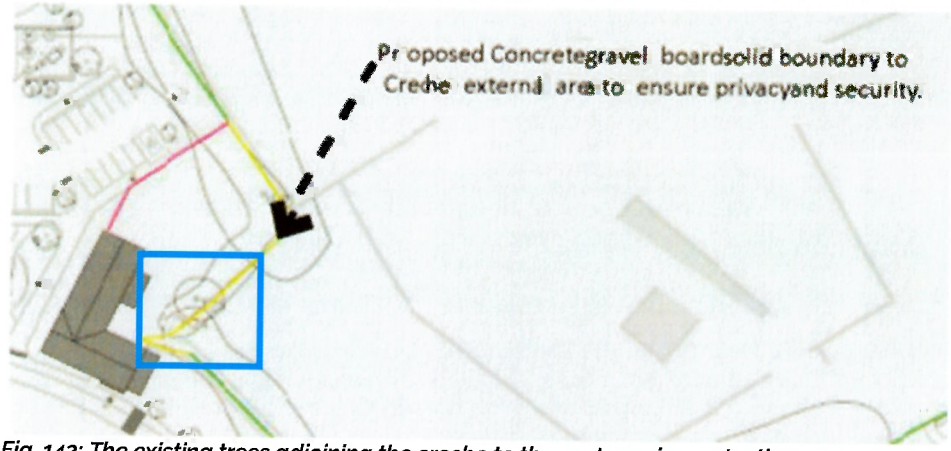


Fig. 142: The existing trees adjoining the creche to the east require protection

9.9.2 N opermiss ionhas been given to alter the existing boundary to cli ent property

The applicant's landscape plan refers to our client's property boundary as comprising of mature trees and scrub vegetation. This is accurate. The applicant proposes a paladin fence along this section. Our client notes that they have not given any permission for the existing shared boundary to be modified or replaced; therefore, LCC is asked to confirm that the paladin fence will be sited inside and not 'on' the shared boundary.

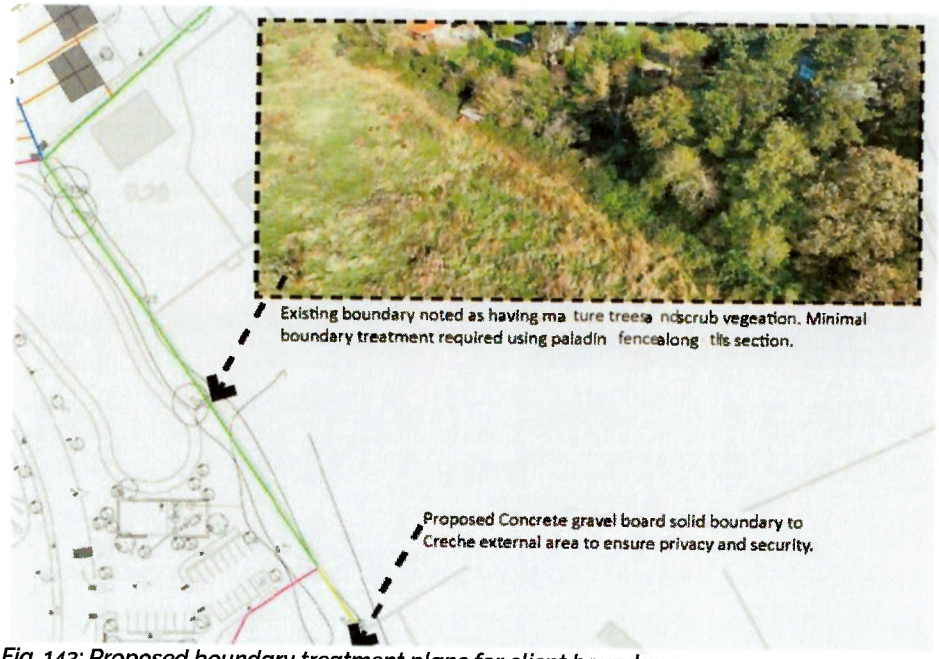


Fig. 143: Proposed boundary treatment plans for client boundary

9.9. Proposed access road /entrance tree removals are excessive and unjustified

Fig. 144 shows the existing trees in the area through which the applicant wishes to develop an access road to the Blackrock Road and where an entrance is proposed onto that road. The applicant's 'Development Impact Plan' shows how the following trees are to be removed "to facilitate the development" and not because there is anything wrong with them:

- Tree group Nos. G23;
- Tree Nos. T22 & G21 (3 no. trees total);
- Partial felling of G20; and
- Tree Nos. G15 and G16.

The proposed loss of trees is substantial and there appear to be no trees proposed to be retained that are within the red line boundary – all those being "retained" are outside the red line boundary.

This level of tree loss requires review. These are quality trees.

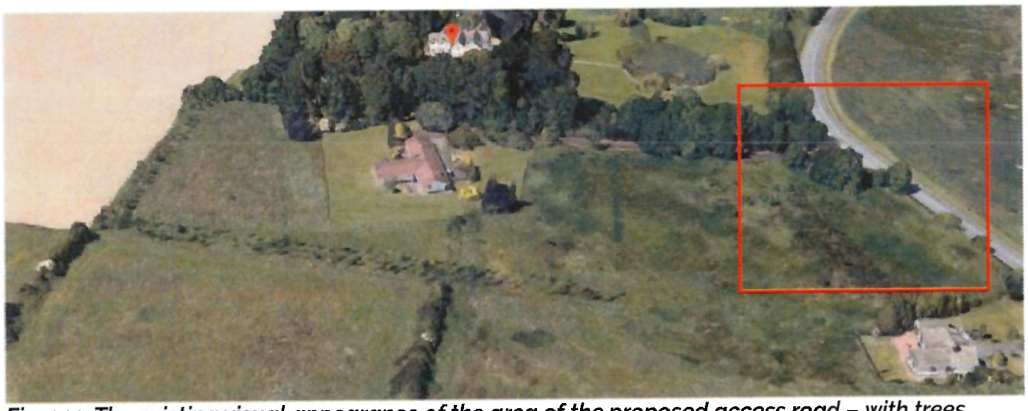


Fig. 144: The existing visual appearance of the area of the proposed access road – with trees

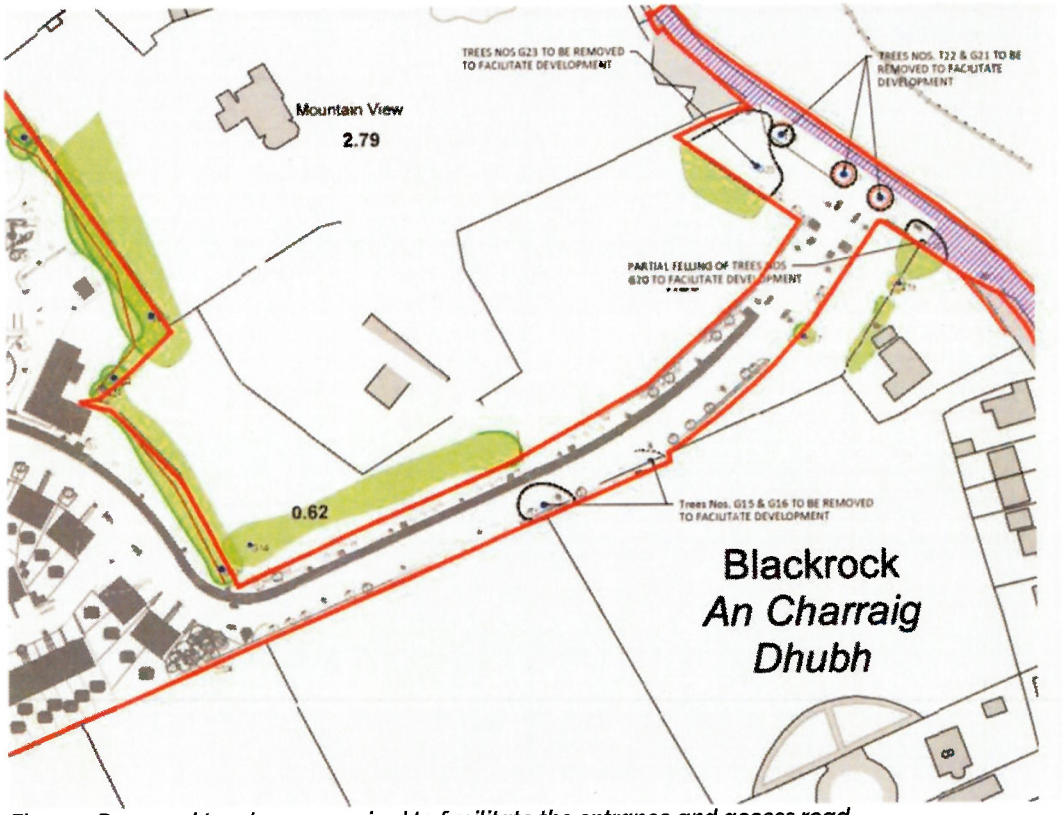


Fig. 145: Proposed tree losses required to facilitate the entrance and access road

9.10 Ground 10: Impacts on existing residential amenity require revisions to the scheme

The applicant proposes to site a sewage pumping station, a large detention basin (with attenuation underneath), a creche and creche parking in Strategic Reserve zoned open space lands adjoining our client's property. They do not support the use of the areas adjoining their property as a service area for the scheme.

While the proposals do not overlook, overbear or overshadow our client's property; there are nonetheless unsympathetic to it. Concerns arise that our client's amenities are threatened by:

- Odours from the sewage pumping station.
- Surface and/or flood waters deriving from the subject scheme being forced through their property.
- Ongoing noise and disturbance at construction and operational phases arising from excessive traffic deriving within and outside of what is a de facto backland site.

The proposed development is of an excessive scale for this sensitive location.

9.11 Ground 11 Depredation in the value of client's property

Our client is concerned that the proposed development would adversely impact on the area and seriously injure the amenities and depreciate the value of their property adjoining the applicant site . The potential impact that a proposed development can have is recognised by the Planning Acts which include a reason for refusal reason 10. (c) of the Fourth Schedule 'Reasons for the Refusal of Permission which Exclude Compensation' of the Planning Acts 2000-2015:

> *10. In the case of development including any structure or any addition to or extension of a structure, the structure, addition or extension would— (c) seriously injure the amenities, or depreciate the value of property in the vicinity.*

The only basis for this scheme to proceed is that the interests of the developer are placed above the established residential and visual amenities of our client's properties.

BPS notes how ABP has carried out assessments of SHDs and LRDs on which we have worked for communities and stated that we failed to provide evidence of depreciation of property values. We advise LCC that this is not required.

The High Court in Gleann Fia v An Bord Pleanala [2019] IEHC 618 has held that it is not necessary to put very detailed information before the Board that the development as granted would reduce the value of land significantly or adversely affect the enjoyment of land:

> *106. Although no valuation evidence was presented to back up the contention that this "would ... reduce significantly its value", there is nothing in s.37(6)(d)(ii) that mandates the submission of valuation evidence. While the court should not speculate as to the Board's thinking or reasoning, it would not be irrational or unreasonable for it to have treated the views expressed by RPS in this passage as plausible and common sense if it also accepted that the greater detail provided in the further information, and the review/approval of the Traffic and Transportation Section of the Council on 24th October, 2018 rendered the development of the pedestrian bridge and walkways more imminent, and more likely that it would be carried out by the Council.*
>
> *107. Accordingly, I am of the view that there was some evidence before the Board from which it could objectively have come to the view that Condition 1, including the plans and particulars lodged with the further information, and/or Condition 35 could of themselves have led to a reduction in value of the Notice Parties' lands. The weight to be attached to this evidence was entirely a matter for the Board. For this reason, if this were the only criterion in respect of which the applicants made complaint, and was the only ground for seeking judicial review, I would not grant certiorari."*

It is the professional opinion of BPS that this scheme, if permitted, would reduce the value of our client's property. The main reason for this opinion is the flood and surface waters which the applicant wishes to force into and through the property – this could leave our client unable to obtain insurance.

9.12 Ground 12: The proposed development would set poor precedents

For the reasons set out in Sections 9.3 to 9.12 of this Planning Objection Report, the proposed development, if granted, would set a poor precedent for schemes to be permitted which are sited on Strategic Development zoned lands, are premature lending the completion of the upgrade of the Coe's Road Pumping Station and which are car-based, flood prone, adversely impact on SAC and SPA designated areas, and offer future residents poor transport links, and no community facilities.

client asks LCC to protect this area by refusing planning permission thereby avoiding setting negative precedents for future development in this area.

9.13 Ground 13: A 7 year permission is contrary to planning & environmental policy

The applicant, whose lands have been downzoned under the LAP and cannot be developed during the lifetime of the current CDP (under whose future adoption the lands may be re-zoned, and the LAP re-zoning superseded).

In this context, the applicant planning application makes no sense and the request for a 7 year permission reads as ludicrous. The lifespan of the LAP would be over by then.

In any case, the trend to requests for ever longer planning permissions is not acceptable to our client. The submitted Natura Impact Statement and EIAR are each required to address the best scientific evidence available at the time the project takes place. A seven year planning permission would likely mean they would be out of date.

Uisce Eireann's stated position regarding infrastructural deficits pertaining to foul drainage is that the site cannot connect fully to an upgraded Coe's Road Pumping Station until 2030 (up from 2027 when ABP refused permission). The planning application is premature, as per the ABP decision and the downzoning, and no length of permission can address this.

The Planning Acts and Regulations provide for an extension of time to a planning permission where significant works have been completed. This is the appropriate time to assess whether a time extension is justified.

The applicant essentially confirms by way of the request for a 7 year permission that they may not act on the permission for some years. This is contrary to national, regional and local planning policy and guidance which seeks to action permissions when they are properly granted.

While our client does not support this Dundalk scheme, if it is granted with a 7 year permission this would allow the applicant to postpone acting on the permission for years before even the 5 years begins.

Our client supports the 5 year standard length for a permission should apply in all cases. The local community and our client should not be subjected to up to 7 years of uncertainty and possibly construction phase impacts. Our client considers that they and the area have had to respond to every deadline placed on it by the planning process and in this context 5 years is wholly reasonable. This is not an especially large site.

In recent years there have been many arguments out forward for a ten year permission. In the previous LRD case, the applicant's Planning Report states at p. 3:

> *A 10-year planning permission is sought to provide flexibility in the delivery of the site and key infrastructure including wastewater upgrades planned and committed for delivery in 2027.*

The current planning application statement repeats this. The submission comprises of two arguments:

- **The first argument is the "flexibility" argument.** The applicant would like it to be them and not the planning authority or An Bord Pleanála that decides how long it takes to build the scheme. The reality is that "flexibility" in Ireland has meant many SHD and LRD permissions remain on the shelf awaiting commencement. In some cases, this is because a seven to ten year permission has meant that as property prices rise a further seven to ten years will only add to the prices. There is no basis for the "flexibility" argument because, as noted above, once a scheme is substantially developed, an extension to the duration of a planning permission will generally be granted. Concerns arise (as noted above) that perhaps substantial works are not anticipated to take place for over 5 years which raises the question – 'why apply for permission now?'

- **The second argument is the "prematurity" argument.** The applicant acknowledges that their proposals are premature pending infrastructural upgrades and so asks that planning permission be granted for a sufficient length of time that they can wait out the period of prematurity. This argument (unexpected absent from the previously withdrawn LRD with its infrastructural shortcomings) confirms our client's concerns set out in their objection to the recently withdrawn (mostly identical) LRD planning application. That is, there are numerous infrastructure issues that remain to be addressed before this proposal can proceed. The Coe's Road Pumping Station is the primary concern. Uisce Eireann may have issued a Confirmation of Feasibility but this clearly states that connecting to the Coe's Road Pumping Station will not be possible before 2030.

- The applicant cannot therefore proceed with this development realistically until 2030. Uisce Eireann may have issued a Confirmation of Feasibility regarding connecting to mains water and foul drainage services, it is increasingly the case that once a permission is granted, applicants are finding that Uisce Eireann will not grant these connections. The granting of a planning permission does not, according to the Uisce Eireann website (and all associated technical documentation), guarantee a connection. Confirmation of Feasibility is simply a statement that at the time of issue, a connection to Uisce Éireann infrastructure is feasible" and "Any customer seeking a connection must obtain agreement from Uisce Éireann for their water and/or wastewater service connection. **Planning permission does not guarantee you a connection**"[23] [emphasis added].

The applicant's arguments in fact support our client's case that the entire planning application is premature. All parties accept that the Coe's Road Wastewater Pumping Station will not be upgraded until 2030. This is 4.5 years away. There is no justification for the applicant seeing permission at present.

Section 40 (3) (b) of the Planning Act 2000 provided for a standard 5 year planning permission. This section was authored at a time when developers wanted flexibility and there were infrastructure delays. The 5 year permission has remained standard nonetheless. Asking for permission to be granted years in advance of planned infrastructure upgraded is not standard and not encouraged under the Development Management Guidelines (2007).

A more common argument for an extended permission in recent years has been that judicial review is anticipated and this is likely also the case here. This is not a concern of the applicant but one of LCC and An Bord Pleanála. Possible Judicial Reviews are built into the planning process and individual decisions need not address these. Planning applicants have referred to delays arising from Judicial Review. These delays arise due to what our client considers are the illegalities of many SHD and LRD schemes which are now attached to the current LRD scheme. It was then and remains the applicant's decision to propose a scheme which is so at odds with its context. The job of the applicant is to make a planning application which will not be quashed by the High Court. Applicants have begun to effectively plan for Judicial Review and to build this into their schedules rather than to consider how they can lodge a planning application which will not be judicially reviewed. It is not the role of LCC or ABP to take into account whether Judicial Review will or will not arise; instead, it is their role(s) to treat each planning application consistently in accordance with the Development Management Guidelines (2007) and it would be inconsistent to treat the applicant scheme differently to similar sized schemes which each receive 5 year permissions.

The applicant asks ABP to think like a developer and to help them plan for flexibility, prematurity issues surrounding investiture and likely the possibility that Judicial Review might take place. This is not a valid planning consideration.

It is notable that our client does not get to ask that any permission be only 3 years because this would reduce the duration of construction impacts on the area, etc.

The applicant asks to be treated as a special case at the expense of the surrounding area. Our client asks that the 5 year permission be retained (and would ask for this to be reduced if possible).

9.14 Ground 14: Louth Co. Co. needs to carry out a 'Combined Approach Assessment'

Having reviewed the applicant's rationale for withdrawing the previous LRD planning application due to "key infrastructure including wastewater upgrades planned and committed for delivery in 2027", BPS has reviewed Uisce Eireann's recent referral reports for a number of areas of the country where waste water treatment plants are stated to have some remaining capacity, but too many permissions have already been granted on the basis of Confirmation of Feasibility letters from Uisce Eireann for all to eventually obtain a connection to discharge foul water.

The applicant appears to be aware of this and is hoping LCC and ABP will allow a 7 year permission such that they can gradually make their way to the top of the queue for a connection from Uisce Eireann.

The applicant claims that the foul water from 502 units is not significant and that exceedances in effluent discharge limits from Dundalk WWTP are not of concern and that the scheme will not make these worse. This is not accepted.

The EIAR Non-Technical Summary states:

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[23] https://www.water.ie/connections/information/faqs/#:~:text=Confirmation%20of%20Feasibility%20is%20simply,directed%20to%20the%20Planning%20Authority.

> *'oul water will be directed to the Dundalk Waste Water Treatment Plant (WWTP), with planned upgrades to accommodate the development.* ***Although there have been exceedances in effluent discharge limits, the additional load from the development is considered insignificant****. The treated effluent will meet required standards, resulting in a neutral, imperceptible (i.e., no significant) and long-term impact on the receiving water quality and Water Framework Directive (WFD) status of the Fane Estuary transitional waterbody* [emphasis added].

The applicant asks that LCC, Uisce Eireann and the EPA accept the above conclusions. That the proposed development of a greenfield site will have a "positive Impact on downstream receptors". In the same paragraph, the EIAR author (paraphrasing the submitted water framework directive assessment) states: "The discharge of treated effluent from Dundalk WWTP to the Castletown Estuary transitional waterbody will be under agreement from UE and in accordance with relevant statutory consents".

The assessment referred to – a Combined Approach Assessment – relates to responsibilities that have been assigned to local authorities and that have not been transferred to Uisce Eireann as part of the transfer of powers and resources from local authorities which were water authorities (these assessments have to be carried out by law).

Combined Approach to Pollution Control can be explained as follows. Article 10 of The Water Framework Directive (2000/60/EC) states that discharges to waters shall be controlled, by one or more of the following, as set out in existing European Legislation, such as the Integrated Pollution and Prevention Control Directive 96/61/EC, the Urban Waste Water Treatment Directive 91/271/EEC and the Nitrates Directive 91/767/EEC;

- Establishment of emissions limits;
- Emission controls based on best available techniques;
- Use of best environmental practices for diffuse sources.

Wherever the quality objectives of one piece of legislation require stricter conditions to be applied, Member States must ensure that these are achieved. The Dundalk WWTP must comply with the above approach, in that requirements of all relevant directives are met, including Water Framework Directive and Urban Waste Water Treatment Directive.

The Wastewater Discharge (Authorisation) Regulations, 2007, as amended, specify that a 'combined approach' in relation to licensing of waste water works must be taken, whereby the emission limits for the discharge are established on the basis of the stricter of either or both, the limits and controls required under the Urban Waste Water Treatment Regulations, 2001, as amended, and the limits determined under statute or Directive for the purpose of achieving the environmental objectives established for surface waters, groundwater or protected areas for the water body into which the discharge is made.

Our client submits that the discharges from Dundalk WWTPs do not always comply with the Combined Approach, in that requirements of all relevant directives are not currently met insofar as details and documentation are available from LCC, Uisce Eireann and the EPA.

Section 4.4.3.1 'Existing Planning Permissions' and Table 6. 'Assessment of potential in-combination effects of the proposed development and other developments in the vicinity of the site' of the previously submitted NIS for the refused LRD set out significant numbers of existing planning permissions including large residential schemes which will need to connect to Dundalk WWTP in the coming years. The NIS also noted that multiple large permissions (and the current planning application) are dependent on infrastructure upgrades not planned until 2027. The Uisce Eireann Confirmation of Feasibility (CoF) for nearby schemes and the current scheme notes that upgrades to Coe's Road Pumping Station are planned for 2030 at which point there will be capacity for the Proposed Development (in the pumping station).

The applicant NIS fails to include a list of existing planning permissions and or to carry out a full assessment of potential in-combination effects of the proposed development and other developments in the vicinity of the site. The previously submitted NIS for the refused LRD set out significant numbers of existing planning permissions including large residential schemes which will need to connect to the Dundalk WWTPs and Pumping Stations in the coming years. They are further up the queue to deliver their foul water to the WWTP whose current status requires further review by LCC (see Fig. 146, etc.). The NIS also noted that multiple large permissions (and the current planning application) are dependent on infrastructure upgrades not planned until 2027 (now 2030). The Uisce Eireann Confirmation of Feasibility (CoF) for nearby schemes and the current scheme notes that upgrades to Coe's Road Pumping Station are planned for 2030 at which point there will be capacity for the Proposed Development (in the pumping station). Why has this work not been done? The AA and NIS have clearly

been amended to try not to draw attention to foul water concerns. Section 4.4.1 'In-combination Effects' of the NIS states: " The potential for likely significant in-combination effects on European sites involving the Proposed Development and other granted or pending developments has been assessed within the AA Screening Report (Enviroguide, 2025)." This is not permitted. The NIS must carry out a Stage 2 assessment including of in-combination effects on European sites. The NIS focuses on the Dundalk Flood Relief Scheme (FRS) and states that "there could be the potential for in-combination effects on the surrounding environment involving the FRS and the Proposed Development in the absence of mitigation e.g., through wintering bird disturbance along the coast should the construction of coastal flood defences be included in the FRS". Concerns arise that references to the FRS distract from the reality in Dundalk that there are a queue of projects waiting for the upgrade of the Coe's Road Pumping Station and these were in line first.

The current proposal would connect to the existing gravity network at Finnabair Crescent. Flows from this point would discharge by gravity to the **as yet not upgraded** Coe's Road WWPS and are then to be pumped northeast to the final destination of the Dundalk WWTP.

However, tanks are needed on site at surface level to hold significant foul waste as a temporary measure. This is not addressed by the NIS.

It is therefore genuinely of concern that the NIS states:

> *Potential in-combination effects are largely linked to combined water quality degradation in Dundalk Bay in the absence of appropriate mitigation. The potential for likely significant effects arising from foul water generated by the operation of the Proposed Development has been screened out. It is noted that the Proposed Development in itself is unlikely to cause any significant adverse impacts to European Sites in Dundalk Bay as a result of operational foul water; due to there being sufficient remaining treatment capacity at the Dundalk WwTP (5,493PE) as stated in the latest available AER for the facility (UÉ, 2022). It is noted that UÉ are responsible for whether the receiving drainage infrastructure has the capacity to facilitate a proposed development and also for ensuring that public wastewater infrastructure is operating to a satisfactory level in terms of wastewater treatment. Once the receiving WwTP is operating effectively, there is no potential for likely significant cumulative effects involving foul water generated by the Proposed Development.*

The applicant's NIS essentially argues that they need look no further than the Uisce Eireann website and note available capacity in Dundalk WWTPs – but not pumping stations - to determine that the issue of possible foul water impacts on the SAC and SPA can be screened out. The NIS washes its hands of the matter by stating that it is Uisce Eireann's responsibility and not theirs: "Once the receiving WwTP is operating effectively, there is no potential for likely significant cumulative effects involving foul water generated by the Proposed Development". But it is not operating effectively, and upgrades are needed, Indeed, as noted, a Combined Assessment is required. The NIS is premature in its conclusions and does not refer to all available evidence including scientific evidence.

There is no other opinion, in our client's opinion, and at this time, other than to refuse planning permission. The overloading of the WWTP would be prejudicial to public health, to the protection of the Dundalk SPA and SAC, and to the proper planning and sustainable development of the area. Allowing on site foul water storage pending a possible date of 2030 for an upgrade to the Coe's Road Pumping Station is not acceptable and/or compatible with the NIS.

