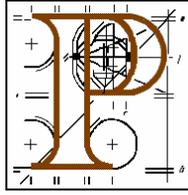


# An Bord Pleanála



## Inspector's Report

**PL55.234919**

**Development:** Demolition of part of existing buildings, construction of office building and associated works.

**Location:** Former Rice Buildings Merchants Yard, Seatown Place, Dundalk, Co. Louth.

### Planning Application:

Planning Authority: Dundalk Town Council

Planning Authority Reg. Ref. No.: 08/240

Applicant: Des McCreesh

Type of Application: Permission

Planning Authority Decision: Grant

### Planning Appeal:

Type of Appeal: Third party

Appellants: (1) Sharon McArdle  
(2) Hilda Kirk

Observers: None

**Date of Site Inspection:** 6<sup>th</sup> December 2009

**Inspector:** Siobhan Carroll

## **1.0 SITE LOCATION AND DESCRIPTION**

The 0.316 hectare appeal site is located in Dundalk to the eastern side of the town centre. The site is located circa 300m from the Marshes Shopping Centre. The site is formed from the backland plots of properties located at no. 20 Seatown Place to no. 24 Seatown Place. These properties form part of a 2½-storey Victorian terrace. Seatown Place is a wide street was laid out in the 1740's, it runs east-west between Chapel Street and Castle Road. Seatown Place forms part of Architectural Conservation Area No. 5 Jocelyn Street/Seatown Place. St Vincent's secondary school is located opposite the site entrance on Seatown Place.

The site has frontage of 8.4m onto Seatown Place which constitutes a wide gated entrance between Nos. 18 and 20. The site has been in recent use a builder's merchants yard. The rear southern boundary of the site runs along the Rampart River. On the southern side of the river there is a footpath which links Rampart Road to St. Alphonus Road. Further south of the river is the grounds of the Dundalk Badminton and Tennis Club on the opposite side of the river.

The access drive into the site extends for 35m therefore the site has a maximum length of 96m. The site is relatively flat and contains a number of dilapidated sheds and outbuildings, it also features a concrete yard area. Along the eastern boundary lies a two storey brick and stone building, which is of superior quality to the other structures on site.

The rear boundaries of six Victorian terrace properties no's 20-25 Seatown Place are located immediately north of the site. These properties consist of residences, a B&B and also an office. There is access to a rear yard in the centre of the terrace via an arched entrance. The yard contains a workshop which accommodates a sign makers. This yard includes a gated access to the appeal site. The western site boundary adjoins the property no. 18 Seatown Place which contains a two-storey dwelling. Immediately west of this lies the Pentecostal Church. The eastern site boundary is defined by the boundary wall of the rear garden of no. 25 Seatown Place. The southern site boundary adjoins the bank of the Rampart River.

## **1.1 THE PROPOSED DEVELOPMENT**

Permission is sought for the demolition of part of existing buildings, construction of office building and associated works. Following the request for further information the scheme was revised and the area of development and number of car parking spaces was reduced.

Features of the scheme include;

- Site area 0.316 ha,
- Part 3-storey part 4-storey office building,
- Floor area of proposed development 2,081sq m,

- 681sqm of landscaping.
- 47 no. car parking spaces.
- Vehicular access from Seatown Place.
- Pedestrian entrance from Ramparts Road with a pedestrian bridge over the Ramparts River.

## 1.2 THE PLANNING AUTHORITY'S DECISION

### Internal Reports:

Roads Department: No objections subject to conditions.

Sanitary Services Department: No objections subject to conditions.

### Submissions/objections/observations:

The planning authority received a number of submissions in relation to the application the main issues raised are similar to those discussed in the appeals.

**Planning Officer's Report:** In consideration of this application the Planning Authority sought further information from the applicant in relation to the following matters;

1. Clarification of the nature and extent of works ongoing on site and provide details of the buildings proposed for demolition.
2. The existing stone building to the eastern boundary of the site is considered to be worthy of retention in the interests of sustainable development. The applicants should comply with the Councils policy to encourage reuse, renovation and rehabilitation of older buildings.
3. In order to assess the visual impact the following details were required;
  - North-south cross sections of the proposal through the subject site and Seatown Place to include the outline of the building which was subject of Reg.Ref.06/288.
  - Contiguous elevations to the south/overlooking the Ramparts and indicating an outline of the adjacent permitted development on the site to the west Reg.Ref. 07/143.
4. Detailed landscaping scheme.
5. Review proposed building line to the south to include sufficient set back to enable the provision of an adequate cycle lane, pedestrian path and landscaping.
6. Clarify whether the site shall be open outside normal opening hours of the proposed office. The issue of passive surveillance is raised.

