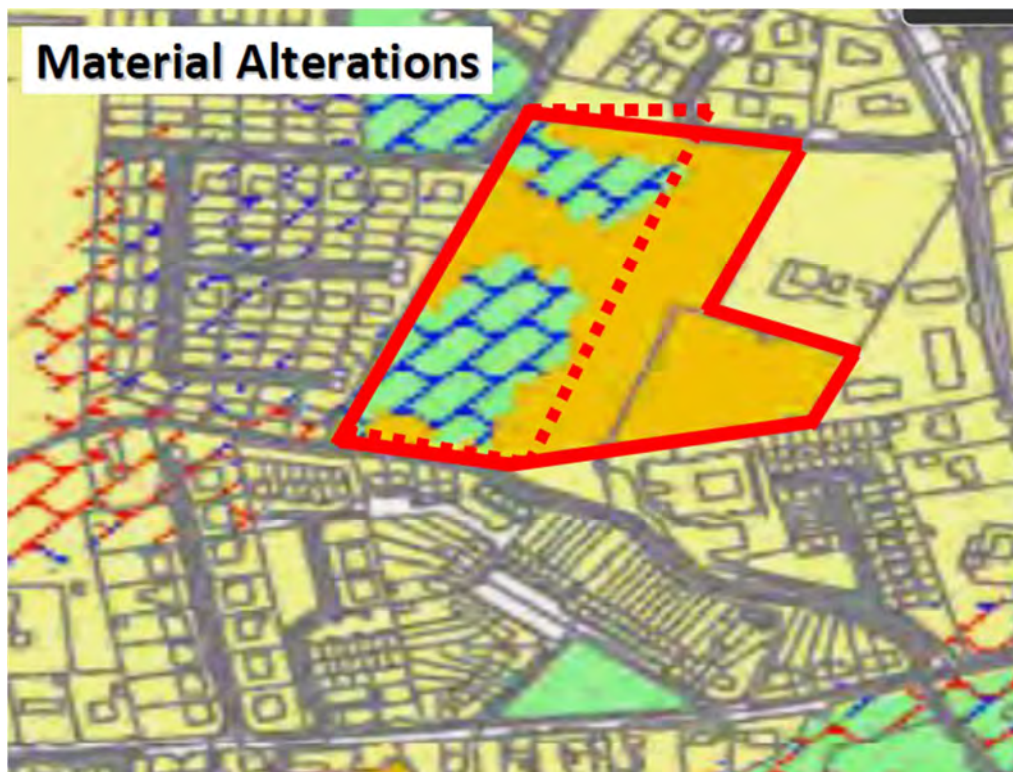


1.0 INTRODUCTION

B. N & B. Carroll (the Carrolls) are the owners of a portion of the land affected by the proposed material amendment DLK27. The Carrolls land ownership extends to c3.3ha and is identified by a solid red line on the map below.

This submission seeks –

- 1) That the proposed material alteration to change the zoning of parts of the lands from A2 to H1 – open space is not adopted and the whole site maintains its A2 order of priority zoning as per the draft Plan¹.



¹ There is a separate proposed material alteration to change the zoning order of priority from 'Residential A2 – Phase 1' to 'Residential A3 – Phase 2' (Proposed Material Alteration DLK27) and a separate submission has been made to DLK27 seeking that DLK27 is also not adopted and that the A2 order of priority zoning as per the draft Plan is adopted.

It is noted that the change sought will not add more residentially zoned land to the overall amount of residentially zoned land as the proposal to change from A2 to H1 was not in the draft Plan and is now only introduced as a material amendment. As such the proposal sought in this submission is in keeping with Section 12(10(c)) of the Planning and Development Act 2000 as amended as the change sought in this submission would be minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site or result in an increase in the area of land zoned for any purpose. The principle of the residential zoning having been established through the various Strategic Environmental Assessment (SEA) of the Plan-making process.

2.0 FLOOD RISK ASSESSMENT ISSUES

It is noted that parts of Carrolls lands have a 'Flood Zone B' designation. The Carrolls have engaged a consulting engineer with expertise in flood matters to prepare a report on this matter. This report is attached at Appendix A and forms part of this submission.

The Engineer's Report finds the amended SFRA may not be consistent with the Planning Authorities and Flood Risk Management Guidelines (2009), as revised by Circular PL 2/2014, specifically Criteria 2 of Box 4.1 of the Justification Test for Development Plans.

According to the Report, there is no evidence in the revised SFRA that an assessment of the submission lands was undertaken in accordance with item no.'s (i) - (v), as required. Commenting on this evidence-based vacuum the Report notes,

"Instead, it would appear that an indiscriminate and blanket approach has been taken with each site being subject to a low level assessment with no consideration made of the unique characteristics of each site".

