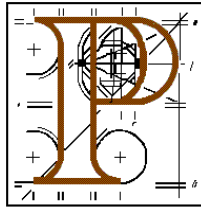


An Bord Pleanála



Inspector's Report

PL15.245454

DEVELOPMENT:-

4 Blocks of Student Accommodation comprising of separate 21 Units incorporating a total of 189 rooms. 127 bedroom Nursing Home. Training and Research Centre, parking and ancillary site works at Green Park Inner Relief Road, Marshes Upper, Dundalk, County Louth.

PLANNING APPLICATION

Planning Authority: Louth County Council
Planning Authority Reg. No: 15/285
Applicant: Fallstar Construction Limited
Application Type: Permission
Planning Authority Decision: Grant

APPEAL

Appellant: Frank Holmes
Types of Appeal: 3rd party -v- Grant
Observers: None
DATE OF SITE INSPECTION: 7th October, 2015.
INSPECTOR: Paul Caprani

1.0 INTRODUCTION

PL15.245454 relates to a third party appeal against the decision of Louth County Council to issue notification to grant planning permission for four blocks of student accommodation together with a 127 bedroom Nursing Home, a Training Centre, parking and all ancillary site works on a Greenfield site which is part of the Dundalk Institute of Technology. The grounds of appeal argue that the proposed development contravenes the zoning objectives for the site.

2.0 SITE LOCATION AND DESCRIPTION.

The appeal site is located on the Dundalk Institute of Technology campus which is located to the north of the Inner Relief Road which runs around the southern built-up perimeter of Dundalk Town. The Dundalk (DKIT) Institute of Technology is located approximately 3 kilometres south of the town centre. The site comprises of two separate land parcels both of which are located to the south-east of the main Institute of Technology campus. The two land parcels which are the subject of the current application are separated by existing student accommodation. Other uses in the immediate vicinity include the Crowne Plaza Hotel which is located adjacent to the Inner Relief Road to the south of the subject site.

The proposed Research, Development and Training Centre is to be located on a site to the immediate north of the Crowne Plaza Hotel in the western portion of the overall site. It comprises of a vacant Greenfield lands. It is rectangular in shape and currently fenced off. An existing access road runs along the western boundary of this site and currently serves the former PJ Carrolls building to the west (which has been taken over for use by the Institute). This access road also serves the main Institute of Technology campus further north.

To the immediate east of the proposed Research, Development and Training Centre a four-storey block of student accommodation is located. It is proposed to construct four additional blocks of student accommodation on lands to the immediate east of the existing student housing. To the south of this accommodation adjacent to the Inner Relief Road, and to the immediate east of the Crowne Plaza Hotel, it is proposed to provide a 127 bed Nursing Home.

All lands on the application site are currently undeveloped and are under grass. Palisade fencing runs around the majority of the boundary of the site, cordoning the site off from the existing student housing and the Crowne Plaza Hotel. Lands further north of the site are currently undeveloped. Lands on the southern side of the Inner Relief Road directly opposite the site accommodate the Finnabair Industrial Estate. The site has a stated area of 3.89 hectares.

3.0 PROPOSED DEVELOPMENT

Three separate uses are proposed in the current application. These are set out below.

The Research Development and Training Centre

On lands to the immediate north of the Crowne Plaza Hotel it is proposed to construct a Research, Development and Training Centre. This part three-storey and part five-storey building is to accommodate a range of uses. At ground floor level it is to provide a number of lecture theatres and auditoriums together with student service accommodation. At first floor level it is proposed to provide classrooms/open plan office together with a coffee dock, research labs and meeting rooms. At third floor level it is proposed to provide more research labs, a library, group study rooms and IT support. The fourth and fifth floors which are located on the eastern side of the block are to accommodate more research labs, meeting rooms and offices.