Is LCC to allow sites around this area of Dundalk to all have temporary foul water storage which needs to be partly treated on site? This proposal is worse than allowing a temporary treatment plant on the site and those have not been allowed for many years.

10.0 Conclusion

BPS Planning & Development Consultants Ltd have had regard to the site context, to the siting of our client's property adjoining the site and to national, regional and local climate, planning, environmental and transportation policies, including the downzoning of the site to L1 Strategic Reserve, to the previous ABP decision to refuse planning permission on the basis of infrastructural prematurity pertaining to the Coe's Road wastewater pumping station. and all applicable planning policies set out within the Louth County Development Plan 2021-2027 and in the Adopted Dundalk Local Area Plan 2025-2031. Having done so, we reach the following conclusions:

- The lands have been downzoned to L1 Strategic Reserve and the site is unavailable for development at present. The proposal represents a material contravention of the LAP.
- All pre-planning with LCC for the current proposal took place before the lands were downzoned (including the issuing of the jLRD Opinion). This advice was issued *without prejudice*, and the downzoning means permission cannot issue without the material contravention procedure set out

n the Planning Act 2000 (as amended) and the Planning Regulations 2001 (as amended) being applied. This would be unfortunate as the LAP has only recently been adopted.

- The concerns of ABP in refusing the previous LRD are not addressed. The project remains premature on foul drainage grounds (grounds which caused LCC to downzone the site). The proposed upgrade to the Road pumping station was considered to be too distant when the deadline was suggested to be 2027, now it is 2030. The current proposal is for on-site storage of foul waste in surfaced tanks. This proposition is worse than an applicant suggesting a temporary on-site wastewater treatment plant. It is not a realistic or credible proposition. LCC and ABP cannot reasonably overturn the previous ABP refusal issued only on **07/06/2024** on the basis of this proposal.

- The applicant has submitted a second LRD scheme much like a previous SHD planning application and again appears to be expecting this to be 'rubber stamped'. However, the site's zoning has altered and climate, transport, planning and environmental policies have changed since **Paul Hyde** signed that decision. No matter how many times this decision is referred to by the applicant project team including in its many technical reports, the previous SHD scheme would not be granted arising from an assessment under current planning policy including under the LCDP 2021-2027 and the LAP (including the Strategic Reserve zoning). Our client did not become aware of the SHD scheme until it had obtained its decision. They are now aware of each planning application which is lodged. They confirm that the last planning application was refused and the SHD scheme has lapsed. Works undertake on the site after the ABP refusal are now referred to in the public notices as to be removed. They should not have been undertaken. The applicant has failed to take cognisance of Clane Community Council v An Bord Pleanàla & Ors which made clear that a new strategic planning application means a new strategic planning application. A previous strategic planning application's assessment cannot be used as a steppingstone to that of the next.

  Despite its vastness, this planning application, when viewed on a page-by-page is incomplete:

  - The submitted drawings and details are inaccurate and contain attempts to, *inter alia*, infer that our client's property contains some form of drainage channel. This is not the case.
  - National Parks and Wildlife Service do not appear to have been consulted for this new LRD. The applicant can clarify this.
  - The EIAR is inadequate.
  - The submitted Appropriate Assessment Screening Report and NIS are incomplete and lack fundamental details regarding, for example, the status and capacity of the Dundalk WWTP with its regular exceedances causing discharges of untreated foul water to the Dundalk Bay SAC and SPA. The NIS is incomplete as regards assessment of in-combination effects and other planning permissions awaiting access to the 2030 upgraded Coe's Road pumping station.
  - The development description and public notices are inadequate.
  - The requirements of the Planning & Development Regulations 2001 are not met.
  - The extent of open space areas used for detention basins requires review as these appear also to be claimed open space areas.
  - The Transport Report fails to set out the capacity of the hourly bus service that runs approx. 9am to 5pm along the R172. Is this service full when it reaches the site or does it have capacity?
  - The quantum of parking spaces and the proposed vehicular trips that this scheme would generate is excessive.
  - The creche is under capacity for a scheme of this scale with the applicant failing to rely on the LCDP policy and trying to apply national guidance which is now out of date.

- The proposals are contrary to national climate policy, including the Climate Action Plan 2023 and the National Sustainable Mobility Policy (2022), as this is a car-based scheme dependant on an excessive quantum of unsustainable trips by car to as much as 73% of all trips and well over 2500 trips per day by car for the proposed 502 units which are served by as many as 762 parking spaces.

- The proposals are premature as Uisce Eireann has made clear that Coe's Road Pumping Station's upgrade is now put back from 2027 to 2030. **ABP was/is correct. The scheme is premature. There is no way to service it without resorting to unrealistic and inappropriate on-site foul waste storage and treatment measures that are reliant on private sector maintenance.**

- Notwithstanding the submission of an Appropriate Assessment Screening Report and a Natura Impact Statement, the applicant has failed to demonstrate that, even with the myriad of mitigation measures proposed, the scheme would not significantly and adversely impact on the Dundalk Bay SAC and SPA. A careful review of the proposals finds many areas over which LCC cannot have confidence, while the Dundalk WWTP has regular "exceedances", when all other recent grants of permission which will direct their sewage to it are taken into account, to accommodate this scheme in a manner that would not present risks to the SAC and SPA. Further, the proposals for surface water management and flood water management each involve direct discharges of water into the SAC and SPA which are not discharges whose contamination free status can realistically be permanently ensured as this is not a scheme in public ownership and/or one which will be subject

to regulatory control into the future. Finally, the area is characte ised by a myriad of large pla(g permissions in recent years all with large lists of mitigation measures such as that submitted in the NIS. The in-combination risks LCC is being asked to take are now at breaking point.

This scheme may be a Stage 4 scheme whereby it needs to be abandoned as it does not meet the IROPI criteria.

- The applicant seeks to carry out works to and/or to force surface and flood waters through private properties, including our client's. No permissions are in place for this. The purported 'eastern drainage channel' does not exist and there is no direct outfall to Dundalk Bay. The applicant is asking LCC to allow them to pipe surface water and flood waters from the site into private properties with no acceptance of the associated risks, including of not being able to obtain insurance in the future. If permission is granted, it will be challenged on this ground.

- The applicant seeks to carry out works on lands owned by our client for which no consent has been given. Please refer to Section 1.2 of this Planning Objection Report and to Appendix 1. LCC has been repeatedly advised on this concern by their solicitor. LCC raised this issue at pre-planning and the applicant continues to respond by claiming LCC controls land owned by our client. This is not the case.

- The applicant has failed to address the LRD Pre-planning Opinion issued by LCC (see Section 8.0 of this Planning Objection Report). LCC has made clear that the gaps in the previous LRD application will not be accepted, the extent of proposed car trips, for example, cannot be supported under national climate and transportation policies. Further, the extent of topographical change proposed by way of cut and fill, excavation, road level changes, raising of house levels, digging out of massive attenuation tanks and detention basins, etc. cannot be supported. This type of approach would not be accepted for a single house let alone for an estate of this scale.

- The applicant has failed to fully address concerns to protect birds and bats, and the scheme will likely cause significant adverse impacts on these species, including arising from the scale of excavation works proposed, the tree losses proposed, etc.

Arising from the above points, we consider that the scheme would cause **significant adverse and permanent impacts** on:

- The Dundalk Bay SAC and SPA.
- The topography of the site and the area.
- On trees within the site.
- The prevailing traffic and air quality conditions in the area and on the future sustainability of the area in terms of the breakdown of modes of transport. Future CSO data would show a scheme with 73%+ car and van use.
- Our client's property's residential and visual amenities and property value. But also the extra flood risk it would face, etc. It would depreciate the value of their property.
- Future residents of the scheme faced with no facilities and services on site except a creche with insufficient capacity.

There is a need for any proposed scheme's development to represent a fair balance between the right of the applicant to develop their site and the rights of adjoining and surrounding residents to expect their area to be protected and or improved by any new development. Our client does not think a fair balance is achieved here (or any balance at all). **That residential development is permissible on a site does not mean residential development of any scale: without any constraints.**

The zoning of this site provides for residential development that creates a neghbourhood with facilities and services and multi-modal transport links, etc. It is our client's position that any residential development on this scheme must respect the site's zoning and not treat the property as a de facto standard "greenfield site" without any development constraints. The submitted scheme's documentation, especially the AA and NIS read as though they could be applied to any large site in Ireland. The mitigation measures are standard and incomplete. They ask LCC to take risks with the SAC and SPA.

What must be kept in mind is that what is proposed is not a critical piece of nationally required infrastructure or a single building of world class architectural design. What is proposed is simply an over-scaled and over-ambitious 1980s type sprawling housing estate scheme. **In our client's opinion, the proposed compromises regarding negative impacts of the scheme on the area, including on the**

and SPA, and on adjoining and surrounding residential properties, required in respect of developing this scheme cannot be tolerated. The scheme also cannot be justified when its modal connectivity to the wider area is considered. This is in fact an isolated site despite the applicant's attempts to claim otherwise.

As much as the applicant has sought to argue that the compromises necessary would be outweighed by the provision of the subject development, this Planning Objection Report illustrates why this is not the case. **This proposal as it comes before LCC would, in our client's opinion, give rise to a number of residual environmental effects of such significance in respect of their adverse impact that they cannot be reconciled with the need for the proposed development.**

What appears key, in the consideration of this proposal, is that the planning application is the culmination of a process – started for the previous SHD scheme - where the consideration of the impacts on the receiving environment have been second to the applicant's own requirements and plans, particularly in respect of negative impacts on the SAC and SPA and our client's property. **The suitability of the site in principle and the ability of the receiving environment to absorb the proposed buildings are two very different considerations and this, in our client's opinion, is where the needs of the applicant and the concerns of our client diverge**.

Where such divergence in vision exists and a large development proposal is made irrespective of its clear and apparent significant and adverse climate, planning, environmental and transportation impacts, there is a need to identify appropriate assessment criteria by which to judge the proposal.

The critical development frameworks for this area, as noted above, are the Adopted Dundalk Local Area Plan 2025-2031 and the LCDP 2021-2027.

The applicant proposals are not permitted at present under the L1 Strategic Reserve zoning which now applies. The applicant has taken legal action over this zoning; however, they cannot alter how the site has been re-zoned. The proposal is a material contravention of the LAP.

It is our client's position that the scheme is non-compliant th LCDP. This Planning Objection Report illustrates how the proposals are non-compliant with:

- The core vision of the LCDP which requires that new development respects its context.
- Section 2.10 'Core Strategy and Strategic Flood Risk Assessment';
- The L1 Strategic Reserve zoning of the site now adopted under the LAP which supersedes the earlier site zonings adopted by LCC;
- Section 10.3 'Flood Risk Management'.
- Table 10.1 'Areas for Further Assessment and their Associated Flood Risk Management Plan'; and
- Table 10.2 'Flood Zone Type'.
- Section 1.7.4 'STRATEGIC FLOOD RISK ASSESSMENT (SFRA)' of the LCDP.
- Table 8.1 Special Areas of Conservation (SACs) County Louth.
- Table 8.2 Special Protection Areas (SPAs) County Louth.
- Section 8.2.2 International, EU and Irish Policy on Biodiversity
- Section 8.3 EUROPEAN SITES IN COUNTY LOUTH.
- Objective NBG 3 which aims 'To protect and conserve Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated under the EU Habitats and Birds Directives'.
- Objective NBG 4 which aims 'To ensure that all proposed developments comply with the requirements set out in the DECLG 'Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities 2010".
- Objective NBG 5 which aims 'To ensure that no plan, programme, or project giving rise to significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan, either individually or in combination with other plans, programmes or projects'
- Section 8.9 'WETLANDS'.
- Section 11.5 'THE COAST'.
- Section 13.12.1 as it pertains to adequate childcare places in creches for new schemes.
- Strategic Objective SO 4 Transition to a low carbon and climate resilient County.
- Strategic Objective SO 5 Ensure a more sustainable and integrated concept of development with regard to land use, transportation, water services, energy supply and waste management over the lifetime of the Plan.
- Objective Mov 7 which aims: "To support a modal shift away from the private car to more sustainable forms of transport, such as public transport, cycling and walking and the attainment of any national targets relating to modal change published during the life of this Plan".
- Objective MOV 9 which aims: "To support investment in sustainable transport infrastructure that will make walking, cycling or public transport more attractive and appealing, and facilitates accessibility for all, regardless of age, physical mobility, or social disadvantage".

The bottom line is that this scheme shows inadequate respect for our client's area, for the site, for the SAC and SPA and for all applicable planning policies. Inadequate respect for established development parameters in this area or those in the and LCDP. Inadequate respect for adjoining and surrounding residential properties. And, based on the BPS review of the pre-planning process, it is not clear that the submitted scheme shows much respect for LCC's feedback regarding the need to revise the scheme in a manner that does not impact negatively on the area.

There is a responsibility on LCC to do the right thi ng by this area. This planning application's proposals do not constitute the right thing. The proposed development would significantly and adversely alter the environment. A significant and in some instances profound visual change would occur within and outside the environs of the site.

Cumulatively, the negative impacts of the proposed development on the environment of the site and the surrounding area are such that this scheme cannot be granted in its current form. It would set a negative precedent. Mitigation measures of the extent proposed reflect poorly on the design of this scheme that it needs so many of such to claim to have properly addressed all the very many concerns arising.

10.1 Performance-based plannin gri skassessment conclusions

In this era of 'performance-based' standards in respect of the assessment of a proposed scheme, it is necessary to carry out a planning risk assessment in light of the likely performance of this scheme. BPS has carried out this assessment by assessing the scheme in light of its locational and planning context. The conclusions of this exercise are:

- There is a **substantial planning risk** that this scheme is located on lands which are not presently zoned for development. The lands are zoned L1 Strategic Reserve. The proposal is premature pending the re-zoning of the site for residential development.

- There is a **substantial planning risk** that this scheme is premature pending upgrades to the mains f oulwaste water infrastructure serving this area – especially the Coe's Road Pumping Station not due to be upgraded now until 2030 (up from 2027 when ABP refused the previous LRD) and a 7 year planning permission is not the appropriate planning solution to this problem.

- There is a **substantial planning risk** that this scheme is premature given that the Dundalk WWTP has regular exceedances in effluent discharge limits. The additional load from the development may end up untreated in Dundalk Bay SAC and SPA. The WWTP needs upgrades as does the Coe's ROad Pumping Station.

- There is a **substantial planning risk** that this scheme if connected to the Dundalk WWTP would cause it to overflow more regularly into Dundalk Bay SAC and SPA with adverse consequences.

- There is a **substantial planning risk** that the scheme will be flooded regarding the eastern section of the site containing an access road and entrance to the R172 and/or that this will cause flooding and/or exacerbate flooding impacts on adjoining properties and properties to the north.

- There is a **substantial planning risk** that the scheme proponents do not have the necessary permissions in place to carry out areas of the proposed development including forcing surface water flood waters into our client's property, carrying out works within their lands, etc.

- There is a **substantial planning risk** that this planning application proposes a road entrance onto the R172 which would represent a traffic hazard in terms of Garda collision data, limited sightlines for such a large scheme and the speeds at which the road is travelled by vehicles with pedestrians at risk.

- There is a **substantial planning risk** that this planning application proposes parking and traffic levels pertaining to cars and vans which are contrary to national, regional, and local climate, planning, transport and energy policies.

- There is a **substantial planning risk** that this planning application proposes the excessive excavation and topographical changes to the site and the site's entrance and access roads.

- There is a **substantial planning risk** that this planning application will cause significant injury to the Dundalk Bay SAC and SPA which would be contrary to European ,national and local planning and environmental policy and the proper planning and sustainable development of the area.

- There is a **substantial planning risk** that this planning application proposes an insufficient mix of uses which will fail to create a sustainable neighbourhood at this location and/or provide future residents with sufficient amenities and facilities such as shops, restaurants, community facilities, etc.

- There is a **substantial planning risk** that this planning application proposes a wholly car-based scheme with no alternative modes of sustainable transportation reasonably available to residents.

Our client submits that following their assessment, the applicant planning application represents too high a risk of causing significant and negative impacts on the area, on the SAC and SPA, on other adjoining properties and on the area and would also risk providing only insufficient amenity to its proposed future residents, for LCC to consider granting planning permission.

11.0 Recommendation

Arising from the above, BPS recommends that LCC refuse planning permission for the reasons given in Section 11.1 of this Planning Appeal Report.

BPS is aware that LCC cannot request further information at this stage. We would often recommend changes by way of condition. However, we consider this impossible in this case. The revisions necessary to make this scheme acceptable would be so significant that they cannot be conditioned. We therefore recommend a straight refusal.

11.1 Recommended reasons for refusal

Our client submits that the proposed development should be refused for the following reasons:

1. The site was downzoned under the Dundalk Local Area Plan 2025-2031 formally adopted by resolution at a Council Meeting on Thursday, March 6, 2025. It has been available for inspection from Wednesday, April 16, 2025. The Dundalk Local Area Plan 2025-2031 supersedes the Louth County Development Plan 2021-2027 as regards the zoning of the subject lands. In planning terms, the subject site has been identified by the Louth County Council under the Local Area Plan (2025 – 2031) as L1 – Strategic Reserve. The site zoning policy includes the objective: "To provide a land reserve for the orderly expansion of the settlement into the future". Section 13.21.27 'L1- Strategic Reserve' of the adopted LAP sets out 'Guidance' which states: "These are strategically located lands that will generally not be available for development until after the expiration of this Plan". The proposed development would represent a material contravention of the Local Ardea Plan and would therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the Louth County Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Eireann, the Board was not satisfied a sufficiently developed commitment and specific timeframe has been provided that demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard to the existing deficiency in the capacity of sewerage facilities, which would set an undesirable precedent for other similar developments in the surrounding area and would, therefore, be contrary to the proper planning and sustainable development of the area.

   Note: The wastewater connection.to the north as proposed by the developer would add flows to the Coe's Road pumping station which does not have capacity for the development. Furthermore, Uisce Eireann estimated this capacity upgrade to be completed in 2030 (up from 2027). The estimated timeframe for the required upgrade is not substantiated by demonstrable commitments from Uisce Eireann and, in the absence of this and there being no realistic alternative proposed by the applicant, the proposed development would be premature by reference to the existing deficiency in pumping station capacity.

3. Dundalk Bay SAC and SPA are designated European sites as set out in the Louth County Development Plan 2021-2027. The area is documented as a habitat for several protected species and maintains conservation objectives. The proposed development would cause serious injury to a designated conservation area and would be contrary to both national planning policy and the current Dublin City Development Plan and the proper planning and sustainable development of the area.

4. The proposed development would cause overloading of the Coe's Road Wastewater Pumping Station and the Dundalk Waste Water Treatment Plant. Uisce Eireann has confirmed in its Annual Report that the WWTP discharges into Dundalk Bay SAC and SPA arising from overloading including during high rainfall and storm events. The proposed development would potentially and adversely further impact on these receiving waters in the absence of infrastructural upgrades. The proposed development is therefore, with or without a Combined Approach Assessment likely to adversely

impact the European sites and prejudice public health contrary to the proper planning and sustainable development of the area.

5. The parking, traffic and transport proposals are contrary to national climate policy, including the Climate Action Plan 2023 and the National Sustainable Mobility Policy (2022), as this is a car-based scheme dependant on an excessive quantum of unsustainable trips by car to as such as 73% of all trips by car for the proposed 502 units which are served by as many as 861 parking spaces. The proposals would be contrary to the proper planning and sustainable development of the area.

6. The applicant proposals provide for excessive parking spaces for cars and vans, for excessive trip numbers by car and van and for an unsustainable and energy inefficient scheme which is contrary to Strategic Objective SO 4, Strategic Objective SO 5, Objective Mov 7 and Objective MOV 9 of the Louth County Development Plan 2012-2027. The proposals would be contrary to the proper planning and sustainable development of the area.

7. The proposal fails to provide a safe road entrance onto the R172 and as such would represent a traffic hazard. The entrance is in Flood Zone A and has no adequate northern sightline when a bus is stopped at the bus stop. Insufficient land is available for the entrance to be properly designed and completed. The proposals would be contrary to the proper planning and sustainable development of the area.

8. Notwithstanding the submission of an Appropriate Assessment Screening Report and a Natura Impact Statement, the applicant has failed to demonstrate that, even with the myriad of mitigation measures proposed, the scheme would not significantly and adversely impact on the Dundalk Bay SAC and SPA. A careful review of the proposals finds many areas over which LCC cannot have confidence, while the Dundalk WWTP does not have the current capacity and needs upgrades (there have been many exceedances in effluent discharge limits - the additional load from the development is considered significant in this context), when all other recent grants of permission which will direct their sewage to it are taken into account, to accommodate this scheme in a manner that would not present risks to the SAC and SPA. Further, the proposals for surface water management and flood water management each involve direct discharges of water into the SAC and SPA which are not discharges whose contamination free status can realistically be permanently ensured as this is not a scheme in public ownership and/or one which will be subject to regulatory control into the future. Finally, the area is characterised by a myriad of large planning permissions in recent years all with large lists of mitigation measures such as that submitted in the NIS. The in-combination risks LCC is being asked to take are now at breaking point. The proposals are contrary to Table 8.1 Special Areas of Conservation (SACs) County Louth, Table 8.2 Special Protection Areas (SPAs) County Louth, Section 8.2.2 International, EU and Irish Policy on Biodiversity, Section 8.3 EUROPEAN SITES IN COUNTY LOUTH, Objective NBG 3, Objective NBG 4, Objective NBG 5, Section 8.9 'WETLANDS' and Section 11.5 'THE COAST' of the Louth County Development Plan 2021-2027. The proposals would be contrary to the proper planning and sustainable development of the area.

9. The proposed flood risk management proposal are contrary to Section 10.3 'Flood Risk Management', Table 10.1 'Areas for Further Assessment and their Associated Flood Risk Management Plan'; Table 10.2 'Flood Zone Type' and Section 1.7.4 'STRATEGIC FLOOD RISK ASSESSMENT (SFRA)' of the LCDP. The proposals would be contrary to the proper planning and sustainable development of the area.

10. The applicant seeks to carry out works to and/or to force surface and flood waters through private properties, including our client's. No permissions are in place for this. The purported 'eastern drainage channel' does not exist and there is no direct outfall to Dundalk Bay. The applicant is asking LCC to allow them to pipe surface water and flood waters from the site into private properties with no acceptance of the associated risks, including of not being able to obtain insurance in the future. The proposals would be contrary to the proper planning and sustainable development of the area.

11. The extent of topographical change proposed by way of cut and fill, excavation, road level changes, raising of house levels, digging out of massive attenuation tanks and detention basins, etc. cannot be supported under the Louth County Development Plan 2012-2027. The proposals would be contrary to the proper planning and sustainable development of the area.

12. The proposed development fails to fully address concerns to protect birds and bats and the scheme will likely cause significant adverse impacts on these species, including arising from the scale of excavation works proposed, the tree losses proposed, etc. The proposals would be contrary to the proper planning and sustainable development of the area.

13. The proposed development fails to fully address Section 13.12.1 as it pertains to adequate childcare places in creches for new schemes and to site the proposed creche in an appropriate location away from a sewage pumping station and on A1 zoned lands. The proposals would be contrary to the proper planning and sustainable development of the area.

The development proposes a substandard quality of public and communal open space arising from the quantum, of attenuation and detention basin measures which is contrary to the policies and objectives of the current Louth County Development Plan and would, in itself and by the precedent established for substandard provision of public open space, cause serious injury to the residential amenities of the area and, therefore, would be contrary to the proper planning and sustainable development of the area.

11.2 Revisions required to the zoning and the proposals in a new planning application

In light of the above, BPS notes that the following revisions to the scheme would be required in any new planning application:

1. The lands need to be re-zoned.
2. A 5 year planning application only should be provided.
3. Confirmation is required from Uisce Eireann that all necessary foul water infrastructure upgrades have been completed.
4. A revised EIAR for a new scheme is required.
5. Permissions for all works on lands not owned by the applicant should be provided.
6. A reduction in density given the surface water attenuation and flood risk concerns.
7. No surface, storm, or flood waters should pass from the scheme into our client's property including via any purported route which could forcibly pass through their property.
8. The entrance to the scheme should be relocated out of Flood Zones A and B.
9. The scheme should provide concrete evidence that no more than 45% of trips will be taken by car. This may mean allowing only 1 parking space or less per unit.
10. All construction stage reports need to be complete and fully detailed as to all measures given the need to protect the SAC and SPA. An independent assessment is needed regarding Appropriate Assessment. Reasons why Stage 4 should not apply needs to be discussed.
11. Consultation with the NPWS is required.
12. Less trees should be removed.
13. Bats and birds should be better protected.

Signed:

Brendan Buck

BPS Planning Consultants LTD
Members of the Irish Planning Institute
2 July 2025

Appendix 1: Copies of legal submissions made to Louth County Council regarding the need for the applicant to obtain consent for development on lands owned by Aoife and John Henry

Donal O'Hagan & Co. LLP

DONAL P. O'HAGAN M.A., LL.B.
NIALL O'HAGAN B.A. (MOD.)
RORY O'HAGAN LLB.

CONSULTANT
DON McDONOUGH

Solicitors,
Court House Square,
Dundalk,
Co. Louth, A91 YWN1,
Ireland

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e-mail (first name)@ohagans.ie
HAYS DX 24 004 DUNDALK
V.A.T. No. F4606239A
LLP Registration No. 1262161
RBN Registration No. 461674

Our Ref. 7-949B/DPOH/AH
Your Ref. New

16th February 2024

BY e-mail ONLY

Dear Sirs,

Re: Planning Application No. 2360476 – Marina Quarter Limited ('MQL')
(Kingsbridge Consultancy Ltd. and
Donnachadh O'Brien & Associates Consulting Engineers)
Property : Haggardstown, Dundalk.
Our Client/Registered Owner: Mrs. Aoife Henry - Folio LH42319F
Property - Mountain View House, Blackrock, Co. Louth, A91 N923

We refer to the Zip file of Docs attached and hereafter refer individually to them as Doc 01 etc.