The Report then goes on to note that in the case of the submission lands the risk of flooding could be addressed by low depth infilling of the affected areas with no displacement of waters elsewhere. This matter could be addressed at planning application stage by way of a Site Specific Flood Risk Assessment.

"This flawed approach, has in the case of the subject site (Site 18), resulted in the zoning of the lands being changed from New Residential to Open Space on the basis of the susceptibility of these lands to low frequency and shallow depth and despite the fact that risk of flooding can be easily addressed by low depth filling of the affected areas with no displacement of water onto other lands."

The Engineer's Report also highlights further deficiencies in the amended SFRA in that it fails to take account of proposed flood defence measures for Blackrock due to be commenced and completed during the lifetime of the emerging Development Plan, noting that the works proposed will reduce the residual risk in the Blackrock area, including the submission lands.

5.0 SUITABILITY OF SUBMISSION LANDS FOR RESIDENTIAL A2 – PHASE 1 ORDER OF PRIORITY ZONING

The submission made under DLK27 details the suitability of the lands for residential development and these are summarised below to illustrate the unsuitability of a proposed material amendment that would effectively sterilise lands that are entirely suited to residential development.

It is submitted it is appropriate to maintain the A2 – Phase 1 order of priority zoning for all of the Carrolls land as per the draft Plan and in accordance with ²Criteria 2 of the Justification Test for Development Plans for the following summarised reasons –

- Dundalk is identified as a Regional Growth Centre and Blackrock is one of the main residential areas within the defined settlement boundary of the Town. The area is just over 2km to major national and international employers including DKIT; Wuxi; Xerox and Paypal – the same distance as Dundalk Town Centre. Direct and continuous footpath links are available to these employment areas from Blackrock. The Village has two primary schools; a large-scale supermarket and a wide range of community, retail and social infrastructure concentrated along its Main Street, approximately 750 m from the submission lands. The Village functions, and has always functioned, as an autonomous housing area in its own right.
- The development of the submission lands would, without doubt represent sequential and compact growth and contribute to consolidation of the urban area of Blackrock. Blackrock, whilst part of the Louth Plan review has a distinct housing market from the Dundalk town area. This needs to be considered in the zoning of land for new residential development.
- The lands are enveloped by permitted and existing residential development on all sides, with Ard Na Mara to the west, Springfield to the north, a large detached dwelling to the east and St. Furseys Terrace and Ard Shee to the south. As such, development of the lands for residential purposes represents a clear, limited and defensible expansion of the urban area of Blackrock in a sequential manner given the lands are enveloped by existing housing.
- The lands have very well defined physical boundaries and would in reality represent a sensible, self-contained and limited development rounding off the Blackrock urban area.
- Planning permission was granted for 45 dwellings on the site under PA Ref. 07/372 but unfortunately this permission was not implemented because of the financial crisis that occurred in 2008.
- The lands are just over 600 metres from St. Francis National School via Seafield Road and Rock Road. The lands are east and nearer the village centre than the recently permitted ABP Strategic Housing Development for 257 dwellings (ABP Ref. 308135) and An Bord Pleanala in granting planning permission for that proposed development found its location to be sustainable and the development of the lands to comply with national and regional planning policy and in the interests of the proper planning and development of the area. It follows, it is submitted, that the Carrolls lands are equally, if not in fact better suited for residential development.
- There are footpaths and public lighting the whole way from the site to Blackrock Village centre.

² Planning Authorities and Flood Risk Management Guidelines (2009), as revised by Circular PL 2 /2014

- The lands are not environmentally constrained.
- The lands can be serviced and safe access can be provided via Springfield – the original phase developed by the Carrolls . There is a foul sewer and surface water drainage system at the site.
- The lands are in the sole ownership of the Carrolls and they are ready and available for development.. They are keen to move these lands forward for development at the earliest opportunity and obviously if the proposed material to dezone a substantial part of the lands from A2 (Housing) to H1 (open space) (coupled with proposed material amendment DLK27 to amend the order of priority zoning for the lands from A2 to A3) is adopted it will have a severe negative impact on the development of the site and the provision of new houses in the area.