The three-storey element of the building rises to a height of 13.6 metres while the five-storey element including a roof plant rises to a height of just under 26.6 metres. The building is to be clad primarily with white cladded panels interspersed with corten steel cladding. Glazed elements are also incorporated into the external elevations. Many of the windows proposed are narrow vertical windows. The building is to face southwards onto a communal car parking area and the vehicular entrance off the access road. Access is provided off the existing internal road and roundabout which serves the Institute of Technology further north. There is an existing small roundabout on this access road which provides the entrance to the hotel to the south. It is proposed to provide a new access off this road to the east of the roundabout.

Student Accommodation

To the east of the existing student housing it is proposed to provide four blocks of student accommodation - Blocks A to D. Each of the blocks run on a north-south axis and are three-storeys in height. Block A is the smallest of the three blocks and is located adjacent to the existing student accommodation on site. Three separate units are proposed within this block. The ground floor accommodates a bedroom, kitchen and common room. Four bedrooms are located within each unit at first floor level and second floor level.

These buildings rise to an overall height of 13.3 metres including a plant area on the roof which incorporates solar/photovoltaic panels. The buildings incorporate a white render finish at first and second floor level. Narrow vertical windows are also incorporated in the elevation.

Blocks A, B and C are almost identical in terms of design and incorporate six individual units with each unit accommodating a kitchen, bedroom and common room at ground floor level and four bedrooms on first and second floor of each of the units. A total of 21 units accommodating 189 rooms are provided within the student blocks.

Proposed Nursing Home

On lands to the immediate south of the student blocks it is proposed to provide a nursing home. This two-storey structure provides 127 rooms with a gross floor area of 4,067 square metres. The bedrooms are set out around central corridors in the form of projecting wings with landscaped courtyard areas located between each wing. Bedrooms are provided at ground floor and first floor level. The first floor level also incorporates a roof terrace. This building rises to a height of approximately 6.6 metres and incorporates a light render finish on its front elevation together with timber rain screen cladding and granite/terracotta cladding around some of the windows. A large landscaped surface car park is located between the nursing home and the student accommodation to the immediate north.

The drawings indicate that a total of 243 car parking spaces are to be provided between the three proposed uses on site. It appears from the drawings that the vast majority of spaces are to be allocated for student use. 56 spaces are proposed within the curtilage of the proposed Research, Development and Training Centre while 30 spaces are allocated adjacent to the nursing home.

4.0 PLANNING AUTHORITY'S DECISION

The planning application was lodged on 13th May, 2015.

4.1 Documentation Submitted

The application was accompanied by the following documentation:

- An Appropriate Assessment Screening. It concludes that the proposed development is unlikely to have a significant negative effect on Natura 2000 sites in the vicinity namely Dundalk Bay cSAC and Dundalk Bay SPA. As such there is no necessity to carry out a Stage 2 assessment.
- An Urban Design Analysis was also submitted which contends that the proposed development complies with the 12 criteria contained in the Urban Design Manual Best Practice Guide issued by the Department of Environment, Community and Local Government in 2009.
- An Engineering and Planning Report was also submitted. The Engineering Report provides details in relation to foul drainage, surface water drainage and water supply.
- Finally a detailed Transport Assessment was submitted. The Assessment takes into consideration extant approvals in the immediate vicinity of the site including the construction of a 2,880 square metre business unit on the south side of the Inner Relief Road. The analysis undertaken as part of the Traffic Impact Assessment using approved traffic modelling software indicates that the existing highway network can accommodate additional traffic generated by the proposed development and that the proposed development will not have an adverse impact on the existing network.

4.2 Additional Information Request

The Planner's Report concluded that further information was required and in a letter dated 29th June, 2015 Louth County Council requested the following additional information.

The applicant shall submit a revised Traffic Impact Assessment that includes a base year modelling scenario.

The applicant is requested to submit a revised site layout plan including junction alterations whereby traffic flow exiting to the left onto the inner relief road can filter onto the N52 when safe to do so and uncontrolled.

The applicant is requested to forward calculations with regard to the estimated daily water demand.