During the course of the above Planning Application – Docs 01 + 02 came to our Client's attention – in particular Doc 02 which while pointing out that Louth County Council ('LCC') had not checked legal ownership and boundaries that nevertheless LCC was consenting to a Planning Application being made over property in the purported ownership of LCC as per Drawing No. 2268-DOB-XX-SI-SK-C-0010 dated Nov 22 ('Drawing 2268') attached thereto.

We refer to :

1. Docs 03 + 04 being our Client's Folio LH42319F + Filed Plan;
2. Doc 05 (prepared by our Client' Boundary Surveyors – Property Boundaries Ireland Ltd.) – which highlights the encroachment of areas shown on Drawing 2268 on our Client's property as shown on filed plan Doc 04.

In light of the above we would request LCC to immediately notify Donnachadh O'Brien & Associates Consulting Engineers and/or their Principal, MQL of the discrepancy and that the LCC letter of 15 Dec 2022 to them be corrected and clarified pointing out that LCC cannot consent to any application over any part of our Client's property as per the filed plan of her Folio.

We would be glad if you would kindly acknowledge receipt and confirm.

Yours faithfully,

Donal O'Hagan & Co. LLP

DONAL O'HAGAN & CO. LLP

The Secretary,
Louth County Council,
County Hall,
Millennium Centre,
DUNDALK,
Co. Louth, A91 KFW6
info@louthcoco.ie.

SCHEDULE – attachment

1. Zip file.

Comhairle Contae Lú
Louth County Council

Brigid O'Donnell
Kingsbridge Consultancy Ltd
1st Floor, Block 1
Quayside Business
Drogheda
CO LOUTH

RECEIVED
22 MAY 2019

2nd May 2019,

Re: Planning Application Consent for Lands at Blackrock Road to facilitate road and surface drainage works for the site at Blackrock Road/Bóthar Maol. Dundalk, Co Louth.

A Chara

I refer to the above matter and wish to advise that Louth County Council consents to the making of a planning application on lands in its ownership at Blackrock Road, Dundalk, Co Louth, as per Site Location Map Drawing No. ENG 002 Rev. No. C, dated September 2018.

Please be advised that nothing contained herein shall constitute or be construed as a contract or memorandum of same to the satisfaction of the Statute of Frauds (Ireland) Act, 1965. No binding agreement shall come into existence until such time as contracts in duplicate are agreed, executed, exchanged, returned and full contract deposit paid and accepted.

Is mise le meas

Alan Sherry
Senior Executive Officer

Comhairle Contae Lú
Halla an Chontae
Ionad na Mílaoise
Dún Dealgan
Contae Lú
A91 KFW6

Louth County Council
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Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome

Louth CC Planning Department - Viewing Purposes Only

Louth CC - Planning Department - Viewing Purposes Only

N

01/02 Site Location - Red Line Boundary 1:2500

O.S. SHEET No. 1702-D

COPIED UNDER ORDNANCE SURVEY LICENSE No. AR0048711

fmn design

002 C

Site Location Map

eng

Planning Permission

1703

Comhairle Contae **Lú**
Louth County Council

RECEIVED: 21/11/2023

Paul Doyle
Donnachadh O'Brien & Associates Consulting Engineers
Unit 5C
Elm House
Millennium Park
Naas
Co Kildare

15th December 2022

Re: Consent to make a Planning Application for an LRD at Haggardstown, Dundalk, Co Louth by Marina Quarter Limited. The scheme proposes to carry out works on lands taken in charge at R172 Blackrock Road and Finnabair Crescent where it is proposed to lay a new pumped wastewater main and a water main.

A Chara

I refer to the above matter and wish to advise that Louth County Council consents to the making of a planning application on lands in its ownership at R172 Blackrock Road and Finnabair Crescent, as per attached Drawing prepared by Donnacha O'Brien & Associates Consulting Engineers, Drawing Number 2268-DOB-XX-SI-SK-C-0010 dated Nov 22

No folio or registration search has been carried out on the area in question by Louth County Council. The onus is on the applicant to confirm all lands in question for which consent is sought are in the ownership or fall under the designated regulatory authority of Louth County Council. Consent is only being given subject to the understanding that a thorough and complete check has been carried out by the applicant, and only for lands which can later be verified by the applicant as in the ownership or under the responsibly of Louth County Council.

Louth County Council gives its consent as land owner and not as a Planning Authority. Nothing herein should in any way limit the exercise by the Council of its statutory responsibilities as a Planning Authority and should not be taken as an indication of what the Planning Authority's views might be in respect of this proposed development.

Is mise le meas

Joe McGuinness
Director of Services

Comhairle Contae Lú
Halla an Chontae
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Féach foláirimh faoi Lú ón gComhairle ag www.mapalerter.ie/Louth
View Council alerts for Louth at www.mapalerter.ie/Louth

Louth County Council Planning Department - Viewing Purposes Only

RECEIVED: 21/11/2023
Louth CC, Planning Department - Viewing Purposes Only

Land Registry

County Louth — Folio 42319F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	For parts transferred see Part 1(B) Description	Official Notes
1	The property shown coloured Red as plan(s) DV6HB, DV6HC on the Registry Map, situate in the Townland of HAGGARDSTOWN, in the Barony of DUNDALK UPPER, in the Electoral Division of HAGGARDSTOWN. The Registration does not extend to the mines and minerals	From Folio LH26287F
2	The property shown coloured Red as plan(s) DV6HE on the Registry Map, situate in the Townland of HAGGARDSTOWN, in the Barony of DUNDALK UPPER, in the Electoral Division of HAGGARDSTOWN. The Registration does not extend to the mines and minerals	From Folio LH26287F

Land Cert Issued: No

Collection No.:

Land Registry

County Louth

Folio 42319F

Part 1(B) - Property

Parts Transferred

No.	Prop No:	Instrument:	Date:	Area(Hectares):	Plan:	Folio No:

Land Registry

County Louth

Folio 42319F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	10-JAN-2020 AOIFE HENRY of Mountain View House, Blackrock, County Louth, D2020LR005995E A91 N923 is full owner.

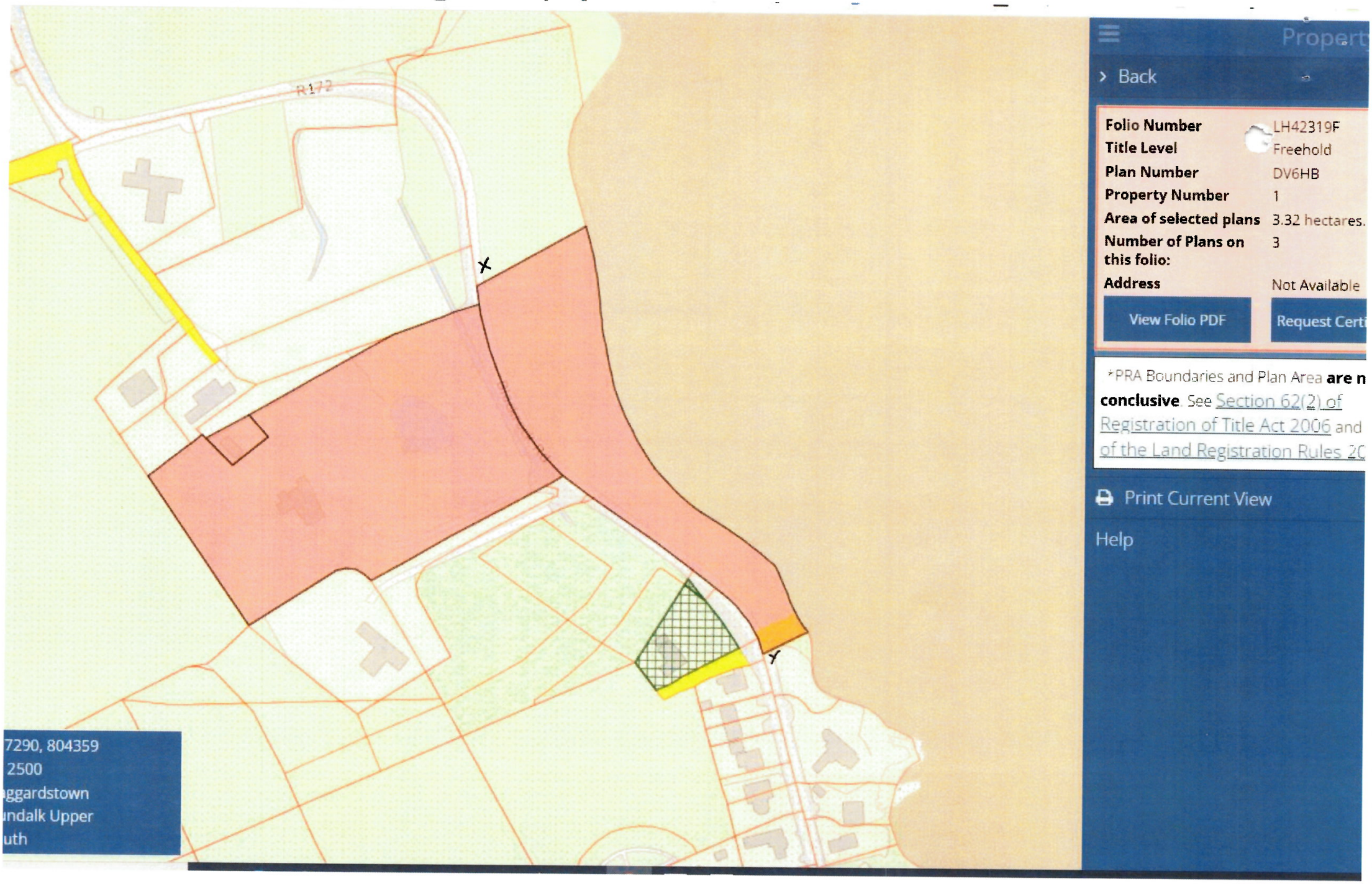
Land Registry

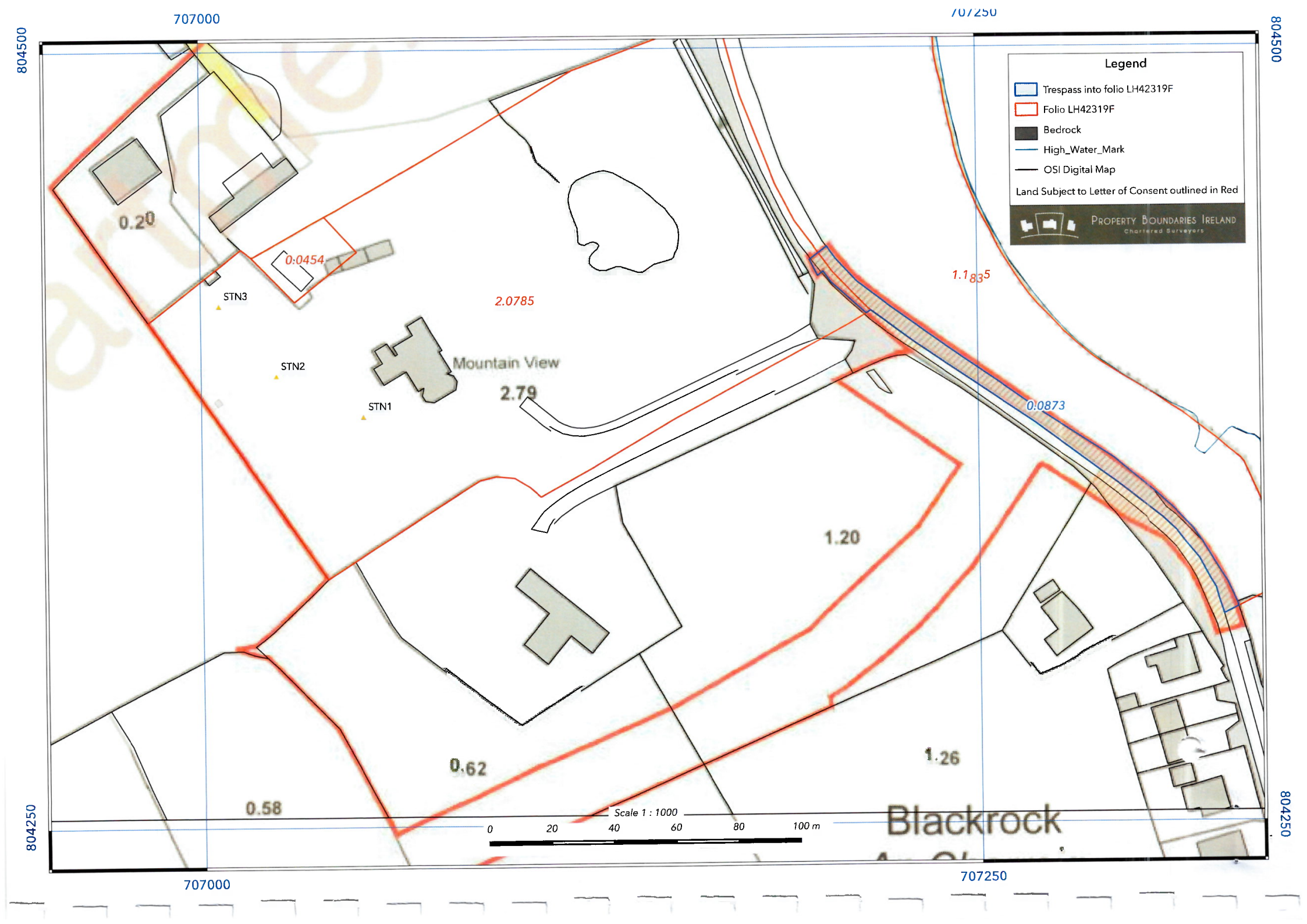
County Louth

Folio 42319F

Part 3 - Burdens and Notices of Burdens

No.	Particulars	
1	07-MAY-2003 D2003CS003671B	The wayleave and such other easements as specified in Instrument no. D2003CS003671B in favour of Joseph McGinnetty the registered owner(s) of the property comprised in folio LH9971F, his heirs and assigns and others as specified therein affecting the part of the property no.2 shown coloured yellow on Plan DV6HE of the Registry Map(O.S. 7/15)
2	10-JAN-2020 D2020LR005995E	The easements rights and privileges specified in Instrument Number D2020LR005995E in favour of Lelia McKenna the registered owner of folio LH26287F as specified therein.


R172
X
Y
7290, 804359
2500
ggardstown
ndalk Upper
uth
Propert
Back
Folio Number LH42319F
Title Level Freehold
Plan Number DV6HB
Property Number 1
Area of selected plans 3.32 hectares.
Number of Plans on this folio: 3
Address Not Available
View Folio PDF
Request Certi
*PRA Boundaries and Plan Area are n
conclusive. See Section 62(2) of
Registration of Title Act 2006 and
of the Land Registration Rules 20
Print Current View
Help


707000
707250
804500
804250
Legend
Trespass into folio LH42319F
Folio LH42319F
Bedrock
High_Water_Mark
OSI Digital Map
Land Subject to Letter of Consent outlined in Red
Property Boundaries Ireland
Chartered Surveyors
0.20
0:0454
2.0785
1.1835
STN3
STN2
STN1
Mountain View
2.79
0:0873
1.20
0.62
1.26
0.58
Scale 1 : 1000
0
20
40
60
80
100 m
Blackrock

Donal O'Hagan

From: Customer Services <crmagent@louthcoco.ie>
Sent: Sunday 18 February 2024 20:01
To: Donal O'Hagan
Subject: Re: [CASE:377951] Aoife Henry - Blackrock

A Chara

Thank you for using info@louthcoco.ie. Your query has been recorded and given the above case number.

We will email you when your query is assigned to the relevant department, giving you details of who will be dealing with it.

Regards

Louth Co Co

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****PLEASE DO NOT REPLY TO THIS EMAIL, THIS IS AN AUTOMATED RESPONSE****

A Chara

Go raibh maith agat as úsáid a bhaint as info@louthcoco.ie. Tá do cheist taifeadta againn agus tugadh an uimhir cháis thuasluaite dó.

Cuirfimid ríomhphost chugat nuair a shanntar do cháis go dtí an roinn ábhartha, ag tabhairt le fios cé a bheidh ag déileáil leis.

Ní dhéantar monatóireacht ar ríomhphoist ach le linn ár n-uaireannta oifige. I gcásanna práinneacha, a tharlaíonn lasmuigh d'uaireannte oifige, cuir glaoch ar an bhfoireann lasmuigh d'uaireannta oifige ar an uimhir theileafóin thíos.

Teileafón: **042-9335457**

Lean **@louthcoco.ie** ar Twitter le haghaidh réimse leathan d'eolas ar gníomhachtaí agus imeachtaí na comhairle.

Is féidir leat ár seirbhisí uilig a fheiceáil ag **www.louthcoco.ie**

****Ní chóir duit freagra a thabhairt ar an ríomhphost seo, is freagra uathoibrithe é seo****

On 18/02/2024, 19:59, Donal OHagan wrote:

> Dear Sirs,
>
> Please see attached.

We look forward to hearing from you.

Regards,

Donal O'Hagan,

Donal O'Hagan & Co. LLP,

Solicitors, Court House Square,

Dundalk, Co. Louth, A91 YWN1.

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Le do thoil cuimhnigh ar an imshaol roimh priontáil an ríomhphost seo. Tá an ríomhphost seo (agus aon iatán a ghabhann leis) príobháideach agus rúnda agus d'fhéadfadh go mbeadh eolas inti atá faoi phribhléid dlíthúil. Ní ceadmhach úsáid an ríomhphoist seo d'éinne ach don té ar seoladh chuige é. Munar duit an ríomhphost seo nó an té atá freagrach as é a sheoladh, tá cosc ar chóipeáil agus ar sheachadadh an ríomhphoist seo agus aon iatán a ghabhann leis chuig éinne nó úsáid a bhaint as a bhfuil ann; ní ceart an ríomhphost seo nó aon iatán a léamh. D'fhéadfadh do mbeadh cosc iomlán dlíthiúil ar sceitheadh nó comhfhreagras nó aon úsáid eile gan chead ar a bhfuil sa ríomhphost seo agus d'fhéadadh sé a bheith ina chion coiriúil.

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Donal O'Hagan & Co. LLP

DONAL O'HAGAN M.A., LL.B.
NIALL O'HAGAN B.A. (MOD.)
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AILBHE O'HAGAN B.A. (Hons.)

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V.A.T. No. F4606239A
LLP Registration No. 1262161
RBN Registration No. 461674

Our Ref. 7-949B/DPOH/AH
Your Ref. Case No. 377951

11th March 2025

BY e-mail ONLY

Dear Sirs,

Re: Planning Application No. 2360476 – Marina Quarter Limited ('MQL')
(Kingsbridge Consultancy Ltd. and
Donnachadh O'Brien & Associates Consulting Engineers)
Property : Haggardstown, Dundalk.
Our Client/Registered Owner: Mrs. Aoife Henry - Folio LH42319F
Mr. John Henry
Mountain View House, Blackrock, Co. Louth, A91 N923

We refer to the Scheduled item being ZIP 250311 and to our letter of 16 Feb 2024 + ZIP with it [the letter is Doc 001 in ZIP 250311] + the Documents attached thereto which we again attach with updates and refer individually to them as Doc 001 etc.

While allocated the Case No. Reference above [Doc 06 in ZIP] we do not appear to have received a response to our letter of 16 Feb 2024 [Doc 001 in ZIP] and would be glad to hear from you.

Our Clients note :

1. Application Reference 252 for extension of Planning Permission Ref. 19/590 (ABP-304782-19) has been refused on 7 Mar 2025.

2. The Land is currently re-zoned to Strategic Reserve.

3. MQL have applied to Louth County Council ('LCC') for 1st pre-consultation meeting with view to a new planning proposal.

Our Clients concerns are [Doc 12, 13, 14, 15, 16 + 17 in ZIP] :

1. That our Clients boundaries on Folio LH42319F [Docs 03, 04 + 05 in ZIP] + the adjustments in respect of which they have been in very long possession be acknowledged.

2. That it be noted that they do not consent to any encroachments on their property [Docs 01 + 02 in the ZIP]

3. That there may be a misunderstanding by MQL over a consent given to them LCC which, though couched, was a consent by LCC over what was part of our Client's property [Docs 01 + 02 in the ZIP]

4. A request that LCC take cognisance of the legal boundaries of our Client's property in respect of any new application by MQL or anyone else – this being particularly relevant for any pre-planning consultation that the Applicant has actual legal title or any necessary consents over the property on which he is seeking to develop.

5. We refer to the Map of our Client's property [04 in ZIP] with some mapping rectification needed (the physical boundaries are in order). Of immediate present concern is the 'Blackrock Road' (as marked on Map – the R172) which passes through it. Clearly the R172 is in charge of the Local Authority. The question is – for the distance that the R172 passes through our Client's Folio LH42319F [03 in ZIP] - what is the extent of the roadway in charge of the Local Authority i.e. the width and depth of the area in charge and if same could be shown by reference to a map with precise specifications [Docs 17 + 18 in the ZIP]?

Our Clients have engaged Property Boundary Specialists – Property Boundaries Ireland Limited (Dr. W. P. Prendergast), Dublin. We would suggest that agreement on boundaries would need liaison between the specialists for any interested parties.

We look forward to hearing from you generally.

Yours faithfully,

DONAL O'HAGAN & CO. LLP

The Secretary,
Louth County Council,
County Hall,
Millennium Centre,
DUNDALK,
Co. Louth, A91 KFW6
info@louthcoco.ie.
Joanna.Kelly@louthcoco.ie
David.Hall@louthcoco.ie

SCHEDULE – attachment

1. ZIP 250311 - updated to 11 Mar 2025.

Louth County Council

County Hall

Millenium Centre

Dundalk

A91 KFW6

Mountain View

Blackrock Rd

Blackrock

A91 N923

11th March 25

Dear Louth County Council / Senior Planning Department

Land Ownership

We feel it is imperative at this stage to establish our land ownership with LCC outside of the planning process. We refer to past planning applications; 304782–19, 2360330 and 2360476. We have attempted to present our land ownership on several occasions in light of the proposed Glenveigh developments. Our folio detail LH42319F was sent to LCC on 16.02.24 with an associated zip file by our solicitor (LCC Case Ref:377951, to which we had no reply). In addition to this, detailed reference has been made to our land ownership and folio by BPS planning consultants within our objections to planning numbers 2360330 and 2360476 please refer.

We note on previous Glenveigh planning applications and maps that LCC have 'taken in charge' section/parts of the maps. We haven't had any discussions with LCC about this. We would like to fully understand this process, perhaps a meeting on the ground to walk/discuss our boundaries and the 'taking in charge' process would be helpful, so that all parties are clear about definite boundaries/land ownership and 'taking in charge'.

Going forward, it would be a fair process if one set of land ownership maps were referred to by all parties involved in any further proposals, so that boundaries are agreed from the outset so there is no room for confusion within the planning process.

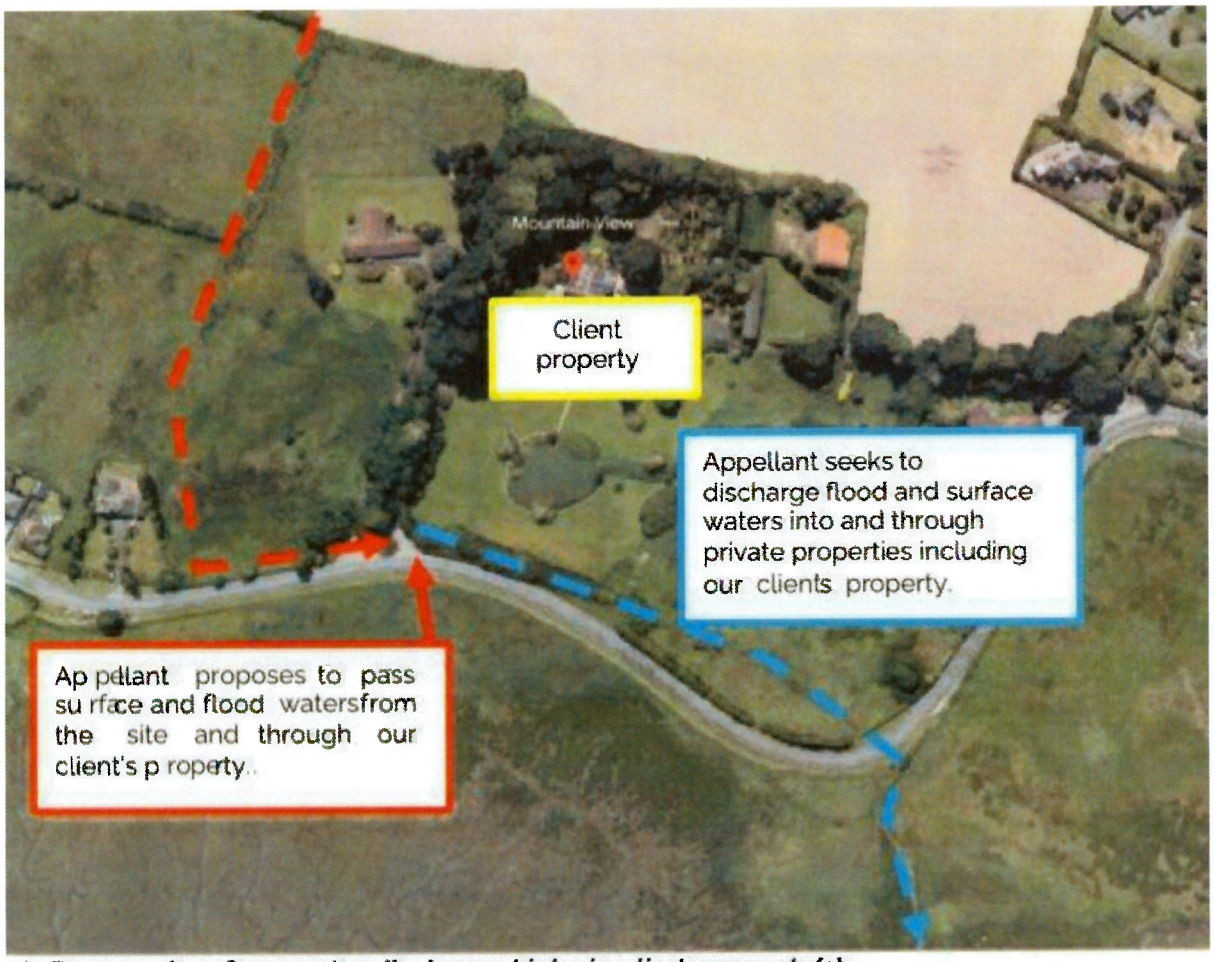
We trust that from now on, our folio/land ownership will be clearly presented at any further pre-consultation meetings in relation to any new development proposal which may try to involve our folio at this location.