APPENDIX A

FLOOD REPORT BY E. MC MAHON

DRAFT COUNTY LOUTH DEVELOPMENT PLAN 2021-2027

COMMENTS ON PROPOSED MATERIAL ALTERATION DLK37

1.0 INTRODUCTION

- 1.1 The proposed Material Alteration DLK37 seeks to zone two portions of an overall circa 3.4Ha landholding from 'New Residential' to 'Open Space' while retaining the remainder of site as 'New Residential'
- 1.2 The overall land holding is shown on Fig. 1.1 with the two portions of lands to which the material alteration applies marked as Area X and Area Y. Area X amounts to c. 0.265Ha while Area Y amounts to c. 0.767 Ha
- 1.3 The primary reason for the proposed zoning of part of the lands as 'Open Space' is its designation on the OPW AFA Flood Maps for Dundalk & Blackrock as a Flood Zone B.

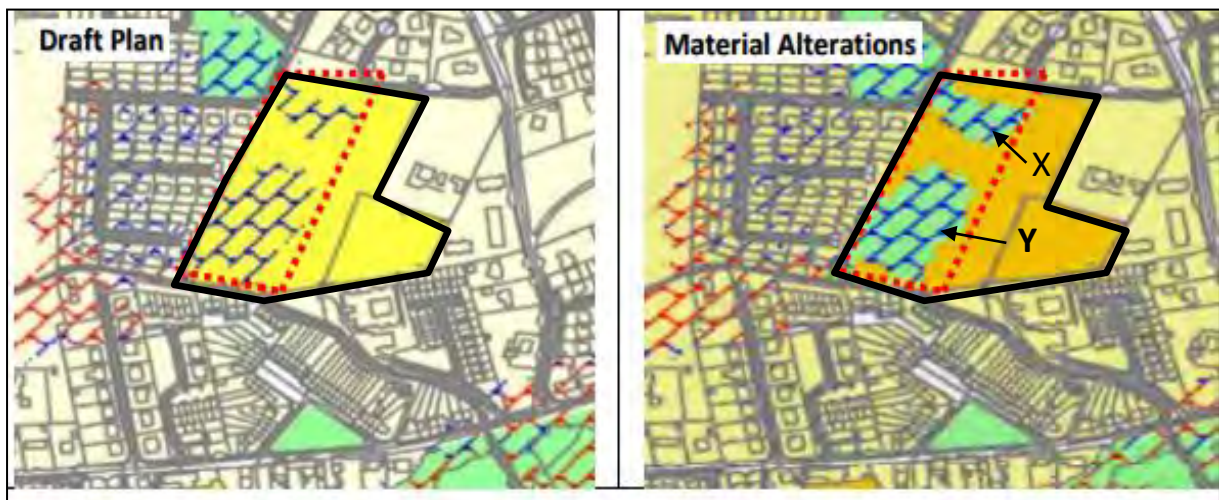


Fig.1. 1 – Site Location

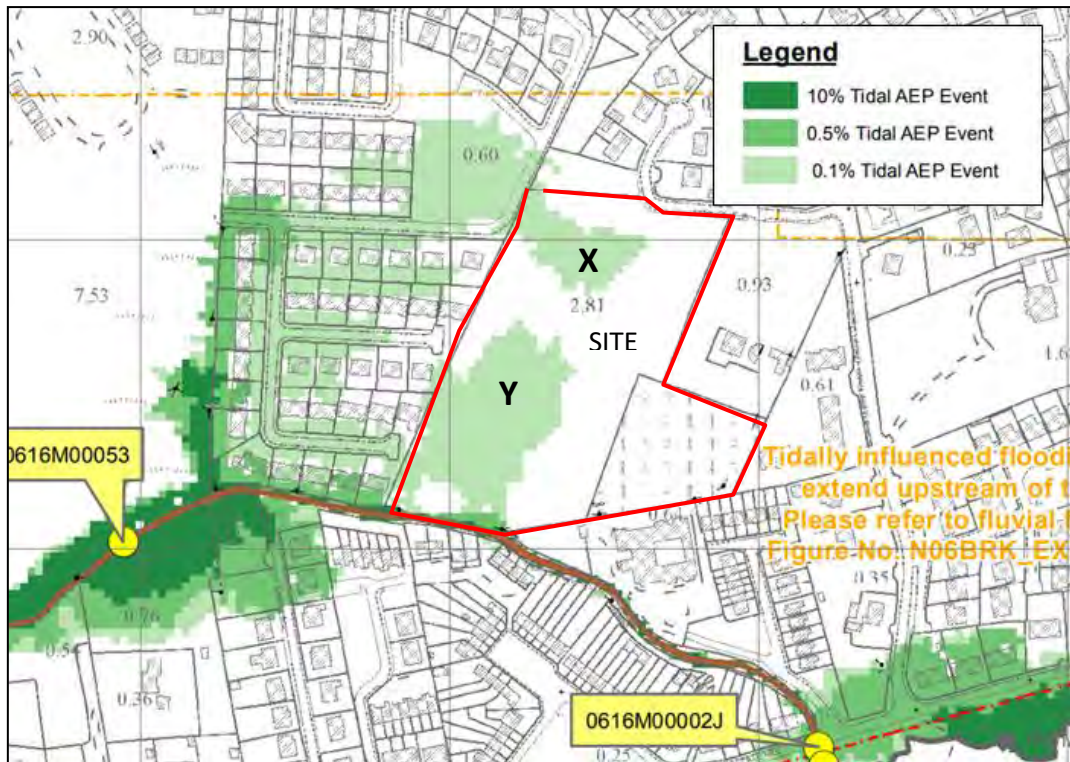


Fig. 3 – Extract from OPW AFA Coastal Flood Map for Blackrock

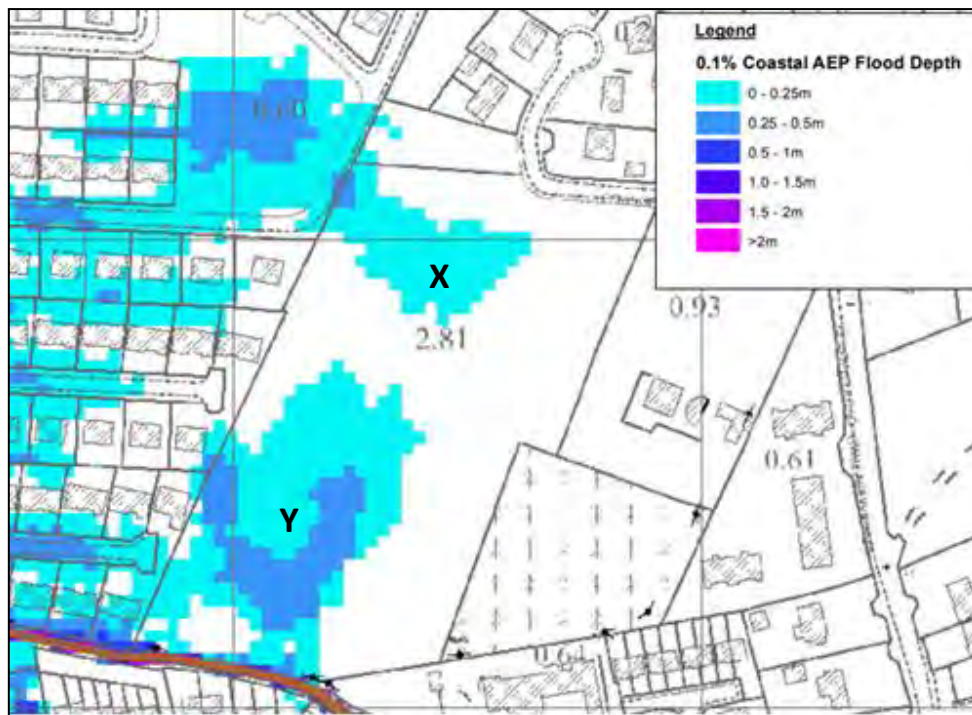


Fig. 4 – Extract from OPW AFA Coastal Flood (0.1% AEP) Depth Map for Blackrock

3.0 REVIEW OF THE STRATEGIC FLOOD RISK ASSESSMENT

- 3.1 It is the Planning Authorities intention to change the zoning of two discrete areas within the land holding from New Residential to 'Open Space' on the grounds that each area being susceptible to coastal flooding on a low frequency basis (between 1 in 200 years and 1 in 100 years frequency) to a shallow depth (generally less than 0.25m with some flooding to a depth of 0.5m)