7. The applicant is proposing 102 no. spaces. The planning authority considers this represents overprovision.
8. Carry out a traffic impact assessment including a scoping meeting with the Roads Section.
9. Submit details to demonstrate that sufficient turning and reversing space has been provided in the proposed surface and underground car park.
10. Provide details regarding the exact traffic priority and yielding arrangements on access road in the vicinity of the entrance to the underground car park.
11. Clarify what if any the future plans or intentions are for the area east of the access road where it meets the boundary of the site.

### **Decision**

Following the submission of a response to the further information request the Planning Authority was satisfied that the issues raised were fully addressed. Permission was granted subject to 32 No. standard conditions.

### **1.3 PLANNING HISTORY**

#### **Appeal Site**

**Reg. Ref. 06/288 & PL55. 225308-** Permission was granted by the Planning Authority for the demolition of existing buildings and the construction of a 5-storey and 2-storey apartment development comprising 42 apartments in two blocks and all associated site works on a 0.316 hectare site. The decision was appealed and the decision to grant permission was overturned by the Board. Permission was refused for the following three reasons.

1. Having regard to the excessive scale and height of Block B, it is considered that the proposed development would be visually obtrusive and out of keeping with the character and general pattern of development in the vicinity and be detrimental to the adjoining Architectural Conservation Area. Furthermore, and having particular regard to the inadequate separation distance between Block B and the southern boundary of the site, it is considered that the proposed development would jeopardise the retention of existing trees at this location and would preclude the provision of a satisfactory landscaped amenity space along the Ramparts River. The proposed development would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the intensity of use at Block C in close proximity to the neighbouring property at number 25 Seatown Place, it is considered that the proposed development would seriously injure the residential amenity of that property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to: -

- (a) the inadequate provision of private open space,
- (b) the high percentage of north facing single aspect units proposed, and
- (c) the lack of lift access to the basement carpark for Blocks A and C,

it is considered that the proposed development would fail to comply with the standards set out in the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Heritage and Local Government in September, 2007, would seriously injure the residential amenity of future occupants and would, therefore, be contrary to the proper planning and sustainable development of the area.

**Reg.Ref 3885** - Permission was granted for a new entrance to the builder's yard.

#### **Adjoining site to the west**

**Reg. Ref 07/143** – Permission was granted for a scheme of 117 apartments. This development has not commenced.

**Reg. Ref. 05/40** - Permission was granted for 16 no. apartments immediately to the west thereof, on land to the rear of 12-16 Seatown Place. This development was not carried out.

**Reg Ref.03/200** - Permission was granted for 12 no. apartments to the rear of the adjoining dwelling and church to the west of the appeal site. This development was not carried out.

## **2.0 APPEAL**

### **2.1 Third party appeals**

Third party appeals was lodged by the following parties

- (1) Sharon McArdle
- (2) Hilda Kirk

(1) A third party appeal was lodged by Sharon McArdle on the 8<sup>th</sup> of September 2009. The content of the appeal submission can be summarised as follows;

- The site is located within a designated Architectural Conservation Area the proposed construction and excavation works would have an adverse effect on the site and surrounding area.

- The proposed development would be contrary to the Development Plan objectives for the area in terms of density, design and layout.
- The increased traffic the proposed scheme would generate would cause congestion on Seatown Place and would result in pollution and noise nuisance. The site is located beside St. Vincent's secondary school and there is already acute traffic congestion in the area. The appellants consider that a full Traffic Impact Assessment should be carried out.
- The entrance is proposed off Seatown Place and it comprises a two lane ramp which descends into the underground car park. All cars using the underground car park would be obliged to enter and exit the proposed development turning right and left from/onto Seatown Place. The access/exit would be directly across from the entrance to St. Vincent's secondary school which would cause a serious traffic hazard to pupils.
- The proposed underground car park would encourage loitering and anti social behaviour.
- Dundalk Town Council has recently granted permission for a residential scheme under Reg. Ref. 07/143 which has an entrance onto Seatown Place. The two proposed entrances would be within close proximity.
- The site is bounded by the Rampart River to the south. The appellants have expressed concern that the underground car park would be located in close proximity to the river and which could result in safety risks particularly during the construction phase.
- The extensive underground development would eliminate natural drainage on the site and could result in surface water drainage problems and flooding.
- A reduction in the scale of the development would allow the provision of solely surface car parking.
- The excavation necessary to develop the underground car park would result in the removal of substantial quantities of soil and also would result in the piling of soil around the perimeter of the site. The site works are of strong concern to the adjoining residents.
- The proposed excavation of the ramp to serve the underground car park would be parallel to nos 20-25 Seatown Place. Therefore the excavation works could interfere with the structural integrity of nos 20-25.
- The development may require the residents of nos 20-25 to vacate their homes in the interests of safety.
- The developers responded to the planning authority's request for a written statement proposed a number of mitigation measures to prevent structural