We look forward to an acknowledgement /receipt of this letter and response in due course.

Your sincerely,

Aoife & John Henry

Attached please find excerpts from various previous planning applications by Glenveigh where we feel our land ownership is not being conside red
We would prefer that all these issues are addressed at pre consultation stage of any future proposal.



7A: Proposed surface water discharge l inkvia client property(1)

Fig. 27B: De facto proposal to convert client property into a surface/flood water discharge point and drainage channel for the scheme (2)

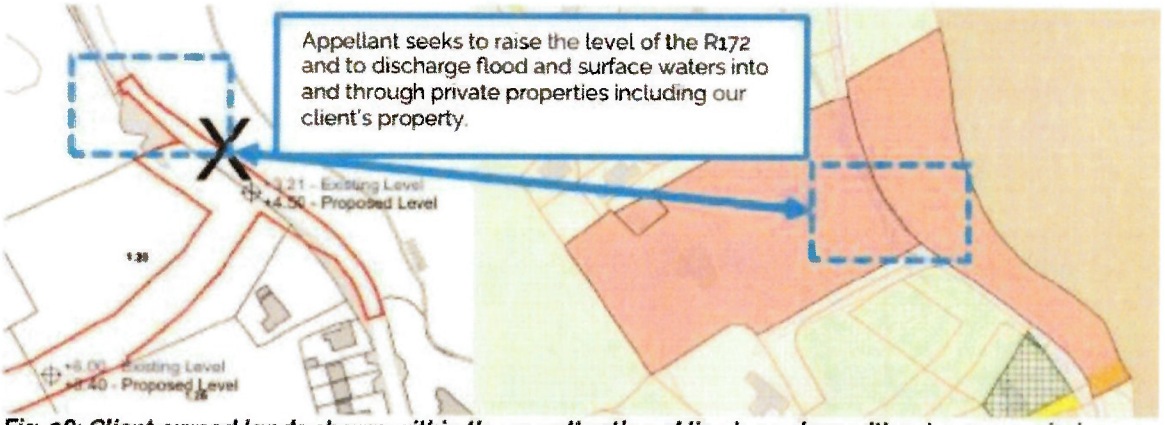


Fig. 28: Client owned lands shown within the appellant's red line boundary without any permission

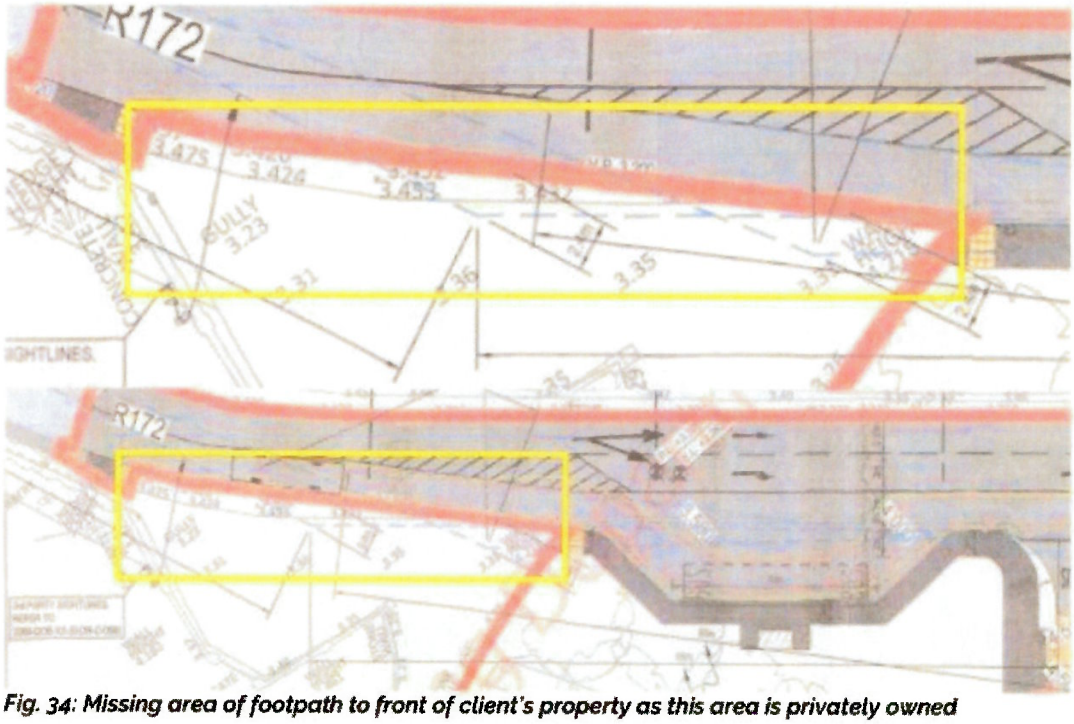
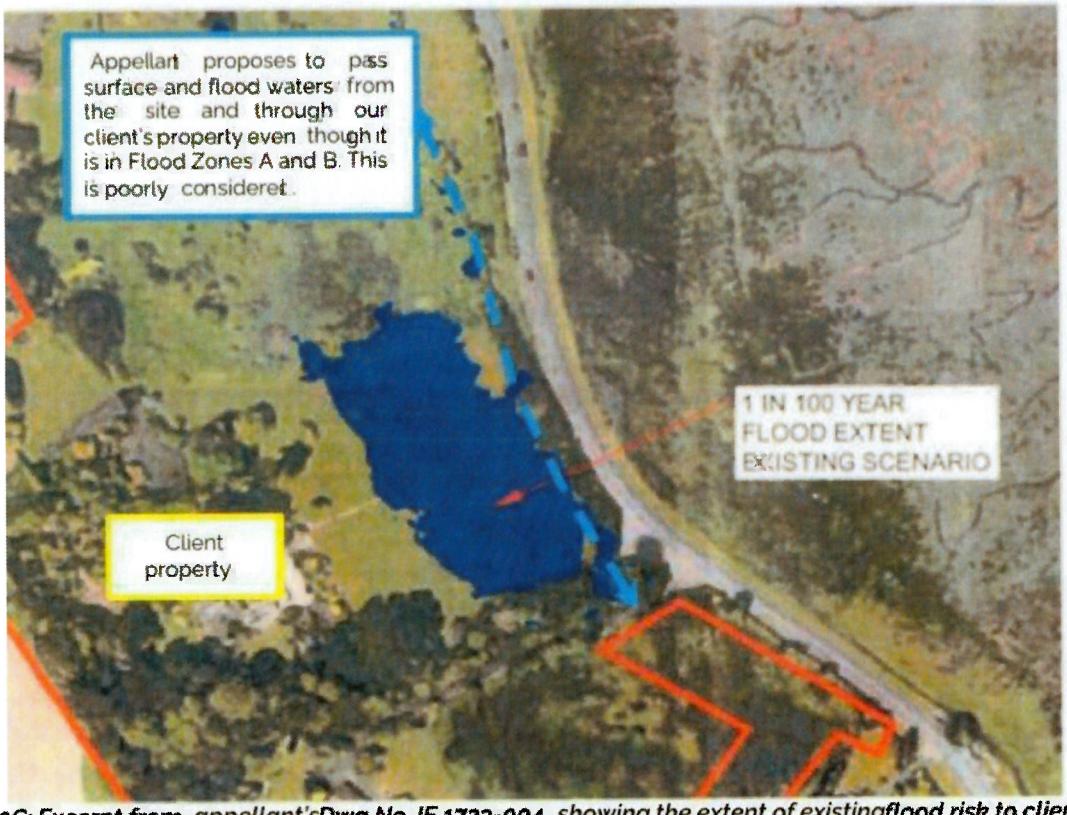


Fig. 34: Missing area of footpath to front of client's property as this area is privately owned

ɔB: Excerpt from appellant's DwgNo. IE 1723-003 showing the extent ofexisting floodrisk to client ɪrty without the appellant scheme discharging flood water and surface water into their property



ɔC: Excerpt from appellant'sDwg No. IE 1723-004 showing the extent of existingflood risk to client ɪrty without the appellant scheme discharging flood water and surface water into their property

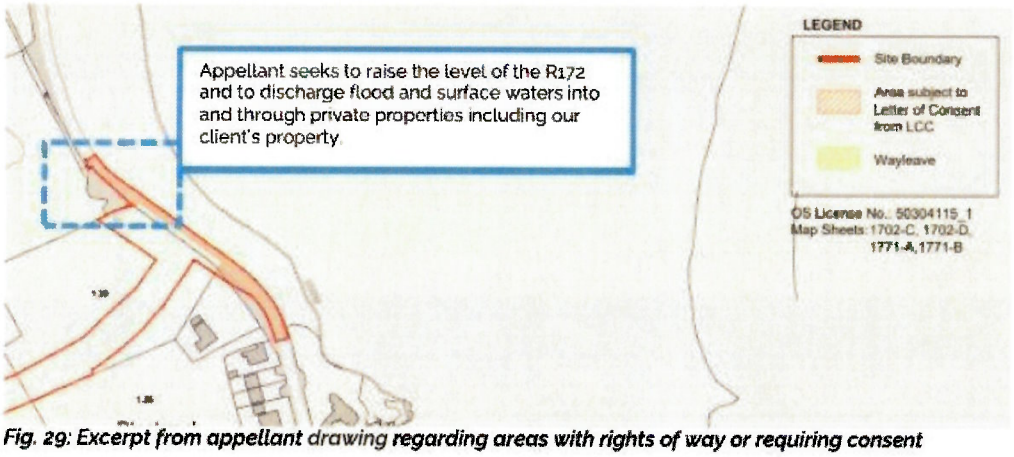


Fig. 29: Excerpt from appellant drawing regarding areas with rights of way or requiring consent

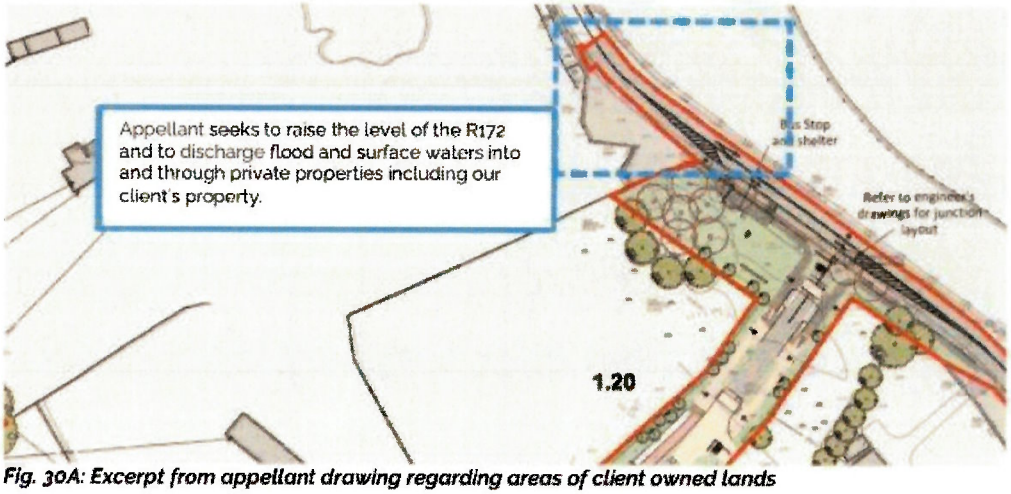


Fig. 30A: Excerpt from appellant drawing regarding areas of client owned lands

REV. NO.	DESCRIPTION	DATE	INITIALS
A	Issued for Planning	May 2019	T.Finn

finn
DESIGN PARTNERSHIP
CREATIVE • INNOVATIVE

30 Fair Street, Drogheda, Co. Louth, Ireland
t 041 9877100 041 9877200 e info@finnde w www.finn.ie

DRAWING NO: 004 REV NO: A

ENG

TITLE: Proposed Works on Lands within Louth Co Council Charge

PROJECT: Residential Development @ Haggardstown, Blackrock, Dundalk, Co. Louth

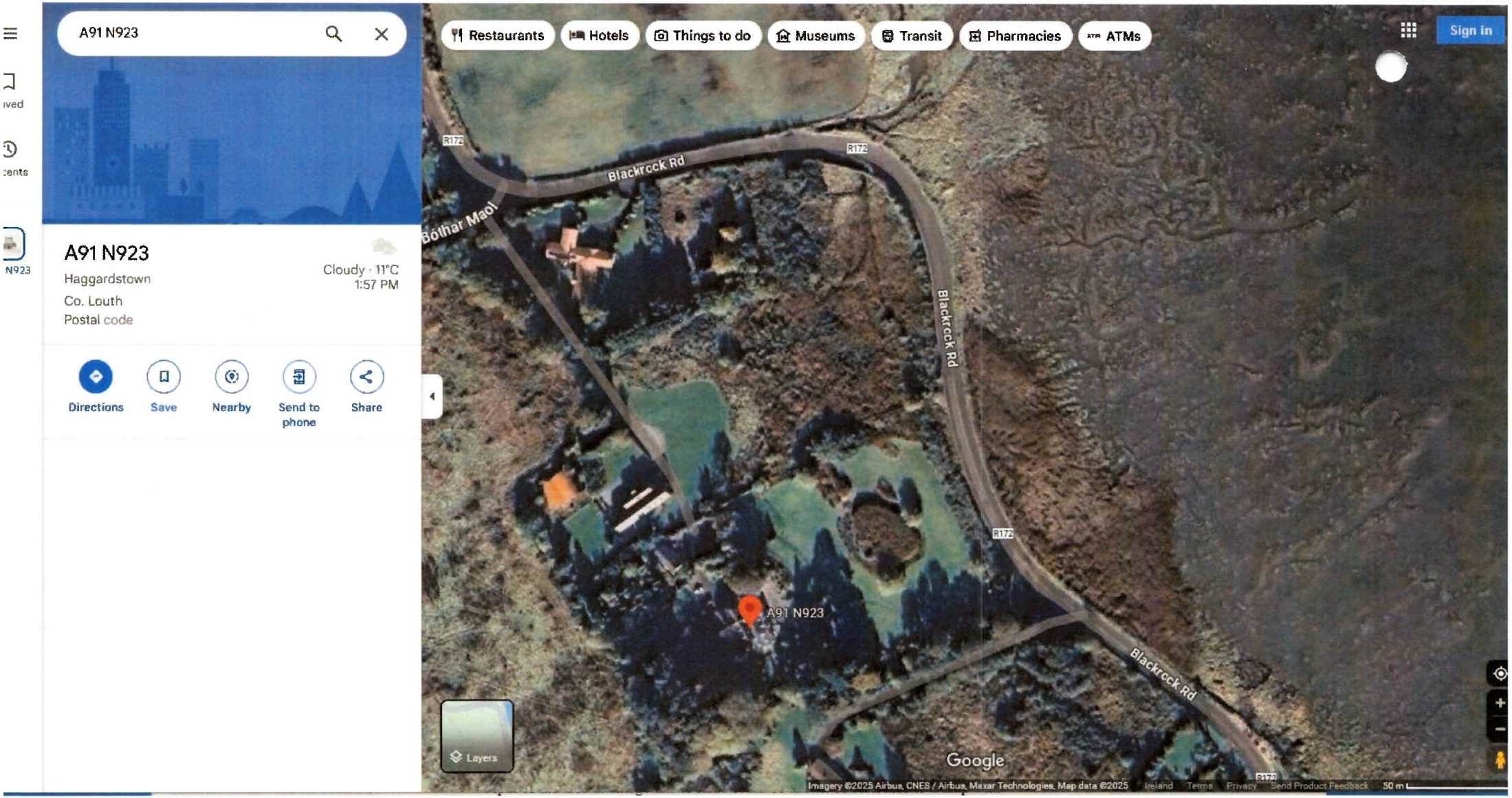
CLIENT: Kingsbridge Consultancy Ltd 1st Floor Block 1, Quayside Business Park Dundalk, Co Louth

SCALE:	1:1000	DRAWN:	-
DATE:	May 2019	CHECKED:	P.Coyle

STATUS: Planning Permission

JOB NO: 1703

NOTES:


A91 N923
Restaurants
Hotels
Things to do
Museums
Transit
Pharmacies
ATMs
Sign in
A91 N923
Haggardstown
Co. Louth
Postal code
Cloudy · 11°C
1:57 PM
Directions
Save
Nearby
Send to phone
Share
Blackrock Rd
Bóthar Maol
R172
A91 N923
Layers
Google
Imagery ©2025 Airbus, CNES / Airbus, Maxar Technologies, Map data ©2025
Ireland
Terms
Privacy
Send Product Feedback
50 m

Donal O'Hagan

From: Donal O'Hagan
Sent: Tuesday 11 March 2025 20:03
To: Donal O'Hagan
Subject: FW: Planning references
Attachments: PastedGraphic-6.tiff; 0ca0fca0-863a-4a5c-aca5-378e8473e601.pdf; 3903077b-f725-4240-a2b0-a861fa85f71e.pdf

From: Paddy Prendergast <paddy@propertyboundaries.ie>
Sent: Wednesday 8 January 2025 17:16
To: aoife henry <aoife129henry@yahoo.co.uk>
Cc: Donal O'Hagan <donal@ohagans.ie>; John Jnr Henry <jhenry@johnhenrygroup.co.uk>
Subject: Re: Planning references

Hi Aoife,

Applications under the SHD directly to An Bord Pleanala were quite new when this was submitted, so I don't know whether the submission to Louth County Council was a requirements under SHD, or by way to keeping them in the loop for a development in their area.

I found that the drawings on the Louth County Council website matched the ones on the ABP website. I found a few reports from Atkins on the Louth County Council website, but these reports used the OMP and FDP drawings.

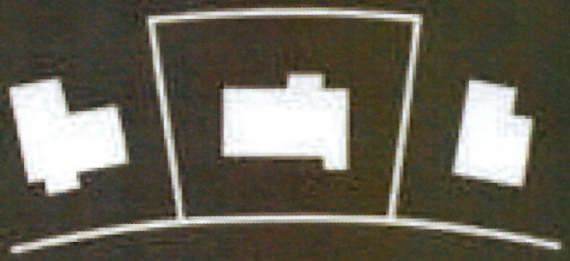
I found the two drawings attached for the roadworks. The report states that the height of the road was to be raised by 395mm (15.5 inches) for a distance of 158m. I measured the length of the altered roadway and got 150m so it runs from slightly north of your entrance to approximately the sign on the left hand side of the road on the way into Blackrock (at the bend). Raising the height by 0.4m will only extend the width of the road by a similar amount, but I would make the point that any attempt to extend the width of the existing roadway eastwards beyond the existing kerbing on the eastern edge of the road would mean encroaching into private property (your folio LH42319F) and the protected areas of the SAC and the SPA.

Kind regards,

Paddy

Dr W.P. Prendergast, BSc, PhD, FSCSI, FRICS,

Owner & Director
Property Boundaries Ireland Ltd,
12 Castleknock Manor, Dublin D15 C85D.
Tel: +353.87.7675767
Email: paddy@propertyboundaries.ie
Web: www.propertyboundaries.ie



PROPERTY BOUNDARIES IRELAND

Chartered Surveyors

NOTES:

MAXIMUM ROAD GRADIENT SHALL BE LESS THAN 1:20 (5%). IN CASES WHERE IT IS NECESSARY BECAUSE OF SITE TOPOGRAPHY GRADIENT HAVE BEEN INCREASED TO OF 1:12 (8.3%) FOR SHORT DISTANCES. ROADS WILL HAVE CROSS FALL OF 2.5%. ROAD LIMITED TO 50KM/HR.

INTERNAL ROADS INCLUDE RESTRICTIVE ROAD BENDS AND VERTICAL TRAFFIC CALMING MEASURES TO PROMOTE LOW VEHICULAR SPEEDS.

ROADS 1 AND 2 PROVIDE THE MAIN ACCESS AND EGRESS TO ALL THE REMAINING STREETS INCLUDING HOME ZONES.
A COMBINATION OF VERTICAL DEFLECTIONS, FOOTPATHS TO BOTH SIDES, SHARED SURFACES (RAISED AND COLOURED) AND STREET PLANTING WILL PROVIDE THE PERCEPTION OF A NARROW STREET.
THE VERTICAL DEFLECTION ON ROAD NO 2 IS DESIGNED ACCORDING TO THE TRAFFIC MANAGEMENT GUIDELINES (DTTAS 2012) AND WILL CONSIST OF RAISED SPEED CUSHIONS BETWEEN THE INSET KERBS TO SLOW TRAFFIC.

THE STREET LAYOUT PROVIDES PERMEABILITY FOR PEDESTRIANS AND CYCLISTS ALONG STREETS AND THROUGH OPEN SPACES.

MEASURES HAVE BEEN INCLUDED TO REDUCE THE DOMINANCE OF THE VEHICLES IN FAVOUR OF PEDESTRIANS AND CYCLISTS.

STREET TREES WILL PROMOTE A SENSE OF ENCLOSURE ON ALL ESTATE ROADS HAVING A TRAFFIC CALMING EFFECT AND WILL ALSO ACT AS A BUFFER TO TRAFFIC NOISE AND POLLUTION.
LOWER PLANTING WILL BE USED IN VERGES AND BEDS ADJACENT TO THE ROADS.

STREET LIGHTING HAS BEENN DESIGNED IN ACCORDANCE WITH BS5489 CLASS 4 AND INCLUDES LED LUMINAIRES ON STANDARDS.

TACTILE PAVING WILL BE PLACED ON THE FOOTPATHS AT ALL CROSSING POINTS AND JUNCTIONS IN COMPLIANCE WITH SECTION 13.3 OF THE TRAFFIC MANAGEMENT GUIDELINES (2003).

SIGNAGE AND LINE MARKING THROUGHOUT THE ESTATE WILL BE IN ACCORDANCE WITH THE DEPARTMENT OF TRANSPORT TRAFFIC SIGNS MANUAL (2010).
JUNCTION DESIGN

DESIGN OF THE JUNCTIONS ARE BASED ON REDUCING VEHICLE SPEED THROUGH THE JUNCTIONS WHERE RESTRICTIVE SPEED KERB RADII OF 6.0M HAS BEEN PROVIDED BETWEEN LINK AND LOCAL ROADS AND 3M PROVIDED AT THE JUNCTIONS BETWEEN LOCAL ROADS AND HOME ZONES.

AUTOTRACK SWEPT PATH ANALYSIS BEEN COMPLETED FOR A NUMBER OF THE CRITICAL JUNCTIONS USING A REFUSE TRUCK WHERE THE RESULTS ARE INCLUDED IN DRAWINGS 1703-ENG-145 & 146.

THE SPEED LIMIT OF THE R172 PUBLIC ROADWAY IS 50KM/H WHERE IT ABUTS THE SITE WHERE IT IS TAKEN THAT THE SPEED LIMIT FOR BOTHAR MADI IS 30KM/H.

UNOBSTRUCTED VISIBILITY SPLAYS ARE PROVIDED AT MAIN ACCESS JUNCTIONS TO THE DEVELOPMENT FROM THE R172. SIGHT LINES OF 65.00M X 2.4 X 1.05 WILL BE PROVIDED IN ACCORDANCE WITH THE TECHNICAL NOTE PREPARED BY ATKINS DATED 8TH FEBRUARY 2018.

VISIBILITY SPLAYS HAVE BEEN ASSESSED FOR EACH PROPOSED JUNCTION BETWEEN THE ESTATE ROADS AND THE EXISTING PUBLIC ROADS ACCORDING TO DMURS 2013.

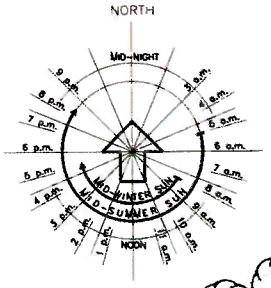
FOOTPATHS SHALL NOT BE LESS THAN 1.8M AND WILL BE PROVIDED THROUGHOUT THE DEVELOPMENT WHERE CONNECTIONS WILL BE PROVIDED TO TIE-IN TO EXISTING EXTERNAL PEDESTRIAN PATHS.

SHARED SURFACES WILL BE UTILIZED AT AT A NUMBER OF JUNCTIONS WITHIN THE HOME ZONES WHERE THE ROAD SURFACE WITH THE ZONES SHALL BE RAISED 75MM ABOVE THE CARRIAGEWAY WITH 1:15 RAMPS PAINTED WITH TRIANGULAR MARKINGS. DISTINGUISHING COLORED SURFACES WILL BE USED TO HIGHLIGHT SHARED SURFACE AND FLUSH KERBS WILL BE USED HELP MOVEMENT WITH THE AREAS.

DEDICATED PEDESTRIAN AND CYCLIST CROSSING POINTS ARE PROVIDED THROUGHOUT THE SCHEME AND AREA LOCATED TO PROVIDE THE SHORTEST ROUTE THROUGH THE DEVELOPMENT AND TO THE MAIN EXTERNAL ACCESS/CONNECTION POINTS.

ALL CROSSINGS ARE PROVIDED WITH EITHER DROPPED KERBS OR A RAISED FLAT TOP TREATMENT TO GIVE THE SENSE OF PEDESTRIAN/CYCLIST PRIORITY.

ALL INFORMAL PEDESTRIAN CROSSING FACILITIES ARE AT LEAST 2.0M WIDE.



Road Construction Thru Wetland Area
A low impact road building technique shall be used for the road construction through the wetlands area. It shall consist of Macadam wearing course, base course and roadbase on capping layer laid to crossfalls on geogrid matting on crushed rock on terram.

Construction shall be carried out in one phase at a time to avoid critical breeding and rearing seasons and when activities will have the least impacts on wetland habitat (e.g. winter or dry periods).

Erosion control measures shall be installed and maintained during the construction period.

Adequate drainage culverts (900mm Ø) shall be installed under the road construction to maintain water flows on either side of road construction.