- 3.2 The Planning System and Flood Risk Management Guidelines for Planning Authorities (Flood Guidelines) do not specifically rule out permitting development within Flood Zones particularly within centres that have been targeted for growth in the National Spatial Strategy and in strategically located urban centres whose continued growth and development is being encouraged in order to bring about compact and sustainable urban development.
- 3.3 In such cases a Justification Test has been designed to assess the appropriateness of permitting development in areas of moderate or high flood risk i.e. development can be deemed appropriate if it passes a 'Justification Test'
- 3.4 The test is comprised of two processes as follows:
- Process No.1 - The Development Plan-Making Justification Test – used at the plan preparation stage where it is intended to zone land which is a moderate or high risk of flooding
 - Process No.2 – The Development Management Justification Test- used at the planning application stage where it is intended to develop zoned land a moderate or high risk of flooding for uses vulnerable to flooding that would generally be inappropriate for that land.
- 3.5 In essence, any proposal to zone lands that are at risk of flood must be subject to the Development Plan-Making Justification Test and the zoning only allowed if the proposal passes the Test.
- 3.6 The Development Plan Justification Test is outlined in Box 4.1 of the Flood Guidelines. (as reproduced hereunder as Table 3.1)
- 3.7 All three criteria of the Test must be satisfied if a planning authority is considering the zoning of areas in an urban settlement that are at risk of flooding for development that is vulnerable to flooding.