damage. The proposed use of sheet piling would not work as it will cause vibrations which could damage the adjacent properties.

- The nature of the proposed development would cause subsidence risk for the Victorian terrace. The foundations of the Victorian properties are no greater than a foot deep. Due to the nature of the soil at Seatown Place it would render the effective use of sheet piling would very difficult.
- The proposed design does not reflect the requirements of the Development Plan which requires that development should not impact upon the adjoining properties.
- The site is located beside the Rampart River. All the existing properties are low rise. The appellants consider the proposed four storey building would be out of character with the surrounding area.
- The properties at Seatown Place would be adversely affected during the construction phase due to noise, vibration, overlooking and dust which would be generated.
- The appellants state that the applicant does not have legal ownership of a small parcel of land included in the development. The permission granted includes a small parcel of land over which the applicant has no legal title.
- There are insufficient open spaces, green spaces provided. Also refuse collection cannot be accommodated safely on site given the lack of open space.
- The appellants do not have an objection to the development of the site for residential use.
- A series of photographs have been included in the appeal to illustrate the concerns of the appellants.

(2) A third party appeal was lodged by Hilda Kirk on the 12<sup>th</sup> of October 2009. The content of the appeal submission can be summarised as follows;

- The proposed development comprising 4,00sq m of office space comprising four stories over basement is inappropriate development for the site.
- The proposed building height is substantially higher than the existing buildings in the surrounding area. The scheme would cause a loss of light and would cause overlooking leading to a loss of privacy to adjacent dwellings and gardens.
- Seatown Place is an Architectural Conservation Area. The site is also close to St. Josephs, Redemptorist Monastery which is a protected structure.

- The properties in the vicinity of the site are protected structures the scale of the proposed development is considered out of character with the existing properties. The mass and bulk of the development would have a detrimental effect on the amenities of the area and properties in the vicinity and would negatively impact on the ACA and also the amenities along the Rampart River.
- The proposed site access would cause congestion on Seatown Place. St. Vincent's Secondary School is located on the opposite of the road, the appellant party is not satisfied that the proposal has address the issue of traffic.
- There is an existing permission under Reg. Ref. 07/143 for a residential scheme of 117 apartments on a site to the west, should development commence on both sites it would result in severe traffic congestion.
- The appellant party recommends that should the Board grant permission the size of the buildings should be reduced to lessen the traffic impact.
- The appellant party are of the opinion that the proposed service road may be used to access the remaining back land are to the east of the site.
- The appellants have raised concerns at the proposed underground car park and the impact its construction would have in terms of noise, vibration and dust generation. The development would result in the requirement for significant temporary and permanent structural works.
- A series of photographs have been included in the appeal to illustrate the concerns of the appellants.

## **2.2 First Party Response submission**

A response to the third party appeal was submitted by Denis Williams Consulting Architectural Design Services & Consulting Engineers on behalf of the applicant Mr. Des Mc Creesh on the 30<sup>th</sup> of October 2009. The main issues raised concern the following;

- The site is zoned 'to provide for general business uses' in the Dundalk & Environs Development Plan 2003-2008. The site is located within the designated town centre expansion area.
- Following the request for further information the design of the scheme has been revised. In framing the response to the further information the applicants note that cognisance was taken of the Inspectors Report for PL55.225308. The scale and height of the main building has been reduced. The design has been stepped to integrate the building with the scheme granted on the adjoining site to the west. The existing stone building on site will be substantially unchanged. The applicants are of the opinion that the issues raised in the Inspectors Report for PL55.225308 have been addressed.