All road drainage shall pass through silt trap and class 1 bypass separator prior to discharge to wetland area. (Ref to Drwg No 1703-ENG-110 RevA)

65.00m x 2.45m x 1.05m forward visibility splay at new entrance. Existing front boundary wall to to front of property shall be removed to achieve visibility.

2.0m wide pedestrian crossing raised 75mm above road surface with tactile paving at both ends.

3# vehicular entrances shall be provided from new access roadway into adjoining lands as shown.

Main entrance roadway to incorporate speed reducing measure where the horizontal width of the carriageway is reduced to 2.70m single carriageway. Narrowing to include vertical alignment change where a 75mm high ramp shall be provided at both ends.

Vertical alignment of existing road carriageway shall be raised as per longitudinal section Public Roadway R172. Carriageway shall incorporate new right turning lane with ghost islands as shown. New priority junction layout as per WS A... drawing no. 5161486 / HTR / SK / 009 ... Appendix A in Engineering & Services ...

Section of existing front boundary wall to adjoining residential property to be re-aligned to provided visibility splay for new entrance.

Road access point to adjoining residentially zoned lands to the South of the proposed development.

Refer to Drawing 1703-Eng-145 & 146 for Autotrack Analysis for Refuse Truck.

LEGEND:

- ROAD EDGE (IN-SITU KERB)
- FOOTPATH EDGE
- ROAD CENTRELINE
- ROAD CHANNEL LINE
- ROAD RAMP
- DROPPED KERB WITH TACTILE PAVING
- CORDUROY PAVING
- CAR DRIVEWAYS
- GFL 99.99 GROUND FLOOR LEVEL
- 1:40 / 6m ROAD GRADIENT
- ROAD DIMENSION
- PERMEABLE PAVING TO CAR PARKS 1-8
- ROAD SURFACE
- FOOTPATH SURFACE
- RAISED TABLE
- SHARED SURFACE - VEHICULAR (HOMEZONE)
- PARKING
- GRASS/PLANTING
- TACTILE PAVING

01 / 101 Entrance Road Layout (Road 1)
SCALE 1:500

REV. NO.	DESCRIPTION	DATE	INITIALS
A	Issued for Planning	May 2019	T.Finn

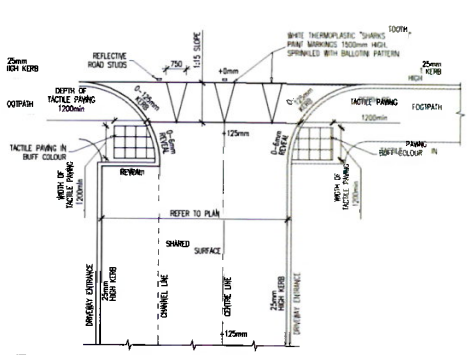
finn DESIGN PARTNERSHIP
Blakestown, Ardee, Co. Louth, Ireland
t 041 8857260 f 041 8857261 e info@finn.ie w www.finn.ie

DRAWING NO. 100 REV NO. A

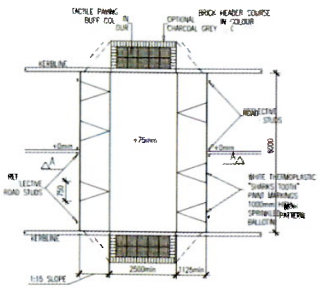
ENG

TITLE: Service Roadways & Pavings Main Entrance Roadway
PROJECT: Residential Development @ Haggardstown, Blackrock, Dundalk
CLIENT: Kingsbridge Consultancy Ltd 1st Floor Quayside Business Park Mill Street Dundalk Co Louth
SCALE: 1:500 @ A1 DRAWN: P.Coyle
DATE: November 2018 CHECKED: -
STATUS: Planning Permission
JOB NO: 1703

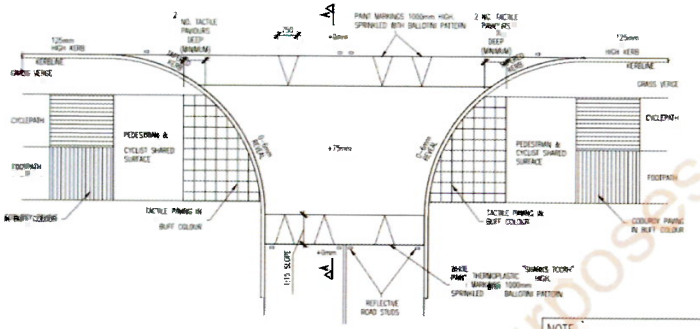
Louth County Council Planning Department - Viewing Purposes Only.



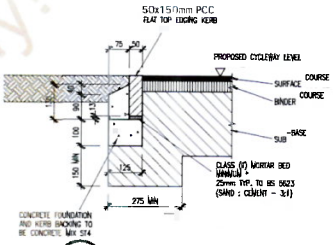
01 108 PLAN OF ENTRANCE TO SHARED SURFACE
SCALE 1:100



02 108 PLAN OF SPEED RAMP
SCALE 1:100

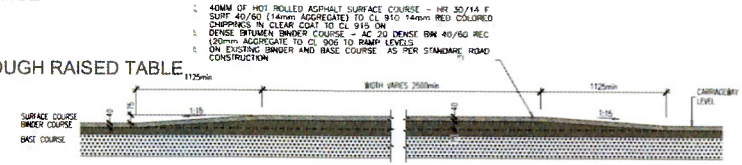


03 108 PLAN OF RAISED TABLE
SCALE 1.100

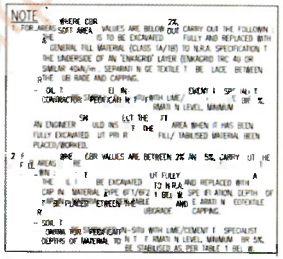


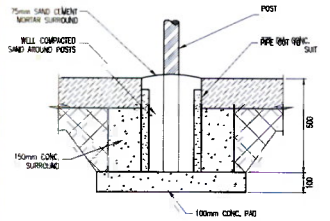
04 108 PIN KERB EDGING
SCALE 1:10

TABLE 1		
CAPPING/STABILISATION DEPTHS		
CBR	ROADS	CARPARK
2%	400	300
3%	300	200
4%	250	150

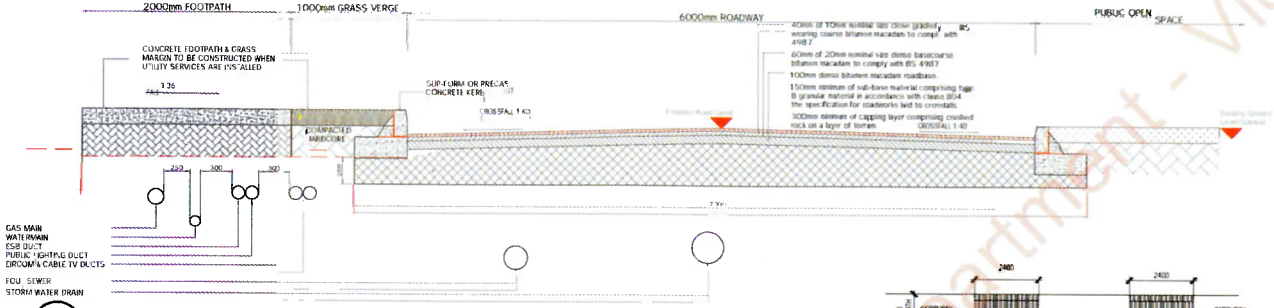


11 108 SECTION THROUGH RAISED TABLE
SCALE 1:25

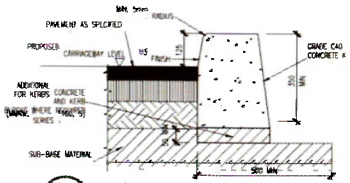




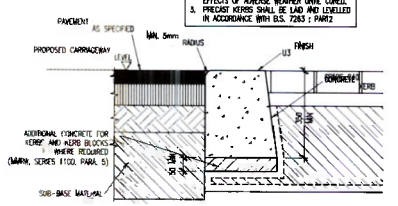
05 108 POST POCKET DETAIL
SCALE 1:50



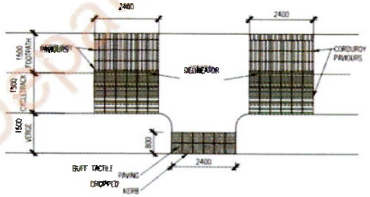
08 108 TYPICAL ROAD CONSTRUCTION SECTION
SCALE 1:25



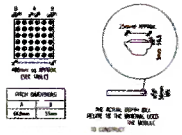
07 108 INSITU KERB DETAIL
SCALE 1:10



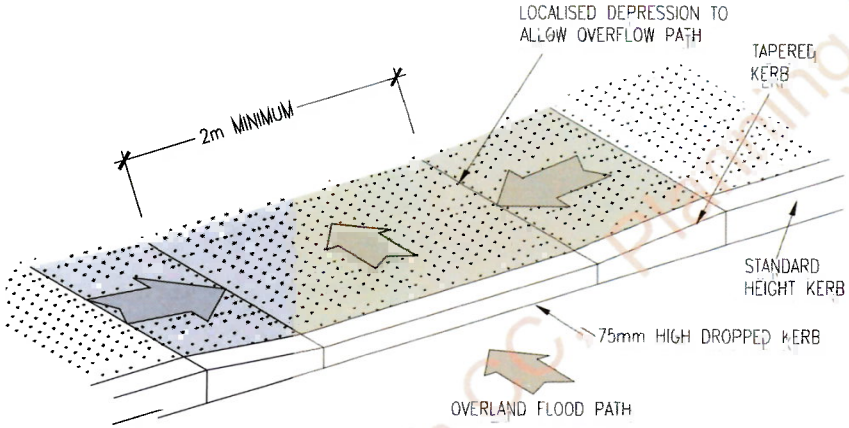
06 108 FLUSH KERB DETAIL
SCALE 1:10



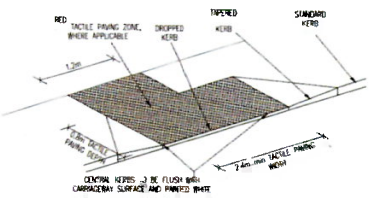
CORDUROY AND TACTILE PAVING
DETAIL AT UNCONTROLLED CROSSINGS
SCALE 1:100



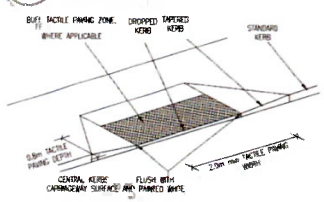
PROFILE & PLAN OF BLISTER SURFACE
N.T.S.



09 108 DROPPED KERB DETAIL
SCALE NTS

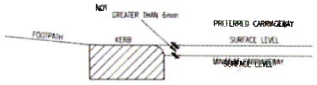


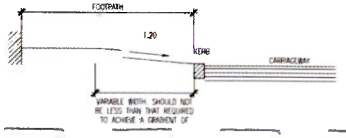
CONTROLLED DISHED
CROSSING WITH TACTILE PAVING
SCALE 1:50



10 108 TACTILE PAVING DETAILS
SCALE NTS

UNCONTROLLED DISHED
CROSSING WITH TACTILE PAVING
SCALE 1:50





REV NO	DESCRIPTION	DATE
A	Issued for Planning	May 2018

finn DESIGN PARTNERSHIP
Blakestown, Ardee, Co. Louth, Ireland
041 6857200 | 041 6857201 | info@finn.ie | www.finn.ie

109 A

Pavement, Raised Table Road Details

Proposed Residential Development at Higginstown, Dundalk, Co Louth.

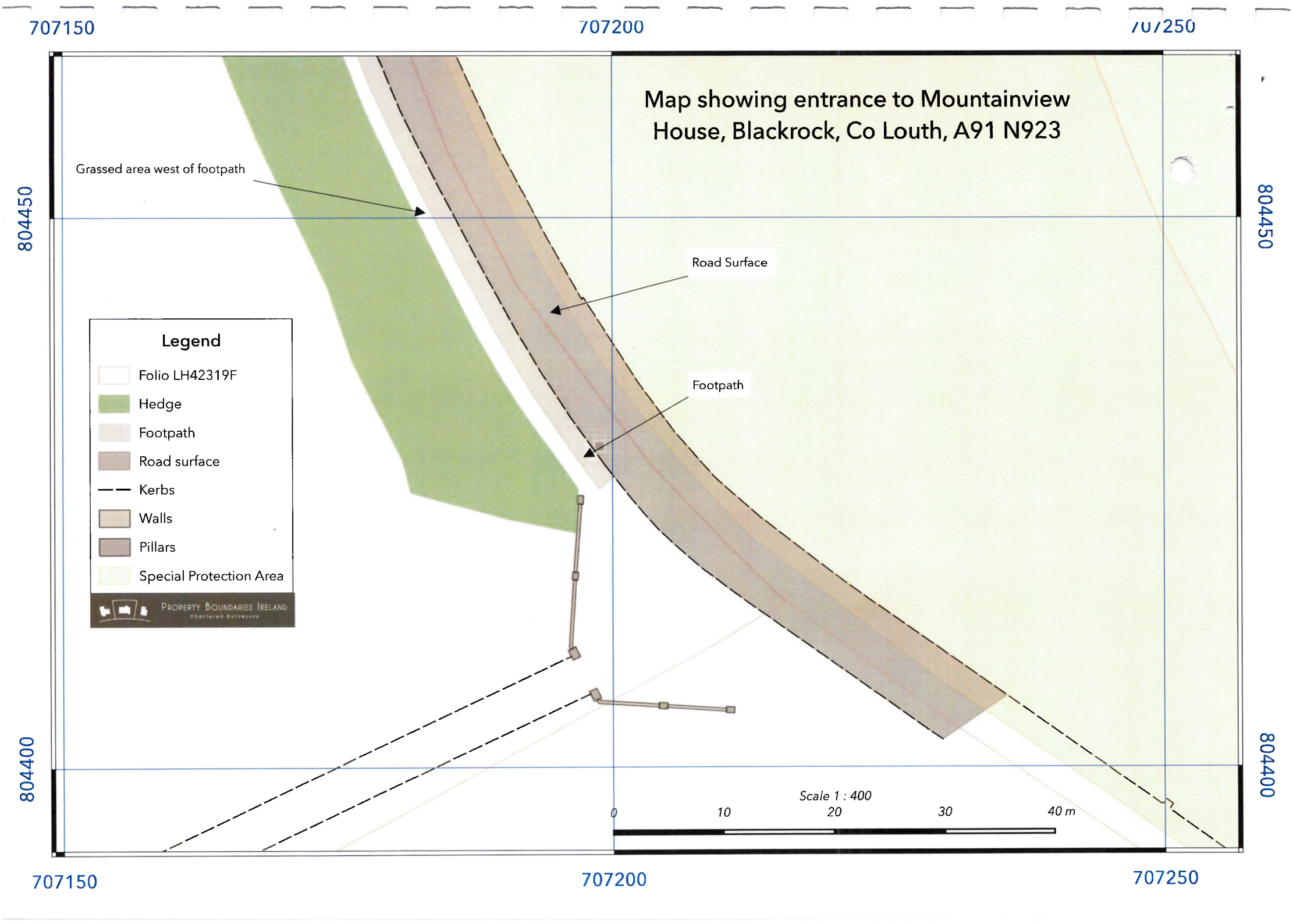
Client: 1st Plc / Kingsbridge Consultants, Baltrasna, Bellurgan Business Park, Dundalk Co Louth.

Scale: As Shown | Drawn: Y.Finn | Date: November 2018 | Checked:

Status: Planning Permission

Job No: 1703

Louth CC Planning Department - Viewing Purposes Only!


707150
707200
707250
804450
804400
Map showing entrance to Mountainview House, Blackrock, Co Louth, A91 N923
Grassed area west of footpath
Road Surface
Footpath
Legend
Folio LH42319F
Hedge
Footpath
Road surface
Kerbs
Walls
Pillars
Special Protection Area
Property Boundaries Ireland
Chartered Surveyors
Scale 1 : 400
0
10
20
30
40 m

Donal O'Hagan

From: CRM Inbound Agent <CRMAgent@louthcoco.ie>
Sent: Wednesday 12 March 2025 12:12
To: Donal O'Hagan
Subject: RE: [CASE:377951] Aoife Henry - Blackrock - case number is 420767.

A Chara,

Thank you for using info@louthcoco.ie your e-mail has been forwarded to our Planning Department and they will reply directly to you.

Please do not reply to this email as it is not monitored, any further queries should be emailed to info@louthcoco.ie quoting the case number above.

Le dea-mhéin

Customer Services Team, Louth County Council

Tel: 042 9335457

Follow Us: @louthcoco.ie

Web: www.louthcoco.ie

From: Donal O'Hagan <donal@ohagans.ie>
Sent: Tuesday 11 March 2025 21:08
To: CRM Inbound Agent <CRMAgent@louthcoco.ie>; Info @ Louth <info@louthcoco.ie>; Joanna Kelly <Joanna.Kelly@louthcoco.ie>; David Hall <David.Hall@louthcoco.ie>
Subject: RE: [CASE:377951] Aoife Henry - Blackrock

Dear Sirs.
Please see attached.
Kind regards,

Donal O'Hagan,
Donal O'Hagan & Co. LLP,
Solicitors, Court House Square,
Dundalk, Co. Louth, A91 YWN1.
M 00 353 87 6650316
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From: Customer Services <crmagent@louthcoco.ie>
Sent: Sunday 18 February 2024 20:01
To: Donal O'Hagan <donal@ohagans.ie>
Subject: Re: [CASE:377951] Aoife Henry - Blackrock

A Chara

Thank you for using info@louthcoco.ie. Your query has been recorded and given the above case number.

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Regards

Louth Co Co

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A Chara

Go raibh maith agat as úsáid a bhaint as info@louthcoco.ie. Tá do cheist taifeadta againn agus tugadh an uimhir cháis thuasluaite dó.

Cuirfimid ríomhphost chugat nuair a shanntar do cháis go dtí an roinn ábhartha, ag tabhairt le fios cé a bheidh ag déileáil leis.

Ní dhéantar monatóireacht ar ríomhphoist ach le linn ár n-uaireannta oifige. I gcásanna práinneacha, a tharlaíonn lasmuigh d'uaireannte oifige, cuir glaoch ar an bhfoireann lasmuigh d'uaireannta oifige ar an uimhir theileafóin thíos.

Teileafón: **042-9335457**

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****Ní chóir duit freagra a thabhairt ar an ríomhphost seo, is freagra uathoibrithe é seo****

On 18/02/2024, 19:59, Donal OHagan wrote:

Dear Sirs,

Please see attached.

We look forward to hearing from you.

Regards,

Donal O'Hagan,

Donal O'Hagan & Co. LLP,

Solicitors, Court House Square,

Dundalk, Co. Louth, A91 YWN1.

DX 24 004

T 00 353 42 9334134

F 00 353 42 9329292

M 00 353 87 6650316

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Donal O'Hagan & Co. LLP

DONAL P. O'HAGAN M.A., LL.B.
NIALL O'HAGAN B.A. (MOD.)
RORY O'HAGAN LL.B.

AILBHE O'HAGAN B.A. (Hons.)

CONSULTANT
DON McDONOUGH

Solicitors,
Court House Square,
Dundalk,
Co. Louth, A91 YWN1,
Ireland

Tel. 00 353 42 9334134/9331[illegible]
Fax 00 353 42 9329292
e-mail (first name)@ ohagans.ie

DX 24 004 DUNDALK
V.A.T. No. [illegible]4606239A
LLP Registration No. 1262161
RBN Registration No. 461674

Our Ref. 7-949B/DPOH/AH
Your Ref. Case No. 420767 + previous

10th June 2025

BY e-mail ONLY

Dear Sirs,

Re: Planning Application No. 2560319 – Marina Quarter Limited ('MQL')
(Glenveagh Homes Ltd.)
[link previous Planning Application No. 2360476 – Marina Quarter Limited]
Property : Haggardstown, Dundalk.
Our Client/Registered Owner: Mrs. Aoife Henry - Folio LH42319F
Mr. John Henry
Mountain View House, Blackrock, Co. Louth, A91 N923

We refer to previous (set out below). This is not a submission on the above Planning Application (which if applicable will be made separately) but a challenge to the pre-validation stage on the basis that, subject to certain clarifications on part thereof by Louth County Council (LCC), that the Application imp'inges on part of our Client's property to which there is no consent, and that the Application is thereby invalid. There are also other reasons set out below.

We refer to the Scheduled item being updated ZIP 250610 (we have tried to avoid replication) which includes all the following including our letters of :

1. 13 Sep 2023 – Case ref. 352393;
2. 16 Feb 2024 + ZIP with it – Case ref. 377951;
3. 12 Mar 2025 + ZIP with it – Case ref. 420767;

we do not appear to have received a reply to any of our letters.

References hereafter to Documents are to those in the ZIP 250610 - Doc 001 etc.

Our Clients note and understand (please correct if any part is wrong) :

1. Application Reference 252 for extension of Planning Permission Ref. 19/590 (ABP-304782-19) was refused on 7 Mar 2025.

2. The Land is currently re-zoned to Strategic Reserve. This is under appeal and subject to pending Judicial Review which may make any pre-validation procedure premature.

3. MQL have now again applied to LCC for 1st pre-consultation meeting with view to a new planning proposal.

Our Clients main concerns are set out Docs. 001, 02. 11, 12, 13, 14, 15, 16 , 17, and 32, in the ZIP attached :

1. That our Clients boundaries on Folio LH42319F [Docs 03, 04 + 05 in ZIP] + the adjustments in respect of which they have been in very long possession be acknowledged.

2. That it be noted that they do not consent to any encroachments on their property [Docs 01 + 02 in the ZIP]

3. That there may be a misunderstanding by MQL over consents given to them by LCC dated 2 May 2019 + 15 Dec 2022 which, though couched, were consents by LCC over what was part of our Client's property [Docs 01 + 02 in the ZIP]

4. A request that LCC take cognisance of the legal boundaries of our Client's property in respect of the new application by MQL (or anyone else) – this being particularly relevant for any pre-planning consultation that the Applicant has actual legal title or any necessary consents over the property on which it is seeking permission to develop.

5. We refer to the Map of our Client's property [04 in ZIP] with some mapping rectification needed (the physical boundaries are in order). Of immediate present concern is the 'Blackrock Road' (as marked on Map – the R172) which passes through it. Clearly the R172 is in charge of the Local Authority. The question is – for the distance that the R172 passes through our Client's Folio LH42319F [03 + 04 in ZIP] - what is the extent of the roadway in charge of the Local Authority i.e. the width and depth of the area in charge and if same could be shown by reference to a map with precise specifications [Docs 16 + 17 in the ZIP]?

6. Referring to the Application and the Proposed Surface Water drainage layout Sheet 2 Ref: 2268-DOB-XX-SI-DR-C-0202, the whole Southerly outfall and the public highway drainage is collected via a 900mm diameter pipe to a headwall discharging into the already flooded wetland. Once discharged it then flows into the 200mm existing culvert under our Clients' driveway access and into the ditch on our Clients land. Apart from the encroachment onto our Clients land how can a 900mm pipe feed a 200mm pipe – this, with inadequate capacity, will surely cause and lead to flooding affecting our Clients and others.

7. Also referring to the Application, there is a letter of consent in the List of submitted docs from the Glenveagh Chief Financial Officer listing Folios which they say they have full legal title to with regard to providing entrance etc. Our Clients' Folio is not listed in the terms of the surface water drainage proposal, yet it will clearly have to discharge through our Clients Folio land ? Again, without our Clients consent for the SW drainage proposal the application would have to be, it is submitted, treated as invalidated by LCC?

Our Clients have engaged Property Boundary Specialists – Property Boundaries Ireland Limited (Dr. W. P. Prendergast). Dublin. We would suggest that agreement on boundaries would need liaison between the specialists for any interested parties.

We would be glad to hear from you. Our Clients note that you do not appear to have replied to our 3 previous letters set out above. If this letter is also not responded to, within say 2 weeks, then our Clients, with regret, have instructed us to take such further action as they may be advised, which may include a Court Application including a consequential request for costs.

Yours faithfully,

DONAL O'HAGAN & CO. LLP

The Secretary,
Louth County Council,
County Hall,
Millennium Centre,
DUNDALK,
Co. Louth, A91 KFW6
info@louthcoco.ie.
Joanna.Kelly@louthcoco.ie
David.Hall@louthcoco.ie

SCHEDULE – attachment

1. ZIP 250610 - updated to 10 June 2025.

Donal O'Hagan

From: Customer Services <crmagent@louthcoco.ie>
Sent: Wednesday 13 September 2023 14:41
To: Donal O'Hagan
Subject: Re: [CASE:352393] Roadside Grass Verge along part of R172, Blackrock Road, Blackrock, Co. Louth

A Chara

Thank you for using info@louthcoco.ie. Your query has been recorded and given the above case number.

We will email you when your query is assigned to the relevant department, giving you details of who will be dealing with it.

Regards

Louth Co Co

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A Chara

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Cuirfimid ríomhphost chugat nuair a shanntar do cháis go dtí an roinn ábhartha, ag tabhairt le fios cé a bheidh ag déileáil leis.

Ní dhéantar monatóireacht ar ríomhphoist ach le linn ár n-uaireannta oifige. I gcásanna práinneacha, a tharlaíonn lasmuigh d'uaireannte oifige, cuir glaoch ar an bhfoireann lasmuigh d'uaireannta oifige ar an uimhir theileafóin thíos.

Teileafón: **042-9335457**

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****Ní chóir duit freagra a thabhairt ar an ríomhphost seo, is freagra uathoibrithe é seo****

On 13/09/2023, 14:40, Donal OHagan wrote:

> Dear Sirs,
>
> Please see attached.
>
> Regards,

Donal O'Hagan,

Donal O'Hagan & Co. LLP,

Solicitors, Court House Square,

Dundalk, Co. Louth, A91 YWN1.

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F 00 353 42 9329292

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ceart an ríomhphost seo nó aon iatán a léamh. D'fhéadfadh do mbeadh cosc iomlán dlíthiúil ar sceitheadh nó comhfhreagras nó aon úsáid eile gan chead ar a bhfuil sa ríomhphost seo agus d'fhéadadh sé a bheith ina chion coiriúil.