Box 4.1: Justification Test for development plans

Where, as part of the preparation and adoption or variation and amendment of a development/local area plan¹, a planning authority is considering the future development of areas in an urban settlement that are at moderate or high risk of flooding, for uses or development vulnerable to flooding that would generally be inappropriate as set out in Table 3.2, all of the following criteria must be satisfied:

- 1 The urban settlement is targeted for growth under the National Spatial Strategy, regional planning guidelines, statutory plans as defined above or under the Planning Guidelines or Planning Directives provisions of the Planning and Development Act, 2000, as amended.
- 2 The zoning or designation of the lands for the particular use or development type is required to achieve the proper planning and sustainable development of the urban settlement and, in particular:
 - (i) Is essential to facilitate regeneration and/or expansion of the centre of the urban settlement²;
 - (ii) Comprises significant previously developed and/or under-utilised lands;
 - (iii) Is within or adjoining the core³ of an established or designated urban settlement;
 - (iv) Will be essential in achieving compact and sustainable urban growth; and
 - (v) There are no suitable alternative lands for the particular use or development type, in areas at lower risk of flooding within or adjoining the core of the urban settlement.
- 3 A flood risk assessment to an appropriate level of detail has been carried out as part of the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed and the use or development of the lands will not cause unacceptable adverse impacts elsewhere.

N.B. The acceptability or otherwise of levels of any residual risk should be made with consideration for the proposed development and the local context and should be described in the relevant flood risk assessment.

Development Plan Justification Test (Extract from Flood Guidelines)

- 3.8 The amended Strategic Flood Risk Assessment (SFRA) prepared during the Stage 3 Process includes an individual assessment of 21no. sites within the Dundalk Settlement that were zoned for vulnerable land uses in the Draft Plan and which are located within a flood zone against the criteria set out in Box 4.1
- 3.9 The subject site has been identified as Site 18. The process has resulted in the previously proposed zoning of lands being amended in a significant number of cases including the subject site.

- 3.10 It is disappointing that the application of the Development Plan-Making Justification Test has been delayed until Stage 3 of the Development Plan adoption process
- 3.11 Extracts from the SFRA relating to the assessment of the subject site (Site 18) are set out in Table 3.2 hereunder:
- 3.13 The conclusion of the assessment was that Site 18 failed the Justification Test under Criteria 2 and accordingly that the proposed New Residential zoning for Area X and Area Y should be amended to 'Open Space' as is now proposed under Material Alteration DLK37
- 3.14 Details of the assessment carried out under Criteria 2 are very short (13 lines) with the reasoning for the refusal being very ambiguous. It is noted that a similar brusque reasoning has been given in the case of other sites.
- 3.15 One would have expected that any proper process would individually assess under each of 5no. sub-criteria of Criteria 2. No evidence has been provided to show that this was the case
- 3.17 Instead, it would appear that an indiscriminate and blanket approach has been taken with each site being subject to a low level assessment with no consideration made of the unique characteristics of each site.
- 3.18 This flawed approach, has in the case of the subject site (Site 18), resulted in the zoning of lands being changed from New Residential to Open Space on the basis of the susceptibility of these lands to low frequency and shallow depth and despite the fact that risk of flooding can be easily addressed by low depth infilling of the affected areas with no resultant displacement of waters onto other lands.
- 3.19 It is considered that any subjective full assessment of the Site 18e under the 5no. sub-criteria of Criteria 2, as summarised in Table 3.3, would conclude that the site does pass Criteria 2 of the Justification Test
- 3.20 In summary, it is our view that the proposed decision with respect to Material Amendment 37 is based on a poor quality assessment of the site under Criteria 2 of the Development Plan Justification Test which does not give due consideration to:
- the type, frequency and depth of the flooding
 - the potential to apply simple flood risk mitigation measures that shall not adversely impact on other lands
 - the location of the site relative to the core area of the Blackrock Village Settlement,
 - the fact that part of the site has already been developed as Springfield
 - A previous planning permission for a residential development (45 units) existing on the lands (Ref: 07/372)
 - the availability of an existing access road
 - the availability of services
 - the negative impact on the remainder of the zoned lands