- In response to the third party appeal lodged by Sharon McArdle the applicants have made a separate response to the appeal.
- The site is not located within the Jocelyn Street/Seatown Place ACA except for part of the entrance.
- There are limited views of the subject site from Seatown Place. The integrity of Seatown Place would not be impacted upon as a result of the proposed development.
- In relation to the issue of traffic the applicants note that prior to the submission of the further information the applicants traffic engineers had a meeting with the Roads Department of Dundalk Town Council. A scoping meeting was held and it was agreed that a traffic impact assessment would not be required as the traffic generated would be less than a 5% increase on the existing traffic generated on site. There has been considerable level of traffic using the entrance previously the Rice's Builders Merchants.
- The car parking arrangements have been revised. There are clear priorities for traffic movements in and out of the development.
- A new pedestrian crossing has been installed close to the entrance which improves pedestrian safety.
- Adequate sightlines are available at the entrance.
- Regarding the issue of proximity of the site to the Rampart River and the possibility of flooding, the design will incorporate measures to prevent this.
- Also regarding the issue of surface water the applicant notes that the site is already a fully concreted surfaced.
- The proposed underground car park would be located 24m from the terrace of houses at Seatown. Excavation and piling works are common in urban areas and can be successfully carried out without any damage to adjacent properties. If deemed appropriate structural surveys of adjoining properties can be carried out in advance of construction.
- There is a separation distance of 29m between the appellant's property which is a commercial property and the proposed entrance to the underground car park.
- In relation to the issue of design cross section drawing ref: 8060/113 illustrates the relationship between the proposed buildings. The floor area represents a 46% reduction in the floor area than that originally proposed.
- Regarding the issue of overlooking and overshadowing the applicants state that the proposed development would not result in a significant level of

overshadowing. The proposed scheme does not include any new buildings close to the boundary.

- In relation to the matter of legal title, the appellants claim that a small part of the site less than 10sq m is not in the legal ownership of the applicant. The appellant has not provided any title documents to substantiate the claim.
- Regarding the matter of open space the applicants note that the proposed scheme is commercial and therefore open space is not required.
- The reasons for refusal previously issued by the Board have been addressed under the current application.
- The height, scale and massing of the building has been reduced and represents a more modest development which will integrate with the adjacent site.
- In response to the appeal from Hilda Kirk & Others the applicants repeat many of the responses already made in relation to the appeal lodged by Sharon McArdle. The following are additional new issues covered in the response to appeal of Hilda Kirk & Others.
- In relation to the issue of traffic and the proximity of the site to St. Vincent's Secondary School the applicants accept that there are periodic traffic congestion problems at the school particularly during wet weather. The applicants consider that this is a short term issue which requires enforcement of traffic regulations. They note that the construction of the new pedestrian crossing on Seatown Place to the west of the site entrance and serving the school has improved pedestrian safety.
- Regarding the adjacent lands the applicants state that the design of the scheme does provide for potential linkages to the lands to the east at no. 25 Seatown Place. It was a specific requirement of the planning authority that the applicants ensure provision of road/cycle & pedestrian linkages.
- In relation to structural issues the proposed underground car park would be located 24-30m from the houses at Seatown Place. Excavation and piling works can be carried out without any damage to adjacent properties.

### **2.3 Planning Authority Response submission**

- Regarding the issues of local amenity and the character of the area the planning authority considers that amendments to the scheme have ensured that the proposed development would not be unduly obtrusive or undermine the character of the adjoining ACA.
- The proposed development is in accordance with the provisions of the Development Plan.

- Regarding the issues of loss of privacy, overlooking and overshadowing the planning authority note drawing no: 113 a cross section of the site and indicates the relationship between the existing and proposed development shows that there is a satisfactory separation distances provided. Therefore the proposed development would not result in any adverse impacts on residential amenity of adjoining properties.
- The planning authority is satisfied that the proposal would not result in any adverse traffic impacts.
- The planning authority is satisfied that subject to appropriate conditions the proposal would not have any impact on the drainage system.
- Regarding the issues of health and safety and construction the planning authority note that these matters are governed under separate legislative codes.
- In the assessment of the proposal the planning authority accepted the applicants claim that they had full legal title of the subject site. Also the planning authority note section 34(13).
- There is no requirement for open space as the development does not include residential uses.
- The plot ratio and site coverage is acceptable in the town centre location. The proposal makes provision for good pedestrian/cyclist permeability particularly along the southern boundary along the Ramparts River.