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Donal O'Hagan & Co. LLP

DONAL P. O'HAGAN M.A., LL.B.
NIALL O'HAGAN B.A. (MOD.)
RORY O'HAGAN LLB.

CONSULTANT
DON McDONOUGH

Solicitors,
Court House Square,
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HAYS DX 24 004 DUNDALK
V.A.T. No. F4606239A
LLP Registration No. 1262161
RBN Registration No. 461674

Our Ref. 7-949B/DPOH/AH
Your Ref. New

13th September 2023

BY e-mail ONLY

Dear Sirs,

Re: Property - Mountain View House, Blackrock, Co. Louth, A91 N923
Folio LH42319F – roadside grass verge.
Registered Owner/Our Client : Mrs. Aoife Henry

We refer to the above and to the Scheduled attachments – in particular to the Filed Plan of Folio LH42319F and to the roadside grass verge between the points marked X and Y.

The local Tidy Towns have been cutting the grass along the roadside between the 2 points and it is understood that they are doing so with the authority of the Council. Our Client has no objection to this but would wish it to be noted that she is the legal and beneficial owner of the property concerned.

Yours faithfully,

Donal O'Hagan & LLP

DONAL O'HAGAN & CO. LLP

The Secretary,
Louth County Council,
Town Hall,
DUNDALK
info@louthcoco.ie.

SCHEDULE – attachments

1. Folio LH42319F.
2. Filed Plan of Folio LH42319F as at 13 Sep 2023.

Land Registry

County Louth — Folio 42319F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	For parts transferred see Part 1(B) Description	Official Notes
1	The property shown coloured Red as plan(s) DV6HB, DV6HC on the Registry Map, situate in the Townland of HAGGARDSTOWN, in the Barony of DUNDALK UPPER, in the Electoral Division of HAGGARDSTOWN. The Registration does not extend to the mines and minerals	From Folio LH26287F
2	The property shown coloured Red as plan(s) DV6HE on the Registry Map, situate in the Townland of HAGGARDSTOWN, in the Barony of DUNDALK UPPER, in the Electoral Division of HAGGARDSTOWN. The Registration does not extend to the mines and minerals	From Folio LH26287F

Land Cert Issued: No

Collection No.:

Land Registry

County Louth

Folio 42319F

Part 1(B) - Property

Parts Transferred

No.	Prop No:	Instrument:	Date:	Area(Hectares):	Plan:	Folio No:

Land Registry

County Louth

Folio 42319F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	10-JAN-2020 AOIFE HENRY of Mountain View House, Blackrock, County Louth, A91 N923 is full owner. D2020LR005995E

Land Registry

County Louth **Folio 42319F**

Part 3 - Burdens and Notices of Burdens

No.	Particulars	
1	07-MAY-2003 D2003CS003671B	The wayleave and such other easements as specified in Instrument no. D2003CS003671B in favour of Joseph McGinnetty the registered owner(s) of the property comprised in folio LH9971F, his heirs and assigns and others as specified therein affecting the part of the property no.2 shown coloured yellow on Plan DV6HE of the Registry Map(O.S. 7/15)
2	10-JAN-2020 D2020LR005995E	The easements rights and privileges specified in Instrument Number D2020LR005995E in favour of Lelia McKenna the registered owner of folio LH26287F as specified therein.

7290, 804359
2500
ggardstown
ndalk Upper
uth

Propert

› Back

Folio Number	LH42319F
Title Level	Freehold
Plan Number	DV6HB
Property Number	1
Area of selected plans	3.32 hectares.
Number of Plans on this folio:	3
Address	Not Available

View Folio PDF | Request Certi

*PRA Boundaries and Plan Area **are n conclusive**. See Section 62(2) of Registration of Title Act 2006 and of the Land Registration Rules 20

Print Current View

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W www.bpsplanning.ie

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Dublin 14

Lodged via the Local Government online portal

The Secretary,
Planning Department,
Louth County Council,
County Hall,
Millennium Centre,
Dundalk, A91 KFW6.

6 November 2025

Dear Sir/Madam,

Significant Further Information stage Third Party planning objection in respect of a Large-Scale Residential Development, planning application, reg. ref. LRD 2560319, which has been submitted to Louth County Council. The proposal comprises of: '7-year permission for a Large-scale Residential Development (LRD) on lands (c.18.54 ha) The development will consist of:- 502 no. residential units, with a total residential gross floor area of c.51,440.5 sqm comprising: 40 no. 1 bed maisonettes, 147 no. 2 bed mid-terrace 2 storey houses, 276 no. 3 bed end of terrace and semi-detached 2 storey houses, 1 no. 3 bed detached bungalow and 38 no. 4 bed semi-detached 3 storey houses, 1 no. two storey creche facility (570.7 sqm Gross Floor Area) with outdoor secure play area and parking. New access off Blackrock Road … and incorporating a new bus stop on Blackrock Road; 2 no. pedestrian and cycle only access points are provided from Bóthar Maol. Infrastructure and services … a new wastewater pump station (with temporary storage and associated dosing measures) which will be pumped via a new rising main along Blackrock Road (R172) and Hardy's Lane to Finnabair Crescent where it will discharge to the existing wastewater drainage network … excavation, cut and fill, reprofiling of existing ground levels and removal of works completed under previously permitted SHD development including the foundations for 5 no. houses is required. The ruins of a former pumphouse will also be removed / demolished as part of the works and existing overhead electrical lines will be undergrounded" at lands at Haggardstown.

BPS Planning Consultants Ltd, a firm of Irish Planning Institute accredited town planning consultants, has been instructed by Aoife & John Henry of Mountain View, Haggardstown, Blackrock, Dundalk, County Louth [hereafter "client" or "clients"] to prepare and to lodge to Louth County Council [hereafter "LCC"] a response to the Significant Further Information submitted by the applicant on 14/10/2025. The deadline for this submission is 17/11/2025.

Our client has already lodged an objection in respect of this planning application; therefore, there is no fee in respect of this further, Significant Further Information, objection.

The following sections set out our client's further objection. This letter should be read in conjunction with their original planning objection.

1.0 Further Information requested by LCC

On 14/10/2025, LCC requested the following Further Information:

1. *The Appropriate Assessment Screening Report included with the application makes reference to the Uisce Éireann 2023 Annual Environmental Report relating to the Dundalk Wastewater Treatment Plant and the potential impacts of the Treatment Plant on the water quality and Water Framework Directive status of the Castletown Estuary and Inner Dundalk Bay, which are within the Dundalk Bay SAC and the Dundalk Bay SPA. Whilst it is noted that the potential for likely significant effects on European Sites in Dundalk Bay as a result of foul water generated by the proposed development was screened out, it is considered that a proper evaluation of the possibility that discharges of inadequately treated foul water originating from the proposed development into the Dundalk Bay SAC and the Dundalk Bay SPA from the Dundalk Wastewater Treatment Plant might adversely affect Qualifying Interests and/or Conservation Objectives for these European Sites is undertaken. An Amended Appropriate Assessment Screening Report is requested to be prepared in this regard. Note that if the amended AA Screening Report considers adverse effects on Qualifying Interests and/or Conservation Objectives are possible as a consequence of such discharges, a complete evaluation of their potential effects on the Qualifying Interests and/or Conservation Objectives for the Dundalk Bay European Sites shall be included in an amended Natura Impact Statement and Environmental Impact Assessment Report.*

2. *The secondary pedestrian/cycle link in the north-western corner of the site onto Bothar Maol will encourage pedestrian and cycle activity from the development and is welcomed by the Planning Authority. It is noted that the application does not include any proposals to upgrade Bothar Maol however it is acknowledged that the applicant does not have ownership or control over same. Nonetheless it is considered that in the interests of creating sustainable communities and active travel that the delivery of infrastructure to promote and encourage walking and cycling will be required along Bothar Maol. In this regard the applicant is requested to confirm their willingness to provide a special contribution towards the provision of public lighting along Bothar Maol that would benefit the proposed development and to set out what they (the applicant) would consider to be a proportionate contribution towards the delivery of this infrastructure.*

2.0 Grounds for Objection

2.1 Item 1 – Dundalk WwTP is dysfunctional & is not to be upgraded until after 2033

In objecting to the current and previous planning applications, our client has expressed significant concerns over the efficacy of the Dundalk Wastewater Treatment Plant. Their concern is always to protect the water quality and Water Framework Directive status of the Castletown Estuary and Inner Dundalk Bay, which are within the Dundalk Bay SAC and the Dundalk Bay SPA. They did not agree with the applicant assessment that the potential for likely significant effects on European Sites in Dundalk Bay because of foul water generated by the proposed development could be screened out.

They held this opinion because the Dundalk Wastewater Treatment Plant has, for some years, discharged inadequately treated foul water into the Dundalk Bay SAC and the Dundalk Bay SPA thereby significantly and adversely affecting Qualifying Interests and/or Conservation Objectives for these European Sites.

The applicant project team has sought to portray the future foul wastewater to be generated by this proposed development as being the responsibility of Uisce Éireann and not their own. While such a position may be justified in circumstances where a scheme pumps its foul wastewater to a perfectly functioning Uisce Éireann wastewater treatment plant, such a circumstance does not arise in the current case.

Everyone in Dundalk, in LCC, in UÉ, in the EPA, etc. knows that the Dundalk WwTP requires a full upgrade. The only question arising is when this will take place. Until the end of 2024, the EPA and UÉ stated that this was due to happen after 2029. UÉ has, however, issued an August 2025 update (see Fig. 1A) on the Blackrock WwTP which also addressed the Dundalk WwTP. It states:

> ***The Dundalk WWTP will be upgraded and detailed design is commencing, and this upgrade is being designed with sufficient treatment capacity to accept the full Blackrock load and to facilitate ultimately the de-commissioning of the Blackrock WWTP. <u>Currently the programme for the Dundalk upgrade is 2033</u>*** *and the full transfer of all the Blackrock load would then be dependent on a number of other network projects being completed.*
>
> *WWTP upgrade projects have typically 5-7 year delivery programmes (once detailed design has commenced) because of the need for modelling studies of the receiving waters, preparation of an EIAR (Environmental Impact Assessment Report), obtaining of planning permission, obtaining of an EPA license all of which has to be completed before construction can begin.*
>
> [Emphasis added by BPS].

The Dundalk WwTP and its many endemic problems will not be fully upgraded before 2033, and it may take longer (as UÉ makes clear 2033 is a current estimate only.

In addition, a project to connect an element of the Blackrock wastewater network to the Dundalk network feeding the Dundalk WWTP (Blackrock Local Network Reinforcement/Load Transfer project) is under assessment and subject to budget approval. Subject to that, it has been scheduled for completion by 2029. The Dundalk WWTP will be upgraded and detailed design is commencing, and this upgrade is being designed with sufficient treatment capacity to accept the full Blackrock load and to facilitate ultimately the de-commissioning of the Blackrock WWTP. Currently the programme for the Dundalk upgrade is 2033 and the full transfer of all the Blackrock load would then be dependent on a number of other network projects being completed. WWTP upgrade projects have typically 5-7 year delivery programmes (once detailed design has commenced) because of the need for modelling studies of the receiving waters, preparation of an EIAR (Environmental Impact Assessment Report), obtaining of planning permission, obtaining of an EPA license all of which has to be completed before construction can begin.

Fig. 1A: The most recent update as regards the Dundalk WwTP's upgrade - after 2033 (Source: UÉ, as per above footnote)

There are two problems arising at present as regards the Dundalk Wastewater Treatment Plant's present operations:

1. **Dundalk Bay is already impacted by the Dundalk Wastewater Treatment Plant, and this impact is growing.**

   The Environmental Protection Agency (EPA) classifies the water quality in Inner Dundalk Bay—a transitional (estuarine) water body in the inner part of Dundalk Harbour—as "poor" ecological status, which indicates pollution and failure to meet environmental objectives under the EU Water Framework Directive (WFD). This assessment is based on the EPA's latest triennial report, Water Quality in Ireland 2019-2024, published on October 14, 2025, covering monitoring data from that period.

   The saline waters of Ireland comprise 307 water bodies (110 coastal and 197 transitional). Only 19 of these water bodies are in poor ecological status. One of these is inner Dundalk Bay. The Environmental Protection Agency's 'Water Quality in Ireland 2019-2024' report[1] found that the 'Status' of Inner Dundalk Bay is 'Poor' and Castletown Estuary is 'Bad' arising from Phytoplankton (the 'Main biological element responsible'). This arises due to elevated dissolved oxygen concentration resulting in excessive algal growth

Table 4.1 Transitional water bodies at poor and bad status, and the main biological element responsible for determining status

Water Body	Status	Main biological element responsible
Ballyteige	Poor	Lagoonal communities
Boyne Estuary	Poor	Fish
Durnesh	Poor	Lagoonal communities
Garavoge Estuary	Poor	Phytoplankton
Ilen Estuary	Poor	Phytoplankton
Inner Dundalk Bay	Poor	Phytoplankton
Castletown Estuary	Bad	Phytoplankton

Fig. 1B: Excerpt from Table 4.1 'Transitional water bodies at poor and bad status, and the main biological element responsible for determining status' (Source: EPA, 'Water Quality in Ireland 2019-2024')

[1] Editors: Hugh Feeley, Cormac McConigley and Jenny Deakin ENVIRONMENTAL PROTECTION AGENCY, An Ghníomhaireacht um Chaomhnú Comhshaoil, PO Box 3000, Johnstown Castle, Co. Wexford, Ireland.

The main conclusions of this report are:

- ***Ecological Status:*** Poor (the second-worst category after "bad"). This reflects significant nutrient enrichment leading to eutrophication, where excessive algae growth (phytoplankton) disrupts ecosystems, reduces oxygen levels, and harms biodiversity.
- ***Specific Issue:*** Inner Dundalk Bay recorded the second-highest phytoplankton levels among all tested Irish water bodies at 155% above baseline.
- ***Trends:*** No improvement since the previous assessment (2016-2021), where it was also rated poor. Overall, Ireland's transitional waters have seen a slight decline, with only 52% of surface waters (rivers, lakes, estuaries, and coasts) now in satisfactory (good or high) condition, down from 54%.

Inner Dundalk Bay Status on Catchments.ie

The EPA's Catchments.ie tool classifies Inner Dundalk Bay (WFD code: IW_090_0100) as polluted due to nutrient pollution and eutrophication, with an overall ecological status of "Poor" and high risk of deterioration. This is based on the latest available data also integrated into the tool from the EPA's Water Quality in Ireland 2019-2024 report (see above), which Catchments.ie uses for its interactive maps and assessments. "Poor" status under the EU Water Framework Directive (WFD) explicitly indicates pollution pressures failing to meet good environmental objectives, primarily from nutrient enrichment causing eutrophication.

Key Details from Catchments.ie:

- ***Ecological Status:*** Poor (driven by high phytoplankton levels at 155% above baseline—the second-highest recorded among Irish transitional waters). This reflects excessive algae blooms reducing oxygen and harming biodiversity.
- ***Chemical Status:*** Good (no widespread contaminants like heavy metals, but this doesn't override ecological issues).
- ***Overall Risk:*** High—due to ongoing pressures; no trajectory toward improvement by the 2027 WFD deadline.
- ***Main Pollution Sources:*** Include urban wastewater (e.g., discharges from Dundalk Treatment Plant and Blackrock WwTP).
- ***Trends:*** Stable at "Poor" since 2016–2021. No significant recovery. The tool's interactive map shows red/high-risk colouring for this estuarine area in Co. Louth.
- ***Other Indicators:*** Moderate biological quality (fish/invertebrates affected); high nutrient scores (e.g., phosphorus at risk thresholds). The bay is not a shellfish-designated area but impacts adjacent ones like Dundalk Bay outer sections.

General implications of "Poor" Status:

Under the WFD, "poor" means the water body is polluted enough to cause ecological damage but not irreparably so. It requires targeted actions like better wastewater treatment (e.g., upgrades at Dundalk's plant – see below).

Recent issues, like the 2025 cancellation of the Blackrock Raft Race[2] (in Inner Dundalk Bay) due to suspected sewage overflows and odours, highlight ongoing risks. Community groups have pointed out discharges from the Dundalk Wastewater Treatment Plant as causing the problems:[3]

> *We know the water is unsafe. I have tested it myself and the level of ecoli is beyond any safe limits. This is a public health issue which isn't being addressed. Louth County Council are under no obligation to test it as it is not a designated beach ...*
>
> *"Uisce Éireann are permitted to use stormwater outlet pipes (SWO) to release stormwater in periods of heavy rain to act as relief valves within the system. They say that the sewage which is released into the sea is heavily diluted and that the discharge is fully screened but I have taken videos of the SWO's and it is clear that there is sewage coming out of the pipes. It is a combined sewer system so there cannot be any separation of sewage and flood waters" .*
>
> *"We know that* ***Uisce Éireann released over 1 million litres of untreated sewage into the River Fane between the 14th and 15th of July.*** *They cited a Yellow Weather warning as their reason for doing this even though that Yellow Weather warning only applied to the South of the country.* ***The release contained untreated sewage which should have been sent to the Waste Water Treatment Plant in Blackrock but it wasn't as that treatment plant is now running beyond its designed capacity.***

[2] https://www.lmfm.ie/news/news-extra/blackrock-raft-race-amended-due-to-water-quality-issues/
[3] https://www.dundalkleader.com/2025/08/27/shoreline-showdown-blackrock-residents-unite-to-fight-for-a-clean-beach/

"Uisce Éireann have acknowledged the issue but say it can't be fixed until at least 2029. *For us that is not good enough and that is why we are protesting this weekend," stated Brian.*

"I've been living in Blackrock for over thirty years and the problem is worse now than it ever was ..."

"... This area is zoned for more houses being built. Before that happens we need to fight for a new or upgraded wastewater treatment plant for Dundalk South.

"The wastewater treatment plant currently serving Blackrock is at capacity and not fit for purpose. Uisce Éireann have acknowledged that they need to upgrade the Dundalk Waste Water Treatment Plant but the problem is this won't happen until 2029 at least which is not good enough".

"What happens now is that every time there is heavy rainfall or storms they have to open the taps and let untreated sewage into the sea which simply isn't good enough. As a temporary solution I am proposing to Louth County Council to do what they do in the UK and when they know heavy rain is coming to have tankers available and transfer the overflow access pipes to these tankers before disposing the waste in a proper way. The alternative is to just accept what is happening now for the next five or six years and that is simply not an option. The fact that Uisce Éireann has admitted that there is a problem is a huge win for the strength of the movement in Blackrock from the local community and people like Brian Hopper who have submitted evidence to Uisce Éireann and the EPA showing exactly what is happening to our water.

Louth County Council must meet up with Uisce Éireann and try and work together to fix this. It's not good enough to pass the responsibility fully on to Uisce Éireann.

[Emphasis added by BPS].

The observable appearance of discharged untreated sewage visible from client's lands[4]

Our client owns lands which adjoin the Dundalk Bay SAC on the other side of the public road from their home. These lands adjoin the SAC and likely should be sited within the SAC. They have walked along the boundary of their lands 100s of times and on some of these walks they have found untreated sewage clearly visible to the naked eye.

The photos shown in Figs. 2A to 2F show just some of this sewage arising in June 2025. They find it difficult to believe that the sewage from a further 500 dwellings could be pumped to the Dundalk WwTP in circumstances where evidence of untreated sewage is clearly visible in the area and is clearly impacting on the SAC and the SPA.

Our client's email to BPS containing these photographs states: "These are pictures of the inlets of the salt marshes at the Loakers opposite our property, i.e., the otters' habitat. The pollution is horrendous as it is, with toilet waste visible at times. How can adding more sewage to this problem make any sense". This is not seaweed. It is clearly human waste, toilet paper, etc.

The applicant project team appears to have no idea of just the sheer extent of untreated sewage entering Dundalk Bay and how this manifests itself. The impression given is that it is all diluted by the sea water and that more sewage will not make this situation any worse than it presently is.

LCC is asked to look at Figs. 2A to 2E and to consider how the situation could be any worse than it is at present where areas of the SAC are wholly covered in sewage. The applicant states that this is not their responsibility, that the existing poor water quality of Dundalk Bay would not be made worse by this project, and that the poor water quality does not itself mean significant adverse impacts on the SAC are occurring.

Can the applicant project team explain how areas of the SAC literally covered in human waste could be found to not be being impacted significantly and adversely by existing failings at the Dundalk WwTP and how pumping more human waste into this context would not, cumulatively, represent a proposed significant adverse impact requiring a Natura Impact statement. Our client is very concerned for the otters and the applicant's submission does not mention otters at all. Can LCC look at Figs. 2A to 2F and explain how otters would not be significantly and adversely impacted in circumstances where it appears that their habitat has been covered into a well-used cesspit.

The applicant is represented by DNV. There is no indication in the applicant submission than DNV has visited any of the areas of the SAC - where tides allow – to view the current and ongoing outcome of the failings of the Dundalk WwTP. Our client invited DNV and LCC to visit the visible areas of the SAC after incidents of spillages, overtopping, machinery breakdowns, etc. at the plant.

The EPA's latest monitoring report (attached) states that they did not get to view the outfall passing into Dundalk Bay. It appears high time that some photographs are provided to LCC of this area and of all visible areas of Dundalk Bay such that the blatant visibility of raw untreated sewage is properly represented.

[4] Please refer to our client's original objection report. Their lands extend over the public road and adjoin the Dundalk Bay SAC. The wastewater shown in these photographs is visible from their lands. They have witnessed the washing up of untreated sewerage in this area of Dundalk Bay many times.

We submit that the applicant's FI submission presents a picture which is contradicted by the reality on the ground as faced by the SAC (the SPA is also impacted but by way of water quality concerns) and its Qualifying Interests.

Fig.2A: Human waste visible from client lands adjoining the SAC (Source: Client photo, June 2025)

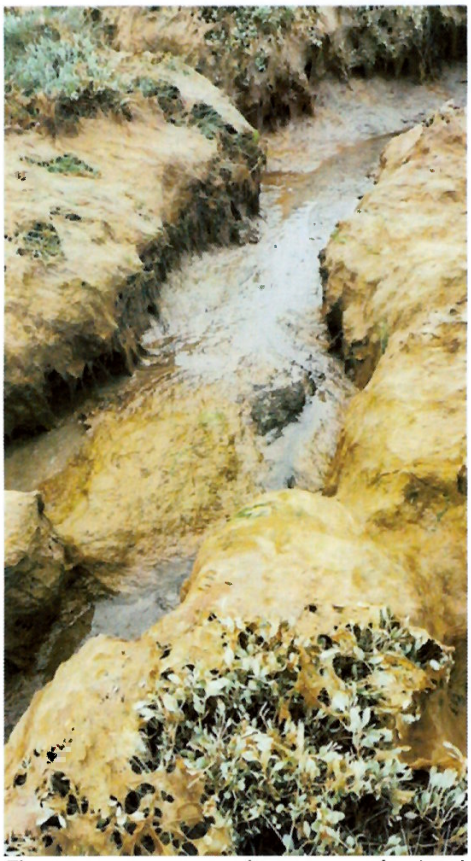


Fig 2B: Human waste visible from client lands adjoining the SAC (Source: Client photo, June 2025)

Fig. 2C: Human waste visible from client lands adjoining the SAC (Source: Client photo, June 2025)

Fig. 2D: Human waste visible from client lands adjoining the SAC (Source: Client photo, June 2025)

Fig. 2E: Human waste visiblefrom client lands adjoining the SAC (Source: Client photo, June 2025)

Specific implications of 'Poor Ecological Status' of Inner Dundalk Bay waters for Dundalk Bay SAC and SPA

That Inner Dundalk Bay (WFD code: IW_090_0100) has been classified as having "poor" ecological status by the EPA due to nutrient pollution and eutrophication, directly affects the Dundalk Bay Special Area of Conservation (SAC) and Special Protection Area (SPA). These designations, under the EU Habitats and Birds Directives, protect critical habitats and bird populations, but the bay's poor water quality—driven by excessive nitrogen/phosphorus causing phytoplankton blooms (155% above baseline) - threatens their ecological integrity. Below is an analysis of impacts, drawing from EPA data (Water Quality in Ireland 2019-2024, Catchments.ie), NPWS (National Parks and Wildlife Service) reports, and related conservation frameworks.

Dundalk Bay SAC and SPA Overview

SAC (Site Code: IE0000455): Protects 4,636 ha of estuarine and coastal habitats, including:

- ***Annex I habitats:*** Estuaries, mudflats/sandflats, saltmarshes, and sand dunes.
- ***Key species:*** Harbour seals, otters (indirectly via food chains).
- ***Conservation Objective:*** Maintain/restore favourable conservation status of habitats and species.

SPA (Site Code: IE0004026): Covers 5,760 ha, safeguarding internationally important wintering waterfowl (e.g., 20,000+ birds, including greylag goose, knot, bar-tailed godwit):

- ***Annex I species***: Golden plover, bar-tailed godwit.
- Conservation Objective: Maintain populations and supporting wetlands.

We note how Inner Dundalk Bay is a core part of both SAC and SPA, meaning its poor status directly impacts protected features.

Impacts of Poor Ecological Status on Dundalk Bay SAC and SPA:

Habitat Degradation in SAC:

- ***Eutrophication Effects:*** High nutrient loads (from agriculture, wastewater, and runoff) fuel algal blooms, reducing dissolved oxygen. This stresses mudflat/sandflat ecosystems, critical for benthic invertebrates (e.g., mollusks, worms) that support SAC food webs. NPWS notes mudflats are "sensitive" to water quality declines.
- ***Saltmarsh Decline:*** Nutrient enrichment alters plant communities, favouring invasive or opportunistic species over protected saltmarsh vegetation (e.g., Salicornia). EPA data shows phosphorus levels exceed thresholds, risking habitat loss.
- ***Seal and Otter Food Chains:*** Poor water quality reduces prey availability (e.g., fish, crustaceans), indirectly affecting harbour seals and otters. The NPWS's 2019 report notes "unfavourable" status for some SAC features due to water quality pressures.