Criteria 1	<p>In line with the National Planning Framework, the Regional Spatial and Economic Strategy for the Eastern and Midland Region has, in its Settlement Hierarchy identified Dundalk as a Regional Growth Centre (RGC). It acknowledges it as a town with high level self-sustaining employment and services which act as regional economic drivers while playing a significant role for a wide catchment area. It supports significant population and economic growth in these centres, which is critical to the implementation of effective regional development. A key priority is to promote the continued sustainable and compact growth of Dundalk as a regional driver of city scale with a target population of 50,000 by 2031.</p> <p>It identifies a strategic development framework for the future growth of the town to allow it reach sufficient scale, to be a driver of regional growth and in recognition of its critical role in successful regional development.</p> <p>Dundalk as one of eight identified 'Areas for Further Assessment' was subject to the CFRAM programme, with associated Flood Zones A and B identified.</p>
Criteria 2	<p>Site 18: Rezone lands 'New Residential' (A2), vulnerable to coastal flooding and in Flood Zone B, as the primary provision of residential development on these lands is not compatible. Rezone the lands to 'Open Space' (H1).</p>
Criteria 3	<p>A detailed site specific FRA shall be submitted with any planning application to address flood risk, propose mitigation measures and assign appropriate development.</p> <p>Site Specific FRA should address the following:</p> <ul style="list-style-type: none"> • Apply sequential approach should be applied through site planning and should avoid encroachment onto, or loss of, the flood plain. • Highly Vulnerable Development shall not be permitted in Flood Zone A or B. • Development in Flood Zone A should be either open space or water compatible. • FRA should address residual risk of culvert blockage (where applicable), increased flood extents under climate change scenarios and pluvial risk which should be aimed at setting finished floor levels. <p>Compensatory storage for development that results in a loss of floodplain within Flood Zone A must be provided on a level for level basis.</p>
Conclusion	<p>Site 18 Justification Test failed. Rezone Open Space</p>

Table 3.2 – Assessment of Site 18 against the Development Plan Justification Test (extract from Amended SFRA Report)

<i>Sub Criteria</i>	<i>Comments</i>
The zoning or designation of the lands for the particular use or development type is required to achieve the proper planning and sustainable development of the urban settlement and, in particular	
2(i) Is essential to facilitate regeneration and/or expansion of the centre of the urban settlement	Blackrock functions, and has historically functioned, as one Dundalk's principal residential areas. As a Regional Growth Centre the town is expected to accommodate higher levels of population growth and development over the life of the Plan in pursuit of more compact patterns of growth at a strategic level. Dundalk is also the administrative capital of County Louth and the location for a high number of high profile national and international employers. The majority of these employers are clustered around the intersection of the R132 with the R215 at Mullagharlin in the southern environs of the Town. At its eastern and northern edges Blackrock is located between 1-1.5km from this very significant employment cluster with direct and sustainable connections available between the two locations comprising footpaths and cycle links.
2(ii) Comprises significant previously developed and/or under-utilised lands	The upper north-east portion of the landholding has already developed as a residential use.. The access road linking the lands to the public road network is already in place. Full services, including foul sewer and water, have been extended into the site. Pedestrian Linkage could be provided onto neighbouring residential developments thus improving overall connectivity and permeability within the south Blackrock area.
2(iii) Is within or adjoining the core of an established or designated urban settlement	Submission lands are surrounded by permitted and existing residential development on all sides and are connected to primary schools and Blackrock's Main Street c. 750 m to the NE via direct and continuous footpath links, with public lighting in place.

***Table 3.3 – Assessment of Site 18 against the Criteria 2 of the Development Plan
Justification Test (Page 1 of 2)***

<i>Sub Criteria</i>	<i>Comments</i>
2 (iv) Will be essential in achieving compact and sustainable urban growth	Submission lands are within the built-up footprint of the Village are fully serviced and have an access road in place. There is a foul sewer and drainage system already available at the lands. Retaining a New Residential zoning shall promote sustainable development of lands adjoin the existing built up area, which are under-utilised and preferential to peripheral locations. Compact forms of growth can contribute to the viability of services and public transport, increase housing supply in a serviced area and enable people to be closer to employment and recreational opportunities
2 (v) There are no suitable alternative lands for the particular use or development type, in areas at lower risk of flooding within or adjoining the core of the urban settlement	<p>The subject lands are fully serviced and directly adjoin the core of the Blackrock Village settlement with linkage to the range of cultural, commercial, social, educational and community facilities located within the Village centre via an established network of vehicular and pedestrian transport network. The development of these lands to the maximum possible extent shall support the achievement of a sustainable living environment by locating a residential development where the necessary infrastructure is available together with supporting social and community facilities.</p> <p>In contrast, any suitable alternative lands at lower risk of flooding lands are located along the periphery of the Blackrock Village settlement with less established linkage to the centre and would require extensions/upgrades to existing infrastructure and new transportation links. The lands effectively represent the last remaining sizeable area of undeveloped lands which directly adjoin the core of the urban settlement of Blackrock.</p>