### **3.0 PLANNING POLICY**

#### **3.1 Dundalk and Environs Development Plan 2009 – 2015**

The site is zoned objective “TCMU” Town Centre Mixed Use – To provide for mixed use development.

Office class 2 - permitted in principle.

Office class 3 - permitted in principle.

#### **Chapter 4 refers to Town Centre**

##### **Section 4.2.1 refers to Town Centre Objectives**

##### **4.2.2 - Character Areas**

Seven character areas have been identified.

#### **Chapter 5 refers to Transportation**

##### **Table 5.4 – Car parking Requirements**

Office/enterprise – 1 per 50sq m in Area 1 (Town Centre)

## **Chapter 8 refers to Conservation and Heritage**

### **Appendix 7 – Architectural Conservation Areas**

Part of the site is located adjacent to ACA 5 – Jocelyn Street/Seatown Place.

### **Volume 2 – Record of Protected Structures**

The subject site is located in proximity to protected structures D460 – D465.

## **4.0 ASSESSMENT**

For the Boards attention, I note that the application was assessed by the planning authority and the decision made under the provisions of the Dundalk and Environs Development Plan 2003-2008. On the 24<sup>th</sup> of November 2009, Dundalk Town Council adopted the new plan, Dundalk and Environs Development Plan 2009-2015. The new development plan is now in force.

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Principle of development
- Residential amenity
- Design
- Access, traffic and car parking
- Flooding
- Legal title

### **4.1 Principle of Development**

This appeal relates to the development of a commercial scheme of offices within the town of Dundalk. The site is zoned objective “TCMU” Town Centre Mixed Use – To provide for mixed use development in the *Dundalk and Environs Development Plan 2009-2015*. Under this zoning office development is a permissible use.

Chapter 4 of the *Dundalk and Environs Development Plan 2009-2015* refers to Town Centre and section 4.2.1 of the plan refers to town centre objectives. Seven character areas have been identified. The site is located within the Seatown Place character area. I note that there are no specific objectives regarding the character area which relate directly to the appeal site. Other town centre objectives encourage good urban design through ensuring new design faces outwards towards the existing street. Also other objectives seek to improve access and permeability within the town centre also that development reconnects to the River.

Policy TC 3 refers to ‘Town Centre Mixed Use’ zone and states that the permitted development within this zone includes a mixture of uses to support and compliment the function of the town centre. Mixed use developments should include residential, employment, services and community facilities.

Policy TC 11 seeks to promote the development of backland and infill sites and the refurbishment and regeneration of brownfield and greyfield sites within the town centre. In order to address the issue of access between the extended backlands, the planning authority required the applicant to provide a revised building line to the south to include sufficient set back to enable the provision of an adequate cycle lane, pedestrian path and landscaping.

Having regard to the relevant development plan policies and the town centre zoning objective of the site, I considered that the proposed scheme would be in accordance with these policies and also the zoning objective of the site.

While development of the scheme on the subject site may be acceptable in principle, the suitability of this particular scheme should be assessed in terms of all other relevant planning considerations being satisfactorily addressed.

#### **4.2 Residential amenity**

The design of the scheme was revised following the further information request. It is now proposed to retain the existing older stone building on site. The building features windows in the rear elevation which overlooks the rear of no. 25 Seatown Place. It is proposed to replace the existing clear glazing with opaque glazing to protect residential amenity. Therefore this would improve the existing situation.

The design of the office building has been revised. The scale and height have been reduced. The office building is set back a reasonable distance from the surrounding site boundaries. The four-storey section of the building is proposed to the south-western corner of the site. The three-storey section of the building is proposed to the south-eastern corner of the site which has a boundary with no. 25 Seatown Place. I note that the proposed office building would be located a minimum distance of 40m from the closest properties to the north at Seatown Place. Drawing no: 113 provides a cross section of the site. The drawing clearly indicates the relationship between the existing and proposed development. The existing buildings on site are indicated as is the previous apartment scheme which was refused permission and also the outline of the original office building proposed under the current application. The drawing indicates that the scale of the building has been significantly reduced and also shows that there is a satisfactory separation distances provided. Therefore the proposed development would not result in any adverse impacts on residential amenity of adjoining properties.