Bird Population Threats in SPA:

- ***Foraging Disruption:*** Algal blooms and low oxygen levels reduce food sources like invertebrates and small fish, critical for wading birds (e.g., knot, oystercatcher). BirdWatch Ireland data shows declines in some Dundalk Bay wader populations (e.g., 10–15% drop in knot numbers since 2000s), partly linked to habitat quality.
- ***Wetland Integrity:*** SPA wetlands rely on clean estuarine waters. Eutrophication promotes sediment anoxia, degrading feeding grounds. EPA's Catchments.ie flags Inner Dundalk Bay's "high risk" status as a threat to SPA objectives.
- ***Migratory Impacts***: Internationally important species (e.g., bar-tailed godwit) face cumulative stress if Dundalk Bay, a key wintering site, degrades further. This risks Ireland's compliance with EU Birds Directive obligations.

Current Mitigation and Challenges

The applicant proposal comes at a time when Dundalk Bay is the focus of multi-agency restoration initiatives under Ireland's River Basin Management Plan (RBMP) 2022–2027. Led by the EPA, Uisce Éireann, Louth County Council, and the Department of Housing, Local Government and Heritage, these efforts aim to achieve "good" status by 2027 per the EU Water Framework Directive. Key drivers include addressing wastewater treatment concerns and habitat protection in the Dundalk Bay Special Area of Conservation (SAC) and Special Protection Area (SPA).

EPA's Water Quality in Ireland 2019–2024 (October 2025) shows no status improvement yet. Significant concerns arise as regards Uisce Éireann's planned upgrades to Dundalk Wastewater Treatment Plant which aim to cut discharges. This has been delayed beyond 2033 (see above) and realistically means that the RBMP 2022-2027 cannot be a success.

There is no direct SAC/SPA funding for Inner Dundalk Bay restoration available to mitigate the failings of the Dundalk Wastewater Treatment Plant. Inner Dundalk Bay's "poor" status shows no improvement since 2016 and this will continue past 2033 (see above), risking further SAC/SPA degradation.

2. Ongoing monitoring assessments of the Dundalk Wastewater Treatment Plant raise concerns

There is no debate as to whether the Dundalk Wastewater Treatment Plant is impacting on the Dundalk Bay SAC and SPA. The above analysis confirms that it is and that there are no plans to fully upgrade the plant prior to 2033 (see above).

Our client lives in Dundalk alongside the Dundalk Bay SAC and SPA. They have witnessed the fallout from the failings of the Dundalk Wastewater Treatment Plant, and they are also aware of local concerns and media coverage.

Official inspection & monitoring reports prepared by the EPA raise ongoing concerns since 2017

Local concerns are reflected in the EPA's own monitoring reports for Dundalk Wastewater Treatment Plant. These reports contain admissions from Uisce Éireann as to breaches of their EPA licence. The attached report dated 27/11/2024 states:

> ***This site inspection was completed to check the performance of the waste water works and follow up on waste water discharges which have been identified as significant pressures on Castletown Estuary and Inner Dundalk Bay. Uisce Éireann reported three Total Nitrogen and two Total Phosphorus emission limit value breaches in 2024, the latest of which occurred in October 2024. Uisce Éireann must resolve these non-compliances. Over the last number of years, Uisce Éireann has reported several incidents linked to ageing equipment breaking down at the plant. The EPA Inspectors noted Dundalk waste water treatment plant is over 20 years old and raised concerns at the nature and frequency of incidents reported.*** *Uisce Éireann has completed some upgrades at the sludge treatment plant with further phased upgrades planned, however the unreliable centrifuges have not been upgraded. Dundalk agglomeration is an EPA priority area and Uisce Éireann must identify and implement all corrective actions necessary on the sewer network and at the waste water treatment plant to ensure discharges do not prevent the receiving waterbodies from meeting their environmental objectives.* ***Uisce Éireann must carry out all upgrades necessary at the plant to improve the robustness of the plant and effluent compliance.***
>
> [Emphasis added by BPS].

There are significant concerns arising which Uisce Éireann cannot address without fully upgrading Dundalk Wastewater Treatment Plant. ACP can read the EPA's inspection report for itself, but we have included an excerpt in Fig. 3A. Time and

again the EPA finds a problem with the plant and Uisce Éireann is told to fix it yet Uisce Éireann make clear tha. .ne plant and/or parts of the plant is/are reaching their end of life.

2. Inlet Works

		Answer	Condition Number	Non Compliance	Observation
2.1	Is the screening system at the plant inlet working adequately?	No			

Comment / Action Required

There are two mechanical inlet screens at Dundalk WWTP operating in a duty duty configuration. At the time of the inspection one of the screens was offline pending repairs. A timeframe to repair/replace this screen is to be confirmed to the EPA. Uisce Éireann's representatives advised the screens are reaching the end of life with upgrades to the inlet works under development, including an additional third mechanical screen. Uisce Éireann should progress its plans to upgrade the inlet works to minimise incidents.

EPA inspectors observed some minor ragging on the surface of the final clarifiers at the time of the inspection indicating some screenings are getting through the preliminary treatment process.

Uisce Éireann shall shall carry out all repairs necessary to return the screen to service without delay and remove any ragging from the final clarifiers.

		Answer	Condition Number	Non Compliance	Observation
2.2	Are there overflows at the plant?	Yes			

Comment / Action Required

Uisce Éireann has assessed the storm water overflow associated with Dundalk WWTP storm tank and determined it does not meet the Department of Environment procedures and criteria in relation to storm water overflows.

Discharges into and from the 5,000m3 storm tank at the plant are not screened. In 2024, year to date, Uisce Éireann reported circa 20 storm water overflow events occurred. There is no flow meter on the overflow. The EPA Inspectors raised concern at the frequency of discharges from the storm tank and that discharges are not screened. At the time of the visit, EPA Inspectors observed large amounts of ragging and other sewage debris in the storm tank and discharge weir/bench wall.

The EPA Inspectors recommended Uisce Éireann install an appropriate screen on the storm tank overflow and regularly inspect and clean the screen following storm events. Uisce Éireann shall carry out all works necessary to reduce the frequency and volume of storm water overflows and ensure all storm water overflows meet the Department of Environment criteria.

This issue was raised in the previous site inspection.

4. Aeration Basin

		Answer	Condition Number	Non Compliance	Observation
4.1	Have there been breakdowns of the sludge pumps in the last 12 months?	Yes			

Comment / Action Required

Uisce Éireann reported an incident occurred on a sludge cake pump on 05/11/2024 which prevented optimal sludge centrifuging for approximately 6 days. The incident was resolved when the issue with the pump was repaired. Uisce Éireann's representatives advised during this incident there was no emission limit value breaches reported, however the Mixed Liquor Suspended Solids (MLSS) had increased to 7,000 MLSS which was above the 5,000 - 5,500 MLSS target range.

Uisce Éireann shall reduce the level of solids in the treatment process to optimal/target levels.

Fig. 3A: Excerpts from 2024's EPA monitoring inspection report of Dundalk Wastewater Treatment Plant (Source: EPA)

The EPA was unable to inspect the discharge point. The assessment was incomplete (see Fig. 3B).

		Answer	Condition Number	Non Compliance	Observation
5.2	Is there visual evidence of pollution at, or downstream of, the discharge point to the receiving water?	Not Checked			

Comment / Action Required

The storm water overflow discharge location (SW005) from the pumping station was not accessible due to permanent fencing around the site. The EPA Inspectors recommended Uisce Éireann provide appropriate permanent access to the discharge location.

Fig. 3B: Excerpt from 2024's EPA monitoring inspection report of Dundalk Wastewater Treatment Plant (Source: EPA)

The EPA Inspection Report answers the question: "Is the agglomeration categorised as a significant pressure under the Water Framework Directive? The following text should reasonably result in the refusal of the current planning application which proposes to pump its foul wastewater to the Dundalk Waste Water Treatment Plant:

> *During the latest characterisation for the 3rd cycle of the River Basin Management Plan,* ***waste water discharges from Dundalk agglomeration (sewer network and WWTP) have been identified as significant pressures on Inner Dundalk Bay*** *and the Castletown Estuary.* ***The EPA has raised concerns regarding this issue since 2017 and Dundalk agglomeration is an EPA priority area for action****. Some targeted upgrades have been completed by Uisce Éireann at the sludge treatment plant in recent years.* ***Uisce Éireann's representatives advised plans for wider upgrades to improve the robustness of the treatment process and effluent quality are a number of years away. Through a series of operational and infrastructural improvements at Dundalk in recent years, total nitrogen and total phosphorus performance has improved. Notwithstanding these improvements, consistent compliance with the emission limit values is required. The frequency of discharges from monitored storm water overflows at Dundalk are high and Uisce Éireann report three of twelve storm water overflows do not meet the national design standards (SW010 - WWTP storm tank, SW008 - Coe's Road pumping station and SW009 - Point Road pumping station).*** *Uisce Éireann's representatives advised the upgrade of Coe's Road pumping station (SW008) and installation of the overdue storm water storage tank were planned. Uisce Éireann's representatives advised a sewer network Drainage Area Plan (DAP) was nearing completion and the next stage would identify network improvement works required including the upgrade of storm water overflows, storm storage and rising mains. Uisce Éireann shall provide updates on these network projects and timeframes through the open compliance investigation. Uisce Éireann shall carry out all works necessary to ensure waste water discharges from the network and plant do not prevent the receiving waterbodies from meeting their environmental objectives. Uisce Éireann must ensure all storm water overflows meet the Department criteria and carry out all works necessary to reduce the frequency and volume of storm water overflows from this agglomeration.*
>
> [Emphasis added by BPS].

The EPA found that Dundalk Wastewater Treatment Plant has a specific issue with 'Sludge treatment capacity and centrifuge breakdowns' stating:

> *Uisce Éireann has built and commissioned a new 1,500m3 picket fence thickener in the last 12 months. This piece of infrastructure, Uisce Éireann's representatives advised has significantly improved the sludge treatment capacity. The new anaerobic digester is also completed,* ***however Uisce Éireann has confirmed following assessment, the wider supporting infrastructure requires complete upgrade. Completion dates were not available and the EPA Inspectors requested these be provided. Dundalk waste water treatment plant was originally designed with three sludge centrifuges, currently only two of these are operational. Over the last number of years Uisce Éireann has reported multiple incidents for breakdowns of these centrifuges. Uisce Éireann's representatives advised the centrifuges require capital upgrade/replacement which are planned under the wider sludge treatment plant upgrades. The EPA Inspectors raised concerns with the reliability of these critical pieces of infrastructure and recommended the upgrade and replacement of these centrifuges be prioritised. At the time of the inspection, one of two centrifuges was offline pending re-routing of outlet pipework****. Uisce Éireann shall carry out all upgrades and repairs necessary to avoid incidents at the centrifuges and to ensure adequate sludge handling and treatment capacity at the plant.*
>
> [Emphasis added by BPS].

The EPA has confirmed the ongoing failings of the Dundalk Wastewater Treatment Plant. For every piece of the plant which is replaced or upgraded, another needs upgrading. The Dundalk Wastewater Treatment Plant will not be fit for purpose until it is upgraded in its entirety, and this will not be until after 2033 (see above).

The currently proposed development is premature pending this upgrade.

Any further foul wastewater received by the Dundalk Wastewater Treatment Plant cannot be guaranteed to be properly treated and/or not to be discharged untreated into Dundalk Bay (during periods of high rainfall etc.) with consequent impact on the Dundalk Bay SAC and SPA, i.e., contributing to the ongoing poor ecological status of these waters.

Spillage Incidents at Dundalk Wastewater Treatment Plant (WwTP)

Beyond the EPA's monitoring reports, publicly available data on specific spillage incidents (e.g., untreated sewage overflows, equipment failures leading to discharges, or storm water overflow events) from Dundalk WwTP is limited. The plant, operated by Uisce Éireann and licensed by the EPA (licence DW/W001), treats wastewater for approx. 70,000 people before discharging into Dundalk Bay. While no major publicised "spill" events (e.g., visible plumes or acute pollution breaches) were reported for Dundalk in 2020–2025, chronic issues like non-compliant discharges and odours - linked to overload during heavy rain—have contributed to the bay's "poor" ecological status. These are often tied to storm water overflows (SWOs), where excess flow bypasses treatment.

EPA reports aggregate incidents nationally (e.g., 500 equipment breakdowns in 2023 across all plants), but site-specific details for Dundalk are only available in its annual environmental reports (AERs) or enforcement files, accessible via EPA's

portal. Uisce Éireann's enhanced monitoring (telemetry since 2020) has increased incident reporting, but many are "limited" (e.g., minor overflows) rather than major spills.

Key issues from 2020–2025

Dundalk has no reported uncontrolled releases or prosecutions in this period. However, the plant is flagged for upgrades due to ongoing pollution risks. The full upgrade is delayed to post-2033 (see above).

Dundalk is one of 78 EPA "priority areas" (down from 148 in 2017) where discharges harm water quality, primarily via nutrient overload (ammonia, phosphorus) exceeding limits.

59% of Uisce Éireann plants (including Dundalk) failed consistent EU standards in 2024, often from overloads during rain, leading to SWO discharges. The applicant has included these events within their submission. That these events have occurred and continue to occur is not in question.

There were 337 public complaints in 2021 about odours and potential discharges (possibly from manganese in related water systems, though drinking vs. wastewater conflated in reports). Maintenance works in November 2022 addressed odours but not root causes.

The Castletown Estuary – existing impacts from the Dundalk WwTP

The Castletown Estuary is a transitional coastal water body where the Castletown River flows into Dundalk Bay. It is the primary receiving water for the treated effluent outfall from the Dundalk Wastewater Treatment Plant (WWTP). The outfall pipe discharges approx. 25,000 m^3/day of secondary-treated wastewater (with nutrient removal and UV disinfection) into the estuary, under EPA license P0009-01.

The WWTP accounts for approx. 40-50% of nutrient loading (N and P) to the estuary, per Irish Water's 2024 hydraulic modeling. It treats foul sewage from approx. 100,000 PE in Dundalk/Blackrock, reducing raw inputs by 95% (e.g., BOD from 300 mg/L raw to <5 mg/L treated).

The following cumulative concerns arise before the applicant scheme's loading is added:

- ***Nutrient Pollution:*** Residual phosphorus (avg. 0.05 mg/L in effluent) drives eutrophication, linked to 2024 HABs (harmful algal blooms) closing shellfish areas for 2 weeks (June). EPA attributes 30% of bay's P-load to WWTP.
- ***Pathogens:*** UV treatment achieves >99% inactivation, but episodic CSO (combined sewer overflows) during rain (~5 events in 2024) spike E. coli near outfall, impacting bathing waters (moderate status at Blackrock Beach).
- ***Thermal/Other:*** Minor effluent warming (2-3°C above ambient) in summer.
- ***Quantified Impact:*** EPA's 2024 source apportionment: WWTP contributes 25% to estuary's overall pollution risk score (moderate-high). Without upgrades not due to be completed until 2033, status will be "poor."

The applicant assessment relies on upgrades being undertaken which are not due to be completed until after 2029 (the upgrades to the Blackrock WWTP and its network are not due to be completed until after 2033 – see below).

Uisce Éireann's August 2025 'Update regarding Blackrock Wastewater treatment plant and network'[5]

The applicant's project team has sought to portray Dundalk's closest treatment plants and sewer network as having the capacity and efficacy to receive the foul wastewater from this 500 dwelling plus scheme (and from all other planning permissions granted to date, under construction, or which will be permitted over the next 5 to 10 years).

Most of this FI stage objection addresses concerns over the Dundalk WwTP; however, the Blackrock Wastewater treatment plant also has problems which the applicant has not taken into account in their cumulative assessment of ongoing and likely future adverse impacts on the SAC and SPA.

While the Dundalk WwTP is expected to be upgraded after 2033, the Blackrock Wastewater treatment plant and network will, according to Uisce Éireann, be addressed from 2029-2033 (see above). It is, again, clear that the wastewater infrastructure on which the applicant scheme relies requires upgrades. These upgrades remain many years away.

Uisce Éireann's August 2025 'Update regarding Blackrock Wastewater treatment plant and network' states:

> *Cocklehill pumping station, stormwater overflow (SWO) is not compliant with regulatory storage capacity requirements and options for further improvements to Cocklehill pumping station SWO activations will be considered under next phase of capital improvements ...* ***at this stage it is very difficult to provide a timeframe other than it would not be any sooner than 2029.***

[5] https://www.water.ie/news/update-regarding-blackrock-wastewater-treatment-plant-and-network

In addition, a project to connect an element of the Blackrock wastewater network to the Dundalk network feeding the Dundalk WWTP (Blackrock Local Network Reinforcement/Load Transfer project) ***is under assessment and subject to budget approval. Subject to that, it has been scheduled for completion by 2029.***

The Dundalk WWTP will be upgraded and detailed design is commencing, and this upgrade is being designed with sufficient treatment capacity to accept the full Blackrock load and to facilitate ultimately the de-commissioning of the Blackrock WWTP. ***Currently the programme for the Dundalk upgrade is 2033 and the full transfer of all the Blackrock load would then be dependent on a number of other network projects being completed. WWTP upgrade projects have typically 5-7 year delivery programmes (once detailed design has commenced) because of the need for modelling studies of the receiving waters, preparation of an EIAR (Environmental Impact Assessment Report), obtaining of planning permission, obtaining of an EPA license all of which has to be completed before construction can begin.***

[Emphasis added by BPS].

Implications for the SAC and SPA

The issues of SWOs releasing raw sewage worsens eutrophication in Inner Dundalk Bay, affecting SAC/SPA habitats. Uisce Éireann attributes the problems to aging infrastructure and underinvestment at Dundalk Waste Water Treatment Plant.

This cannot be addressed until post-2029 or even 2033 (see above). The current planning application is premature

2.1.1 Comments on the applicant's FI response

The applicant's planning consultant and ecologist do not attempt to address Item 1.

Both state: "An Amended Appropriate Assessment Screening Report is not submitted with this response". The applicant has not addressed the FI request. The applicant essentially argues that LCC was/is wrong to ask for this.

For the reasons given above, neither can address LCC's concerns which, BPS assumes, arise from an awareness of the details we have set out in Section 2.1 above.

The planning consultant's covering letter and the Amended Appropriate Assessment Screening Report attempt to find a way around the issue. Both fail to do so. Indeed, both highlight how this project has no control over wastewater infrastructure outside of the red line boundary and cannot force Uisce Éireann to fully upgrade the Dundalk Waste Water Treatment Plant prior to 2033 (see above). Further, the Blackrock WwTP and network will not be fully addressed before 2029-2033.

The wastewater treatment infrastructure needed to service this proposal is deficient and the applicant is unwilling to confirm that the proposed development could significantly and adversely impact on Qualifying Interests and/or Conservation Objectives as a consequence of untreated or partially treated discharges from the Dundalk Waste Water Treatment Plant into Dundalk Bay. The applicant has failed to provide a complete evaluation of the potential effects of this on the Qualifying Interests and/or Conservation Objectives for the Dundalk Bay European Sites.

This being the case, the proposed development should be refused for the following reason which is included in the FOURTH SCHEDULE 'Reasons for the Refusal of Permission which Exclude Compensation' (section 191):[6]

1. Development of the kind proposed on the land would be premature by reference to any one or combination of the following constraints and the period within which the constraints involved may reasonably be expected to cease—

(a) an existing deficiency in the provision of sewerage facilities,

(b) the capacity of existing or prospective sewerage facilities being required for prospective development as regards which a grant of a permission under Part III of this Act, an undertaking under Part VI of the Act of 1963 or a notice under section 13 of the Act of 1990 or section 192 of this Act exists,

(c) the capacity of existing or prospective sewerage facilities being required for the prospective development of another part of the functional area of the planning authority, as indicated in the development plan,

(d) the capacity of existing or prospective sewerage facilities being required for any other prospective development or for any development objective, as indicated in the development plan,

2. The proposed development—

(a) would contravene materially a development objective indicated in the development plan for the conservation and preservation of a European site insofar as the proposed development would adversely affect one or more specific—

[6] BPS has edited the first recommended reason for refusal to fit this matter as it refers to sewerage facilities only.

(i) (I) natural habitat types in Annex I of the Habitats Directive, or
(II) species in Annex II of the Habitats Directive which the site hosts,
and which have been selected by the Minister for Arts, Heritage, Gaeltacht and the Islands in accordance with Annex III (Stage 1) of that Directive,
(ii) species of bird or their habitat or other habitat specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site.

Responses to the applicant planning consultant's submission

- The planning consultant states: "An Amended Appropriate Assessment Screening Report is not submitted with this response". The applicant has therefore not addressed the LCC request.

- References are made to case law without offering any context or explanation for their inclusion.

- The submission repeats (twice) the "screening out" point noted in Item 1 of the LCC request.

- The submission notes the amended FI stage AA report but asks LCC to consider how it would, essentially, not be possible to determine whose foul wastewater is not properly treated or discharged untreated to Dundalk Bay arising from the ongoing failings of the Dundalk Waste Water Treatment Plant.

- The submission fails to reflect on how the Dundalk Waste Water Treatment Plant is no longer fit for purpose and upgrades are required. Where are the references to the documents and details included in Section 2.1 of this BPS letter?

- LCC is informed that the concern is not "water quality". It is "with the risk of significant effects on European designated sites". In this way ,the applicant seeks to distance themselves from the ongoing 'Poor' ecological status of the waters of Dundalk Bay which have been significantly and adversely affected by the Dundalk Waste Water Treatment Plant since 2017 (according to the EPA's inspection reports).

- The Ecology RFI Response Memo prepared by DNV evaluates the possibility that discharges of inadequately treated foul water originating from the Proposed Development, via the Dundalk WwTP, might adversely affect the Qualifying Interests (QIs) and/or Conservation Objectives (COs) of the Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026). It notes how the wastewater treatment plant in Dundalk has experienced incidents in recent years including effluent quality breaches due to equipment failure discharges at the plant and due to discharges during periods of high rainfall (i.e., events which happen regularly in Dundalk being part of Ireland). The EPA has confirmed that the failings of the Dundalk Waste Water Treatment Plant have impacted adversely on water quality and on the SAC and SPA and their Qualifying Interests. It would be difficult for the applicant ecologist to disagree with this. The applicant planning consultant is forced to try to find a way around this concern.

- The planning consultant focuses on an argument that the failings of the Dundalk Waste Water Treatment Plant do not arise from capacity constraints stating: "The incidents are not related to capacity constraints in the system". With all due respect, the theoretical capacity of a dysfunctional Waste Water Treatment Plant whose most recent inspection report is genuinely concerning is irrelevant. The plant cannot take any further foul waste water before upgrades arise post-2033 (see above). The applicant and the Uisce Éireann Confirmation of Feasibility (CoF) set out a wholly contradictory position whereby they propose that the existing plant take more foul wastewater at a time when the EPA considers the period from 2017 to today to be wholly unsatisfactory as regards its operations which have contributed to the 'Poor' ecological status of Dundalk Bay's waters with consequent adverse impacts on the SAC and SPA.

- LCC is told to ignore the EPA and to accept the applicant's position that: "The incidents at the WWTP were operational and infrastructure related which would occur regardless of the proposed development or any other development discharging to the WWTP". That is, an environmental car crash is taking place, but us sending more vehicles at high speeds toward the crash site will not make it any worse. It is clear why LCC needed to request this FI. The applicant has revealed their position. They have no concerns for the likely cumulative adverse impact of the scheme's foul wastewater impacts on the SAC and SPA when all other foul waters already passing to the dysfunctional Waste Water Treatment Plant are taken into account.

- Finally, the applicant is forced to go back to their original position, i.e., it is not our responsibility. The document states: " ... the issues at the WWTP are not in the applicant's control to mitigate, nor do they have any power to require that they are implemented". LCC is asked to grant planning permission despite the failings of the dysfunctional Waste Water Treatment Plant.

- The applicant was aware of these issues when they lodged this planning application. They are detailed in our client's previous objections, and they are published on the EPA's website. The infrastructure is not available at present to service this project's foul wastewater. The proposal is premature because: "there is no mechanism through a project related NIS to include mitigation measures at the Dundalk WWTP". The applicant cannot upgrade the plant, and these upgrades are not due to start until 2033 (see above).

- The applicant accepts that there are "infrastructure failures" at the plant.

- Claims are made (as they have been made by the applicant previously in respect of the Coe's Road pumping station) that works are due to start to fix these problems as early as next year ("a further programme to maintain capacity is due to commence in 2026"). In fact, the EPA has been formally informed by Uisce Éireann that these works will not be fixed until after 2033 (see above).

- The applicant concludes: "the Proposed Development, if permitted, could not reasonably be deemed to affect this baseline at the plant in any significant manner". This statement is not supported by the EPA's site inspection or monitoring results. The plant is dysfunctional and requires upgrades. The applicant wishes to force a largescale additional foul waste water loading onto this plant with all the likely consequences set out above.

- The applicant refers in the conclusion to: "the possibility that discharges of inadequately treated foul water originating from the Proposed Development into the Dundalk Bay SAC/SPA, from the Dundalk WwTP". This is precisely the point. The EPA has confirmed that the Dundalk WwTP is discharging untreated or partially treated sewage into Dundalk Bay and into the SAC and SPA. The applicant's weak argument is essentially that LCC, the EPA, and Uisce Éireann would not be able to tell that from their scheme from all other sources. This is hardly an argument. They now the situation is bad, but LCC can rest assured that no one can point the finger at the proposed development as its waste will be indistinguishable from all others and untraceable to them.

- The applicant's conclusion states finally that the project ecologist is unsure if discharges from the Dundalk WwTP are causing adverse impacts on the SAC and SPA. We note that the EPA has confirmed that this is the case and has been the case since 2017. There has been no improvement in the 'Poor' ecological status of these waters.

Responses to the applicant's DNV's submission

- Enviroguide has been purchased by DNV whose website calls them an "independent assurance and risk management provider, operating in more than 100 countries". The submission offers no details of this firm and the qualifications and experience of the author.