**Table 3.3 – Assessment of Site 18 against the Criteria 2 of the Development Plan Justification Test
(Page 2 of 2)**

4.0 OTHER COMMENTS

4.1 Proposed Flood Defense Measure

- 4.1.1 Flood defences measures are proposed for the Dundalk and Blackrock areas as part of the OPW FRMP to provide protection for up to a 1 in 100 year fluvial event and also a 1 in 200 year coastal event
- 4.1.2 The proposed works shall be adaptable to climate change and include the construction of a series of hard defences, including flood embankments and walls, rock armour coastal protection, demountable barriers, road raising, a sluice gate and tanking of two properties
- 4.1.3 The flood defence schemes for Dundalk and Blackrock are included as part of the first phase of a €1bn flood defence programme announced by the OPW in May 2018.
- 4.1.4 Binnies/Black & Veatch and Nicholas O' Dwyer were appointed Louth County Council in August 2020 to develop further develop and advance the flood relief scheme.
- 4.1.5 The programme of works included in the most recent Newsletter for the Scheme (February 2021) shows construction work of the flood defence measures to commence in 2023 and fully completed in 2026.
- 4.1.6 It is therefore highly likely that substantive high quality flood defence measures shall be in place in Dundalk and Blackrock within the lifetime of the Plan.
- 4.1.7 The works shall significantly reduce the residual flood risk in the Blackrock area including the subject land.
- 4.1.8 The SFRA includes no appraisal of the impact of these works nor makes any allowance in the assessment for the positive impact of the measures.

4.2 Impact on remaining Land Holding

- 4.2.1 The proposal to zone two discrete areas of the overall land holding as 'Open Space' means that the remaining 'New Residential' zoned portion is a haphazard and disjointed area.
- 4.2.2 In particular the areas to the north of Area X and to the west and south of Area Y are too small and irregular in shape to accommodate any meaningful residential development and shall therefore be effectively redundant. (refer to Fig.4.1)
- 4.2.3 It shall be difficult to design a residential development which meets policies and objectives with respect to density, connectivity, permeability, sustainability, legibility and sense of place within the remaining land holding.
- 4.2.4 The proposed material alteration shall result in an inefficient and sub-optimum use of zoned serviced lands within the core area of a Settlement Area (Blackrock Village)