In relation to the matter of overshadowing, I note that given the separation provided and also the previous assessment of the issue of overshadowing in Reg. Ref. 06/288 & PL55. 225308 that the proposal would not result in any significant level of overshadowing as a result of the development.

Accordingly, having regard to the revisions to the scheme I am satisfied that there is an acceptable separation distance between the proposed building and the closest adjacent residential properties.

The appellants have also expressed concerns that the proposed building works including the construction of the proposed underground car park could impact upon

the structural integrity of adjacent buildings. I would agree with the assessment of the planning authority that the issue of construction is governed under separate legislative codes.

#### **4.3 Design**

The appellants have expressed concerned that the proposed scheme would have an adverse effect on the site and surrounding area as the site is located within a designated Architectural Conservation Area. They suggest that the proposed construction and excavation works would also impact upon the surrounding protected structures.

In relation to the matter of the Architectural Conservation Area I note that the site is predominately located outside the Jocelyn Street/Seatown Place ACA only part of the entrance, yard and northern section of the stone building are located within the area designed as an ACA.

A significant number of buildings on Seatown Place are included on the Record of Protected Structures. The closest of these properties to the site are no's 20-25 Seatown Place.

In relation to the matter of visual impact on the Jocelyn Street/Seatown Place ACA, I would agree with the opinion of the applicants that there are limited views of the subject site from Seatown Place. Having regard to the separation distance from the proposed office building to Seatown Place circa 65m and also the proposed reduction in the overall mass, bulk and height of the building, I consider that the proposal would not unduly impact upon the integrity of Seatown Place and therefore would be visually acceptable.

I consider that the proposal to retain the two-storey brick and stone building located along the eastern boundary and of which part lies within the boundary of the ACA, would serve to satisfactorily protect the character of the ACA.

Accordingly, I would concur with the assessment of the planning authority. Having regard to the siting and design of the scheme, I consider the development would not impact upon the ACA or impact upon the surrounding protected structures.

#### **4.4 Access, traffic and car parking**

##### Access

The proposed entrance is located in the same location as to the existing entrance to the former merchant's yard. Seatown Place is a relatively straight roadway with a width of circa 12m it is also within the 50kph speed limit in the town centre. I also note that a pedestrian crossing is located to the west of the appeal site in the vicinity of the school and this will therefore serve to reduce the speed of traffic travelling along Seatown Place.

I am satisfied that adequate visibility can be achieved at the site entrance to cater for traffic using the ramp to the basement and emergency vehicles. I also note that the

planning authority and the Roads Department considered that the location of the proposed entrance is acceptable and that the available sightlines acceptable.

### Traffic

The appellants are particularly concerned at the level of additional traffic that the scheme would generate and its impact on the existing traffic conditions in the area. The appellants cite the proximity of St. Vincent's secondary school to the site. Seatown Place is a busy route which runs from the eastern into the town centre. Traffic volumes are compounded by drop off and collection related to the secondary school at specific times.

In the assessment of the application the planning authority had full consideration of the existing traffic conditions. Regarding the matter of traffic impact under item no.8 of the further information request the applicants were required to have a scoping meeting with the Roads Section to establish the requirements for a traffic impact assessment. It was decided by the Roads Section that a full traffic impact assessment was not required as the scale of the development was reduced and the number of car parking spaces were reduced from 102 no. spaces to 47 no. spaces.

Given the overall reduction in the scale of the development and having regard to the previous commercial use of the site and the recommendation of the Roads Department in respect of the scheme, it is considered that the additional traffic, which would be generated, can be accommodated.

### Parking

Section 5.6.5 of the Dundalk and Environs Development Plan 2009-2015 refers to car parking requirements. Requirements are determined depending on the location of the site within the town. The town has been divided into three areas. Area 1 relates to the Town Centre. Area 2 relates to lands at public transport nodes and within 200m of any proposed or existing green routes and also local centres intended to primarily serve a local catchments. Area 3 relates to all other area in the town and environs.