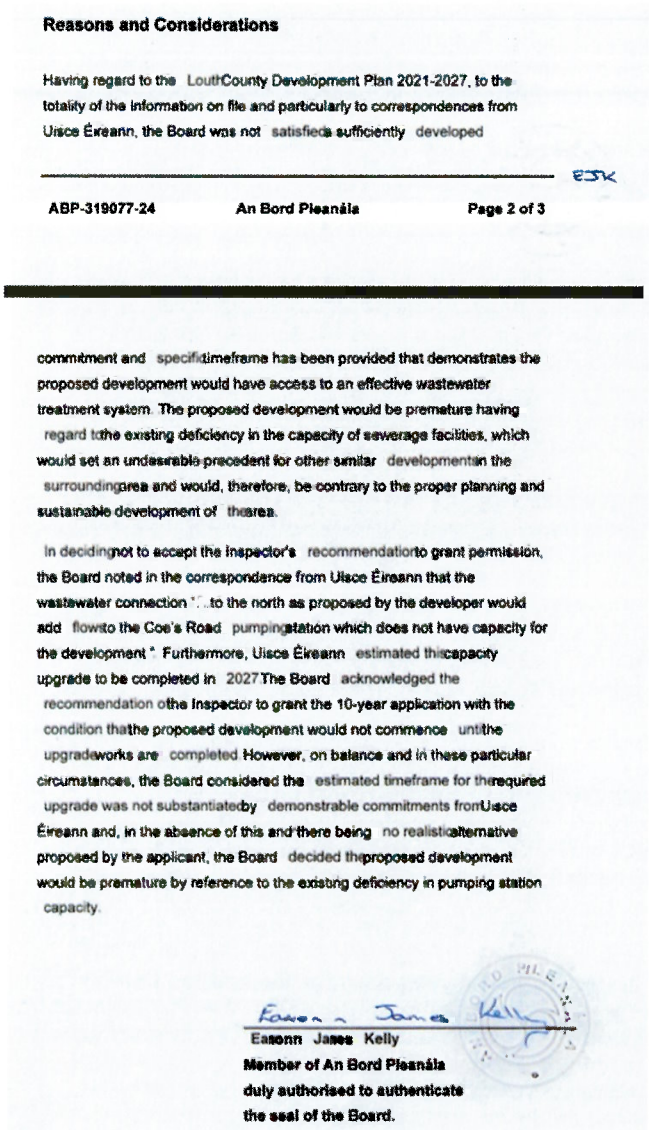
- The author states: "An Amended Appropriate Assessment Screening Report is not submitted with this response". The applicant has therefore not addressed the LCC request. DNV has decided only to provide a "Memo Document".

- As per the project planning consultant's narrative, DNV refers first to the capacity of the Dundalk WwTP. The stated capacity of the plant, is, as set out above, wholly at odds with the current operational efficacy of the plant, as assessed by the EPA.

- DNV confirms how this single project would cause 1,400pe additional load on the Dundalk WwTP. Given how the WWtP has been experiencing, inter alia, "overflows" (EPA), it is difficult to understand how the arrival of the sewage from the 503 homes in the current scheme, let alone the many other homes granted permission by LCC or ACP in the past 5 years, would have anything but an adverse impact causing additional overflows. DNV attempt to diminish this concern by stating that the scheme would represent "2% to the total capacity to the WWTP". Given the overall pe of the dysfunctional WWtP, 2% is a large increase. It is much like arguing that a 2% increase on the M50 would be a drop in the ocean when, it is a large increase but it is also an increase added to infrastructure which is already regularly showing signs of breakdown.

- DNV, which is meant to be the project's ecologist and not its planning consultant or drainage engineer (why is the project ecologist making these arguments?), argues that: "This load will arise over a number of years during which the UÉ CM [Capital Maintenance] programme will have been implementing capital investment to address asset deficits which will ensure the capacity of 71,000pe is maintained and compliance restored". **That is, LCC is asked to trust the applicant's reliance on Uisce Éireann while the applicant asks LCC not to require them to have any responsibility for relying on Uisce Éireann as regards possible adverse impacts on the Dundalk Bay SAC and SPA arising from the failings of the Dundalk WwTP if the scheme's foul wastewater is pumped to it.**

  This argument is very reminiscent of that made by the applicant in respect of the Coe's Road pumping station under the previous appeal, reg. ref. ABP-319077-24. The applicant requested that LCC and ACP grant permission and that wastewater infrastructure would then be upgraded, as required, over the lifetime of the permission. ACP's decision has been proven correct in all regards pertaining to prematurity as regards foul wastewater infrastructure. The reason for refusal issued by ACP and set out in Fig. 5 could be re-written to apply to the Dundalk WwTP.



Reasons and Considerations

Having regard to the LouthCounty Development Plan 2021-2027, to the totality of the information on file and particularly to correspondences from Uisce Éireann, the Board was not satisfied sufficiently developed

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commitment and specifictimeframe has been provided that demonstrates the proposed development would have access to an effective wastewater treatment system. The proposed development would be premature having regard tothe existing deficiency in the capacity of sewerage facilities, which would set an undesirable precedent for other similar developmentin the surroundingarea and would, therefore, be contrary to the proper planning and sustainable development of thearea.

In decidingnot to accept the Inspector's recommendationto grant permission, the Board noted in the correspondence from Uisce Éireann that the wastewater connection "...to the north as proposed by the developer would add flowto the Coe's Road pumpingstation which does not have capacity for the development." Furthermore, Uisce Éireann estimated thiscapacity upgrade to be completed in 2027.The Board acknowledged the recommendation ofthe Inspector to grant the 10-year application with the condition thatthe proposed development would not commence untilthe upgradeworks are completed.However, on balance and in these particular circumstances, the Board considered the estimated timeframe for therequired upgrade was not substantiatedby demonstrable commitments fromUisce Éireann and, in the absence of this and there being no realisticalternative proposed by the applicant, the Board decided theproposed development would be premature by reference to the existing deficiency in pumping station capacity.

Eamonn James Kelly
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Fig. 5: The Commission's refusal of appeal reg. ref. ABP-319077-24 (Source: Commission archives[7])

- DNV point to Uisce Éireann's future plans for Dundalk WwTP. Section 2.1 of this letter sets out the EPA's understanding that these works will not be completed until after 2033. Indeed, even DNV note how: "This project is expected to go to site in 2029 subject to planning and other approvals." This is incorrect. UÉ has stated it will be 2033 (see above). If the project is delayed, it will be well after 2033 before it is operational. This planning application is premature.

- DNV argue that planned capacity amounts to existing capacity. It does not. ACP did not accept this argument under the previous appeal (see Fig. 5).

- LCC's request is that the applicant assesses the likely adverse impacts of foul wastewater being processed at the Dundalk WwTP before the works planned after 2033 take place. DNV argues again and again that, despite the failings of the Dundalk WwTP, these can be ignored. DNV's position is that Uisce Éireann states there is current capacity and future planned capacity, so all day-to-day concerns identified by the EPA in its monitoring can be disregarded. This is not the case.

- DNV appears to believe that by making this "capacity" argument enough times, LCC will forget the failings of the Dundalk WwTP such that the following statement can be made without irony: "... there is no feasible likelihood of the foul waters generated by the Proposed Development and treated at the WwTP adversely affecting Dundalk Bay SAC/SPA due to capacity issues". This argument is much like the Catholic doctrine, as interpreted by some clergy during the child sexual abuse scandals, which allowed for deception without committing the mortal sin of lying through a theological concept called mental reservation (also known as "mental restriction"). This permitted church officials to withhold key information or imply falsehoods in their statements while internally qualifying their words in a way that, in their view, preserved

[7] https://www.pleanala.ie/en-ie/case/319077

truthfulness before God. In the current case, the DNV argues that because Uisce Éireann has stated that the WwTp has capacity then it is reasonable for the project team to rely on this and not to look to EPA research and findings which confirm that these capacity claims are fantastical in the face of spills/overflows/equipment failings/ageing equipment/ heavy rainfall/ outages, etc. That is, the applicant cannot be held responsible for the sins of Uisce Éireann; but they would like to benefit from those sins.

- Section 4.2.2 of the DNV arguments in favour of the scheme, refers to "Treatment Issues to-date" and informs LCC that these are: "**Separate to and independent from this planning application and the Proposed Development**" [emphasis added]. That is, one assumes DNV means the foul wastewater from the applicant scheme would be treated differently and would never be the subject of any failings relating to the dysfunctional nature of the Dundalk WwTP. It is unclear how this would work. Do they receive priority treatment?

  DNV accepts how: "the WwTP has experienced ongoing treatment issues to-date, largely relating to incidents of effluent quality breaches (mainly excess nutrients), equipment failures leading to treatment bypass or outage, and occasional uncontrolled discharges (spills/overflows) due to infrastructure issues". This is not a complete or objective list of the issues faced since 2017 at the WwTP.

  DNV then argues that Uisce Éireann has addressed the concerns: "through mitigation measures, plant upgrades, and improved procedures to prevent recurrence of these issues" yet this is not what the EPA states in its monitoring results and site inspection reports. They point to how the WwTp is reaching its end of life in many areas and needs the 2033 upgrade.

  DNV then notes the EPA's findings and attempts to undermine them (we note that Uisce Éireann has not itself tried to undermine the EPA on these points). DNV notes how: "A deterioration in water quality has been identified (see Appendix 7.1) however it is not known if it or is not caused directly by the WWTP". This is much like a big tobacco argument. The man/woman also drives a car; how do we know the carbon monoxide came from the cigarettes? This is despite how Catchments.ie points to one of the main pollution sources as being urban wastewater such as discharges from Dundalk Treatment Plant.

  DNV is willing to accept only that: "the discharge from the wastewater treatment plant may be having an observable negative impact on the water quality and the WFD status of the Castletown Estuary and Inner Dundalk Bay." It is reasonable to state that the EPA's position is more that it is definitely having an observable impact.

  DNV then argues: "Screening is concerned not with risk of effect on water quality, but with risk of significant effect on European Sites". This statement is true, but it is not the case that water quality is irrelevant to AA screening. For example:

  - ***AA Screening is Site-Specific and Precautionary***: It uses "best scientific knowledge" to screen for effects on designated sites where ambient water quality can vary across a spectrum from good to bad. In this case, a discharge from the Dundalk WwTP enters waters which are already 'Poor' as assessed by the EPA. The applicant can argue that the scheme will not worsen this 'Poor' rating even if further discharges occur from the WwTP. However, this fails to account for cumulative impacts and for how achieving the objectives of the Dundalk Bay SAC and SPA depends on water quality.

    Improved water quality is critical to achieving and maintaining the conservation objectives of the Dundalk Bay SAC and SPA, as water quality directly affects the qualifying habitats and species for which these sites are designated. However, the primary aim of these sites under the EU Habitats and Birds Directives is not to "benefit from better water quality" in a general sense but to ensure no adverse effects on site integrity (i.e., the structure, function, and conservation status of protected features). Improved water quality is often necessary to meet these objectives, especially given pressures like wastewater discharges identified in the Dundalk agglomeration.

    Our client asks LCC to consider the role of water quality in the context of Dundalk Bay SAC and SPA, given their conservation objectives and the pressures on this water quality as noted above.
    Dundalk Bay SAC and SPA: Conservation Objectives

    Dundalk Bay is designated as both an SAC (under the EU Habitats Directive) and an SPA (under the EU Birds Directive) due to its ecological importance. These designations come with specific conservation objectives set by the National Parks and Wildlife Service (NPWS) to maintain or restore the favourable conservation condition of protected features.

    Dundalk Bay SAC (Site Code: IE000455):

    Qualifying Interests (Annex I habitats and species):

    - Estuaries [1130]
    - Mudflats and sandflats not covered by seawater at low tide [1140]
    - Perennial vegetation of stony banks [1220]
    - Salicornia and other annuals colonizing mud and sand [1310]
    - Atlantic salt meadows [1330]
    - Mediterranean salt meadows [1410]

- Conservation Objectives: To maintain or restore these habitats to favorable conservation status, defined by attributes like habitat area, structure (e.g., sediment composition), and ecological functions (e.g., nutrient cycling). Water quality is a key attribute, as nutrient enrichment (e.g., nitrogen/phosphorus from wastewater) can degrade habitats like mudflats or salt meadows by causing eutrophication or algal blooms.

Dundalk Bay SPA (Site Code: IE004026):

Qualifying Interests: Internationally important populations of migratory birds (e.g., knot, oystercatcher, bar-tailed godwit, great crested grebe) and a wintering waterbird assemblage.

Conservation Objectives: To maintain or restore favourable conservation condition for these bird species, measured by population trends, distribution, and habitat quality (e.g., availability of feeding areas like mudflats). Poor water quality can reduce prey availability (e.g., shellfish or invertebrates) or alter feeding habitats, indirectly affecting bird populations.

Water quality and the SAC and SPA:

The NPWS Conservation Objectives for both sites (detailed in documents like NPWS 2011 for the SAC and SPA) emphasise that water quality must support the ecological requirements of these habitats and species. For example, excessive nutrient loads from wastewater discharges can lead to significant effects like habitat degradation, which would undermine these objectives.

Water Quality as a Pressure on Dundalk Bay:

Wastewater discharges from the Dundalk Wastewater Treatment Plant is a significant pressure on Dundalk Bay SAC and Castletown Estuary, as identified in the 3rd cycle of the River Basin Management Plan (RBMP) and EPA inspections. Specific issues include:

- ✓ *Emission Limit Value (ELV) Breaches:* Uisce Éireann reported three Total Nitrogen and two Total Phosphorus breaches in 2024, indicating water quality impacts.
- ✓ *Storm Water Overflows:* High-frequency discharges from non-compliant overflows (e.g., SW008, SW009, SW010) contribute to nutrient pollution.
- ✓ *EPA Priority Area:* Dundalk is flagged for corrective actions to ensure discharges do not prevent receiving waterbodies (like Dundalk Bay) from meeting their environmental objectives.

These pressures directly threaten the SAC and SPA, as nutrient enrichment can:

- ✓ Cause eutrophication, altering mudflat ecosystems (SAC).
- ✓ Reduce prey availability for birds (SPA).
- ✓ Disrupt habitat structure (e.g., sediment smothering from suspended solids).

Thus, improving water quality is essential to mitigate these pressures and achieve the conservation objectives of the SAC and SPA. For instance, reducing nitrogen/phosphorus loads aligns with maintaining favourable conditions for mudflats or salt meadows and supporting bird populations.

Is Water Quality an objective of the SAC and SPA

While water quality is not the explicit "objective" of the SAC or SPA (the objective is maintaining site integrity and favourable conservation status), it is a critical supporting factor. The EU Habitats Directive requires that plans or projects (e.g., wastewater operations) undergo AA Screening to determine if they are likely to have significant effects on European Sites. If significant effects cannot be ruled out, a full Appropriate Assessment is required to ensure no adverse impact on site integrity. AA Screening focuses on risks to European Sites, not general water quality under the Water Framework Directive (WFD). However, in practice, poor water quality (e.g., from wastewater discharges) is a key pathway for significant effects on Dundalk Bay SAC/SPA. Mitigating these risks requires improving water quality to meet WFD "good status" or site-specific standards, indirectly benefiting the SAC/SPA. For example, the EPA's insistence on Uisce Éireann resolving ELV breaches and upgrading infrastructure (e.g., storm water overflows, centrifuges) aims to reduce nutrient inputs to Dundalk Bay, directly supporting the SAC/SPA's conservation objectives.

The EPA and Uisce Éireann monitor water quality parameters (e.g., nitrogen, phosphorus) as part of RBMP and WFD compliance, which indirectly supports SAC/SPA objectives. Under the Habitats Directive, Uisce Éireann must ensure wastewater discharges do not compromise Dundalk Bay's site integrity, which often necessitates water quality improvements.

The Dundalk Bay SAC and SPA require improved water quality to achieve their conservation objectives, as poor water quality from wastewater discharges is a significant pressure threatening their qualifying habitats and species. While the primary aim is to maintain or restore favourable conservation status (not to "benefit from better water quality" in isolation), water quality is a critical factor in ensuring site integrity. Actions like upgrading the Dundalk wastewater

treatment plant and addressing storm water overflows are mandated to prevent adverse effects on these European Sites, aligning with findings from the EPA inspections.

- ***Overlap between Appropriate Assessment and Water Quality:*** While water quality issues (e.g., eutrophication) can be pathways for significant effects on European Sites, AA Screening does not substitute for WFD or EPA water quality processes. However, in cases like wastewater plants such as Dundalk WwTP near estuaries (e.g., Dundalk Bay SAC and SPA), both may apply, but AA focuses solely on site integrity. This aligns with EU guidance (e.g., ECJ rulings like Sweetman v An Bord Pleanála (C-258/11)) and Irish EPA/NPWS protocols, emphasizing that screening excludes projects only if significant effects can be ruled out without relying on unproven mitigation.

DNV takes a position which our client has shown above to be an incorrect one. That is, they ask "whether the Proposed Development itself would feasibly affect this current baseline of the WwTP's operation (in terms of the issues the plant experiences); and then adversely affect the Dundalk Bay SAC/SPA as a result". By setting out the question in this way, DNV can reach their preferred conclusion. The correct approach would be to ask whether the current 'Poor' water quality status of Dundalk Inner Bay is causing significant adverse impacts on the SAC and SPA and whether this project would contribute to this situation continuing or worsening.

DNV again reviews the history of failings at the Dundalk WwTP. Following the setting out of this list – a list which raises significant questions over the operations and fit for purpose nature of the facility at all – DNV states: "any issues arising at the WwTP would be present regardless of the Proposed Development going ahead or not". This 'we won't make it any worse than it already is' argument is addressed above and is not accepted. Cumulative impacts, if significant, mean that the Dundalk WwTP cannot be screened out insofar as it would receive foul wastewater from this project including prior to upgrade works starting in 2033.

- In Section 4.2.3, DNV refers to 'Preventive Measures and Upgrades' and lists UÉ's proposed upgrades to the WwTP. These will not all be completed until after 2033. This is the pertinent fact. While the EPA has identified significant concerns since 2017, DNV chooses to go back to the "2010s".

  DNV confirms how a "1,500 m^3 storm balancing tank at Coe's Road Pumping Station (the main inlet pumping station) is still at the planning stage with a completion timeframe of 2032.

  DNV refers to various paraphrased points from a range of UÉ and EPA documents to try to paint a picture of the Dundalk WwTP now operating much better than before. The reader is told that 7 incidents at the WwTP in 2024 is an improvement.

  DNV is willing to express the utmost confidence in the future and in UÉ by speculating as to how: "As result of its increased operational efficiency, the WwTP will experience a reduction in the frequency of issues set out above at 4.2.2 …". This is yet to be seen and any emerging results exclude the applicant scheme. Also, DNV does not set out the number of connections which UÉ has agreed to in the past 5 years which have actually been activated.

  Likewise, having listed significant issues with the WwTP and noted EPA concerns, DNV then states: "there is no evidence to suggest that such issues currently have the potential for significant effects on the Dundalk Bay SAC/SPA". Our client considers that, again, this statement is at odds with EPA data and findings as regards Dundalk Inner Bay.

- In Section 4.3, DNV finally sets out their position as to 'The effect of the Proposed Development on Dundalk WwTP'. LCC is told that it can ignore the dysfunctional aspects of the WwTP and the long list of problems which have beset it and over which the EPA has made clear a full upgrade is needed after 2033. LCC is asked, again, only to focus on capacity. This issue is addressed above. The applicant would have LCC close its eyes to the "equipment failures and associated shortcomings in the plant's capacity to remove nutrients prior to discharge" or to see these as short term issues which can easily be addressed with better procedures, training, etc.

  DNV then resorts again to their position that "with regard to discharges from the WwTP not meeting emissions standards, this is a matter for UÉ and is not within the purview or control of the applicant. It is respectfully submitted that UÉ are responsible for whether the receiving drainage infrastructure has the capacity to facilitate a development and also for ensuring that public wastewater infrastructure is operating to a satisfactory level in terms of wastewater treatment". LCC is again asked to disregard the reason why it asked for this FI. DNV's position does not stand up to scrutiny.

  LCC is told again and again to just ignore the clear and blatant dysfunction of the WwTP, the Poor water quality in Inner Dundalk Bay, and the adverse impacts this is having on the SAC and SPA and see the issue as one for UÉ to address at some point in the future. LCC is asked to see the two projects as taking place at the same time with UÉ essentially having made a promise that the scheme will be able to connect to the WwTP without any problems arising. Our client's position is that UÉ has no credibility in this regard and cannot guarantee this until the WwTP is upgraded in full after 2033.

  DNV includes a sentence which reads, "these infrastructural issues at the WwTP are ongoing, internal, and separate from the Proposed Development and the foul waters it will generate if permitted". This tells LCC that the applicant considers the WwTP to be nothing to do with them even it were to cause significant adverse impacts on water quality in Inner Dundalk Bay and the SAC and SPA.

- Our client disagrees with the DNV conclusions. The ongoing issues (i.e., the baseline) at Dundalk Ww. refer to infrastructural failings which will not be fully addressed until after 2033. This proposal is premature.

- The proposed development would exacerbate the risk to the SAC and SPA from Poor water quality in a cumulative manner which is not assessed by the applicant.

- A hydrological connection between the Proposed Development and the Dundalk Bay SAC/SPA, via the WwTP, arises and the applicant refuses to address this with a Natura Impact Statement (despite the scale of the project).

- The potential for likely significant effects on European Sites in Dundalk Bay due to foul water generated by the proposed development should not have been screened out.

- The Source-Pathway-Receptor model to presents a credible risk of likely significant effects to Dundalk Bay SAC/SPA as UÉ and the EPA have acknowledged that the WwTP is adversely impacting water quality within the SAC and SPA whose Conservation Objectives depend on improvements in water quality. As noted above, while water quality is not the explicit "objective" of the SAC or SPA (the objective is maintaining site integrity and favourable conservation status), it is a critical supporting factor. The EU Habitats Directive requires that plans or projects (e.g., wastewater operations) undergo AA Screening to determine if they are likely to have significant effects on European Sites. If significant effects cannot be ruled out, a full Appropriate Assessment is required to ensure no adverse impact on site integrity. AA Screening focuses on risks to European Sites, not general water quality under the Water Framework Directive (WFD). However, in practice, poor water quality (e.g., from wastewater discharges) is a key pathway for significant effects on Dundalk Bay SAC/SPA. Mitigating these risks requires improving water quality to meet WFD "good status" or site-specific standards, indirectly benefiting the SAC/SPA. For example, the EPA's insistence on Uisce Éireann resolving ELV breaches and upgrading infrastructure (e.g., storm water overflows, centrifuges) aims to reduce nutrient inputs to Dundalk Bay, directly supporting the SAC/SPA's conservation objectives.

- A letter from UÉ does not absolve the applicant of their responsibilities under the Habitats Directive.

- The responsibility for ensuring effective operation of the WwTP lies with UÉ. However, it would be irresponsible and illegal for this project to rely on a WwTP which is actively polluting the SAC and SPA.

- The applicant states: "once the receiving WwTP is operating effectively, there is no potential for likely significant cumulative effects involving foul water generated by the Proposed Development. The potential for likely significant effects on European Sites in Dundalk Bay because of foul water generated by the Proposed Development was therefore screened out". This will not be until after 2033. The assessor's conclusions' caveat is significant and undermines the conclusion.

- The letter received by the applicant from UÉ dated August 2025 (included with the applicant's overall RFI Response), and the DNV submission fail to address the fact that planning permission is requested when a planning application has not been lodged to upgrade the Dundalk WwTP. This is not even at planning stage. The project is premature.

- The DNV submission is speculative and not scientific, or best practice, when it refers repeatedly to "the trend in terms of perfo mance at Dundalk WwTP is positive". This "trend" is from a low starting point and wil not be completed until after 2033. DNV further states, for example, "While work remains to achieve compliance with all ELVs at the plant, it appears that the worst problems are being mitigated". This is not the impression that the attached EPA 2024 inspection report gives. It suggests a full overhaul is needed of the WwTP after 2033.

2.2 Item2

With all due respect to LCC, our client - a couple who have lived adjoining the applicant's backland field for many years – do not consider this proposal to be reasonable. The pedestrian and cycle proposals pertaining to this backland site are not accepted as adequate. There are more suitable sites, with the required zoning, which should be developed prior to these lands.

3.0 Conclusion

The applicant has failed to address Item 1 of the Further Information request. An amended Natura Impact Statement and Environmental Impact Assessment Report should have been provided. Dundalk WwTP is not currently fit for purpose and is impacting significantly on the Dundalk Bay SAC and SPA. The applicant has failed to prove, beyond all scientific doubt, that the proposed development, if permitted, would not contribute to these significant adverse impacts at a time when the EPA, Louth County Council, and others are attempting to improve the 'Poor' water quality in Inner Dundalk Bay. The proposed development is premature pending the upgrading of the Dundalk WwTP after 2033.

The pedestrian and cycle proposals pertaining to this backland site are not accepted as adequate.

4.0 Recommendation

We recommend that Louth County Council refuse planning permission for the following reasons (in addition to those set out in our client's original objection):

1. Development of the kind proposed on the land would be premature by reference to any one or combination of the following constraints and the period within which the constraints involved may reasonably be expected to cease—

(a) an existing deficiency in the provision of sewerage facilities,
(b) the capacity of existing or prospective sewerage facilities being required for prospective development as regards which a grant of a permission under Part III of this Act, an undertaking under Part VI of the Act of 1963 or a notice under section 13 of the Act of 1990 or section 192 of this Act exists,
(c) the capacity of existing or prospective sewerage facilities being required for the prospective development of another part of the functional area of the planning authority, as indicated in the development plan,
(d) the capacity of existing or prospective sewerage facilities being required for any other prospective development or for any development objective, as indicated in the development plan.

2. The proposed development—
(a) would contravene materially a development objective indicated in the development plan for the conservation and preservation of a European site insofar as the proposed development would adversely affect one or more specific—
(i) (I) natural habitat types in Annex I of the Habitats Directive, or
(II) species in Annex II of the Habitats Directive which the site hosts,
and which have been selected by the Minister for Arts, Heritage, Gaeltacht and the Islands in accordance with Annex III (Stage 1) of that Directive,
(ii) species of bird or their habitat or other habitat specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site.

5.0 Finally

We confirm that we act as agent for our client in respect of this matter. All correspondence should be sent to BPS at the address provided on this letterhead.

If you require any further information, please contact BPS using the details on this letterhead.

With best wishes,

Brendan Buck

Brendan Buck MIPI
Managing Director
BPS Planning & Development Consultants Ltd