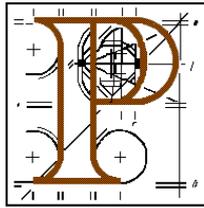


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Louth County

Planning Register Reference Number: 16/217

An Bord Pleanála Reference Number: PL 15.247212

APPEAL by Patrick Maguire of 9 Nicholas Street, Dundalk, County Louth against the decision made on the 11th day of August, 2016 by Louth County Council to grant subject to conditions a permission to Society of Mary (Marist Fathers) care of O'Dwyer and Associates Architects of 8 Townyard House, Townyard Lane, Malahide, County Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Development consisting of the following: (i) demolition of (a) two-storey sports hall and single-storey science block (modern extensions to the Saint Mary's School), (b) outbuildings within the curtilage of the Protected Structure and (c) boundary stone wall to Nicholas Street, (ii) construction of the following: (a) a three storey apartment block with solar panels at roof level of nine number apartments, six number one bed and three number two bed, all with balconies or ground floor terraces, (b) eight number three storey duplexes with solar panels at roof level, containing eight number two bed ground floor apartments with private open space to the rear and eight number three bed duplex apartments at the first and second floor with enclosed terrace at first floor level, (c) twenty five number storage sheds and bicycle sheds to the rear of duplex apartments with pedestrian access path, (iii) fifty eight number car parking spaces to serve the overall education and residential development, (iv) boundary railing, redesigned open space and seven number car parking spaces to serve the existing Cerdon Community, (v) change of use of existing Gospel Hall from educational use to Community use, (vi) new vehicular entrance off Nicholas Street, (vii) landscaped public open spaces to serve the residential and educational use,

(viii) bicycle parking for thirty two number bicycles for educational use, (ix) refurbishment, reconfiguration and realignment of interface wall and fenestration between demolished two storey sports hall and original school building. The planning application includes all site works, drainage, including foul and surface water drainage, pedestrian paths, landscaping, boundary treatment, electricity sub-station, all at site to the side and rear of Saint Mary's School and Saint Mary's Church (Protected Structures NIAH numbers 13702026, 13702025, 13702023), bounded by Saint Mary's Road, Nicholas Street, Wellington Place and entrance road to new school, Dundalk, County Louth.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the zoning of the subject site for town centre uses in the Dundalk Town Development Plan, to the sequencing of development within the town as set out in the Louth County Development Plan Core Strategy, to the pattern of development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, would not detract from the character and setting of adjoining protected structures and would be acceptable in terms of pedestrian and traffic safety. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 21st day of July 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2.
 - (a) All windows serving landings, WCs and bathrooms in the proposed development shall be permanently fitted with opaque glazing.
 - (b) The elevational treatment to the proposed development and the elevation treatment of the side/rear of the protected structure (building D) following the demolition of the existing adjoining structures, shall be in accordance with "Option 1" as indicated on drawing number 13.08.12, submitted to the planning authority on the 21st day of July, 2016. Details of the brick(s) to be used (including samples) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
 - (c) All balustrades to terraces and balconies shall be glazed (and opaque glazed where indicated on submitted drawings). Steel railings shall not be used.
 - (d) The proposed "turning area for fire tender" shown on submitted site plans shall be omitted, and the area thus released shall be incorporated into the proposed open space area.
 - (e) The windows on the northern elevation of the apartment block shall be full height windows, not high level windows, and those serving living/dining rooms shall not be in opaque glazing.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity, and to ensure that the proposed development is visually subordinate to the protected structures.

3. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed duplex units without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed ground floor duplex units.

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

Reason: In the interest of public health.

5. Proposals for a development/estate name, house/unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house/unit numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility, and to ensure the use of locally appropriate place names for new residential developments.

6. Site development and building works shall be carried out only between 08.00 hours and 18.00 hours Mondays to Fridays excluding bank holidays and between 08.00 hours and 13.00 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of protecting the residential amenities of adjoining properties.

7. (a) Prior to commencement of development, those buildings which are proposed to be demolished shall be recorded and photographed in accordance with the detailed requirements of the planning authority. This record shall include measured architectural drawings and colour photographs. These shall be provided, in both paper and digital form, to the planning authority and to the Irish Architectural Archive, prior to construction of the proposed new buildings.
- (b) A methodology for the demolition of the existing buildings, which shall ensure the protection of the adjoining protected structures, shall be agreed in writing with the planning authority prior to demolition.

Reason: In order to ensure that the existing buildings are properly recorded prior to demolition, and that the demolition works are carried out so as to protect the integrity of the historic fabric and character of the protected structures.

8. The treatment of the existing protected structures, following demolition of existing adjacent structures, shall be in accordance with the detailed requirements of the planning authority, except as provided for in condition 2 (b) of this order. All works to the protected structures shall be carried out under the direct supervision of a suitably qualified Historic Building Fabric Consultant/Accredited Conservation Architect, who shall certify to the planning authority upon completion that the permitted works have been carried out in accordance with good conservation practice.

Reason: In order to ensure that the proposed works are carried out in accordance with good conservation practice and to protect the integrity of the historic fabric and character of the protected structures.

9. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, details of the proposed new pedestrian access, including any new gate, in the boundary wall between the "Gospel Hall" and the public footpath onto Saint Mary's Road. No vehicular access shall be provided at this location.

Reason: In the interests of visual amenity and pedestrian safety, and as adequate details of this matter were not provided with the planning application documentation.

10. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

11. Prior to commencement of development, details (including a map or drawing) delineating those areas of the proposed development which are to be taken in charge by the local authority upon completion, and those areas which are to be privately managed, shall be submitted to, and agreed in writing with, the planning authority. For those parts of the development which are to be privately managed, a management scheme providing adequate measures relating to the future maintenance of those areas and associated services shall be agreed in writing with the planning authority.

Reason: In order to define those parts of the development which are to be taken in charge and those which are to be privately managed, and to provide for appropriate measures for future maintenance of the latter, in the interests of orderly development.

12. The areas of open space shown on the lodged plans (as modified by condition 2 (d) of this order, shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. All of this work shall be completed before any of the dwellings are made available for occupation and shall be maintained as open space by the developer. If the open spaces, or part thereof, are included in the areas to be taken in charge by the local authority, under condition number 11 of this permission, the open spaces shall be vested in the planning authority, at no cost to the authority, at the time of taking in charge.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

13. All residential parking spaces shall be so constructed so as to be capable of accommodating future electric vehicle charging points.

Reason: In order to comply with the provisions of the Development Plan, and in the interests of sustainable development.

14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

15. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity, and of sustainable development.

16. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and for storage of deliveries to the site.

Reason: In the interests of public safety and residential amenity.

17. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interests of residential amenity and proper waste management.

18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and Section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open spaces and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development.

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2017.