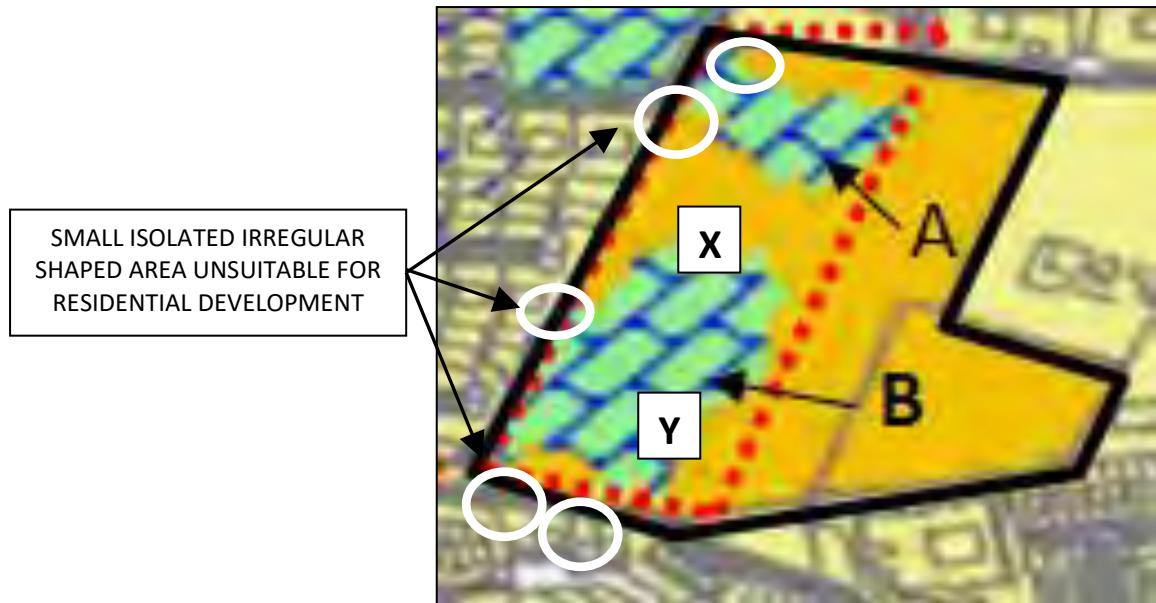


Fig. 4.1 – Impact on Remaining Land Holding

4.3 Inconsistent Application of the Justification Test

- 4.3.1 It is noted that a number of as yet undeveloped areas of lands within the Dundalk/Blackrock Settlement zoned as 'Existing Residential' have not been subject to the Justification Test despite being located within a Flood Zone A or Flood Zone B
- 4.3.2 These areas include a significant area of lands location on the south side of the Lower Point Road as shown on Fig. 4.1
- 4.3.3 It is not clear why a different approach in relation to these areas. The inconsistent approach does raise further concerns regarding the overall quality of the SFRA.



Fig. 4.2 – Location of Undeveloped Lands along Point Road, Dundalk for which no Justification Test was carried out despite being located in Flood Zone A or Flood Zone B

5.0 SUMMARY AND PROPOSED ALTERNATIVE APPROACH

- 5.1 The land holding is located within the core settlement of Blackrock Village and form part of a partially developed and fully serviced site which has existing access to the public road network.
- 5.2 The development of the lands will promote sequential and sustainable development of lands adjoining the existing built up area and should be encouraged in preference to the development of lands at peripheral locations.
- 5.3 The proposed Material Alteration DLK37 seeks to change the zoning of two areas of the land holding (Area X and Area Y) from 'New Residential' to 'Open Space' on the grounds that these areas have been designated as a Coastal Flood Zone B. The majority of the land holding is not identified as being vulnerable to flooding and is located within Flood Zone C.
- 5.4 The proposed zoning of two discrete portions of the land holding as 'Open Space' shall adversely impact on the development of the remainder of the site as 'New Residential' given the irregular configuration of the lands and the isolation of a number of small areas from the remainder of the site. These factors shall combine to reduce the ability to devise a design that meets policies and objectives with respect to density, connectivity, permeability, sustainability, legibility and sense of place in any meaningful way
- 5.5 Overall, it is considered that the land holding can only be developed in an effective and efficient manner if the whole land holding retains a 'New Residential ' Zoning
- 5.6 The decision to re-zone the two areas of the land holding is based on the conclusion of the SFRA that maintaining the New Residential Zoning for these areas would not satisfy Criteria 2 of the Development Plan Justification Site.
- 5.7 It is considered that the assessment carried out in the SFRA is limited in scope and fails to fully assess the development under the 5no. sub-criteria within Criteria 2.
- 5.8 It is further considered that any full and objective assessment would conclude that the zoning of the full land holding as 'New Residential' would satisfy the Development Plan Justification Test given the location and characteristics of the site (refer to Table 3.3)
- 5.9 The majority of the land holding is in Flood Zone C. it is anticipated that flood risk mitigation measures could be designed to allow development of the overall land holding as 'New Residential'. These mitigation measures could include low depth infilling of lands and/or designing the scheme layout to incorporate part of these areas as the amenity open space for the development
- 5.10 It shall remain necessary, in order to comply with the Flood Guidelines, that a Site Specific FRA is prepared by an independent specialist and included with any planning application for development of the land holding .
- 5.11 The Site Specific FRA will be required to consider the Sequential Approach within the site and demonstrate to the satisfaction of the Planning Authority that the development and its infrastructure will avoid significant risks of flooding and not exacerbate flooding elsewhere. The FRA shall also fully assess all options with respect to flood mitigation measures

- 5.12 The Site Specific FRA will also be required to demonstrate that the proposed development can satisfy Development Management Justification Test
- 5.13 Overall it is considered given the location and characteristic of the site and the extent, frequency and depth of the predicted flooding that the zoning of the full land holding should remain as 'New Residential' with any assessment of the flood risk associated with any proposed development being fully assessed within the Site Specific FRA which would include evidence that the developments satisfies the Development Management Justification Test
- 5.14 This approach would be more nuanced and preferable to the approach adopted in the SFRA.
- 5.15 It is noted that this approach has been adopted in the assessment of a number of other sites within the Dundalk area that continue to be zoned 'residential' but are fully or partially within a Flood Zone including Site 19 and the two disparate sites covered under Site 13.

Eamonn Mc Mahon
B.E, Chartered Engineer

27/07/21