The site is located in the town centre i.e. Area 1. Table 5.4 of the Dundalk and Environs Development Plan 2009-2015 refers to Car parking standards. A rate of 1 car parking spaces per 50sq m is required in Area 1 for office use. The design of the scheme was revised at further information stage. The proposed floor area of the scheme is 2,081sq m. Therefore the development would require a minimum of 41.62 car parking spaces. Drawing no: 8060/101 indicates a total of 47 no. car parking spaces within the proposed underground car park. The planning authority is satisfied with the level of provision and also the location and layout of the spaces. Having reviewed the plans I am satisfied that the proposed car parking provision, design and layout is acceptable.

## **4.5 Flooding**

The appellants have expressed concern that the proposed development could lead to an increased flooding risk in the area because the construction of the underground car park would result in the loss of the storage capacity of the site. The footprint of the

existing site is covered with a concrete hardstanding yard area and also buildings, therefore the existing site conditions do not provide for surface water storage.

The southern boundary of the site adjoins the banks of the Rampart River. Having reviewed the flood maps on the OPW website I note that there is no record of flooding in the area in the past.

The proposed scheme would not result in an increase in surface water runoff compared to the existing conditions. Subject to the provision of a condition regarding surface water drainage I have no objection to the development of the site.

#### **4.6 Legal title**

One appellant party has suggested that the applicant does not have legal ownership of a small parcel of land included in the site. I have taken into consideration the argument of the third party appellants in relation to whether the applicants has sufficient legal interest in the application site to carry out the proposed development.

I would agree with the view of the planning authority that they do not purport to the determination of legal interests and obligations held by the applicant, in relation to such lands. I would also draw their attention to Section 34(13) of the Planning and Development Act, 2000, which relates as follows: “A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development.” This subsection makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate.”

Accordingly, I do not consider that these matters are reasonable and substantive grounds for refusal of the proposed development.

#### **5.0 RECOMMENDATION**

The proposed development is acceptable in principle and accords with the zoning objective of the site as set out in the Dundalk Development Plan 2009-2015. Having read the submissions on file, visited the site, had due regard to the provisions of the Development Plan and all other matters arising, I recommend that permission should be granted.

## REASONS AND CONSIDERATIONS

Having regard to the zoning objective for the site and location of this town centre site, the provisions of the current Dundalk Town Development Plan and the scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely impact on the character of the area or seriously injure the amenities of residential property in the vicinity and would be acceptable in terms of traffic safety and convenience. 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 and as amended by the further plans and particulars submitted the 19<sup>th</sup> day of August 2009, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The site shall remain open and permeable to pedestrians from Ramparts Road to Seatown Place during normal business hours unless otherwise agreed in writing with the planning authority. The precise detail and design of pedestrian gateways and the business hours shall be submitted for the written agreement of the planning authority prior to the commencement of development.

**Reason:** To ensure the development accords with the permission and to advise permeability through the site.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
  - (a) The plan shall be to a scale of not less than 1:500 and show the exact design details of the boundary treatment to the Ramparts River.
  - (b) All landscaping and planting shall be undertaken in the first planting season following the commencement of the development.

**Reason:** In the interests of residential and visual amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity

5. Water supply and drainage arrangements, including the 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.

6. No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

7. The site access, internal vehicular circulation arrangements and car parking shall be in accordance with the specific requirements of the planning authority. Prior to commencement of development details addressing the following issues shall be submitted to, and agreed in writing with, the planning authority.

- (a) Full details of safe crossing points for pedestrians, for access throughout the development.
- (b) Full details of intended traffic calming measures.
- (c) Drawings detailing the layout and geometry of the entrance to the development at Seatown Place.
- (d) A revised layout indicating the car parking in accordance with the design requirements set out in the Development Plan.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

8. Prior to the commencement of development, the applicant developer shall submit details of all proposed advertising signs or devices for the written agreement of the planning authority.

**Reason:** In the interest of visual amenity.

- 9.

- (a) Prior to the commencement of the development, the applicant/developer shall submit details of all proposed external lighting sources, to include scaled drawings indicating the position and type, manufacturer's specifications and/or brochure, strength of lighting source and duration of lighting source and duration of daily use, for the written agreement of the planning authority.
- (b) Night time artificial lighting of the development shall be confined to the minimum extent necessary for security and operational reasons.

Any lighting to the eastern boundary shall be adequately hooded and aligned to avoid spillage outside the site.

**Reason:** In the interest of visual and residential amenity.

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interests of sustainable waste management.

11. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

12. 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. 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 Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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**Siobhan Carroll,**  
**Inspectorate**  
**12<sup>th</sup> February 2010**