With regard to the nursing home the planning authority must satisfy itself that consultation has taken place with the HSE with regard to the internal design and layout. The applicant shall provide details of consultation and how design and layout of the nursing home have been part of the design process.

The applicant is requested to submit further details in relation to landscaping around the nursing home.

The applicant is requested to submit revised newspaper and site notices.

4.3 Further Information Submission

Further information was submitted on 21st July, 2015. A revised Traffic Impact Assessment was submitted which addresses the base year assessment. Drawings are submitted incorporating a left-turn filter lane onto the N52 as requested.

Further details of water demand calculations were submitted. It was stated that water demand figures were incorrectly stated in the original application due to a typing error.

The proposed development has been designed having regard to HIQA's publication "National Quality Standards for Residential Care Settings for Older People in Ireland".

Further details in respect of landscaping around the nursing home have been submitted.

The applicant has also submitted further details in respect of signage associated with the development.

4.4 Assessment of Application

A report from the Department of Arts, Heritage and the Gaeltacht requested a condition be attached requiring archaeological monitoring.

A report from Irish Water states that it has no objection subject to two conditions.

A report from the Infrastructure Directorate states that there is no objection subject to eight conditions.

A further planning report considers the overall development to be acceptable and recommends that planning permission be granted for the proposal.

In its decision dated 12th August, 2015 Louth County Council issued notification to grant planning permission for the proposed development subject to 33 conditions.

5.0 PLANNING HISTORY

There appears to be no planning history associated with the subject site. Details of a number of applications relating to Dundalk Institute of Technology are contained in a pouch to the rear of the file.

6.0 PLANNING APPEAL

The decision of Louth County Council to issue notification to grant planning permission for the proposed development was appealed on behalf of Mr. Frank Holmes by P. Herr and Associates, Civil Engineer and Building Surveyors.

The grounds of appeal argue that the proposed development contravenes the zoning objectives associated with the site. The appeal site is zoned in the current Dundalk Development Plan as REI – ‘Research, Education and Innovation’ which has the objective to provide for education, recreation, enterprise and innovation. The proposed nursing home is listed as a land use ‘open for consideration’ in accordance with the land use zoning objective set out in the Plan. The Plan defines open for consideration as a use that ‘by reason of its

nature and scale would not be in conflict with the primary zoning objective for the area’.

It is argued that Louth County Council in granting planning permission had incorrectly given preferential consideration to the objectives set out in the Dundalk Development Plan to the exclusion of the site’s specific objectives set out in the Dundalk Institute Campus which forms part of the Mullagharlin Framework Plan 2008. It is argued that the proposed nursing home would not complement or augment the existing and proposed uses within the Institute’s campus. The provision of a nursing home is not in accordance with the Institute of Technologies primary role in research, education and innovation. As such it is fully in conflict with the principle of the zoning objective as it relates to the site.

The primacy of the Development Plan over the Framework Plan is not explicitly stated anywhere in either document. The granting of planning permission in this instance undermines the framework plan’s aim to deliver a co-ordinated and comprehensive strategic vision for both the appeal site and the study area.

Reference is made to the Department of Environment, Community and Local Government’s Local Area Plans – Guidance for Planning Authorities document. It is suggested on foot of this guidance that the Framework Plan should have been a central consideration in Louth County Council’s assessment of the subject application. Reference is made to Section 18(3)(a) of the Planning and Development Act 2000 which requires a Planning Authority or the Board at appeal stage to have regard to the provisions of any local area plan prepared for that area and indeed any relevant draft local area plan. The Framework Plan’s key objective for Dundalk Institute of Technology campus is the expansion of education, research, innovation, support, sports, recreational, cultural and ancillary services and facilities at the campus. Policy S18 states that uses within the campus shall be restricted to educational, research, innovation, sports, recreation, cultural, ancillary and complementary uses.

In terms of policy control, reference is made to Policies PP1 and PP2 set out in the Framework Plan. In particular reference is made to the statement that “land uses that would compromise/and or diminish the integrity of the overall framework will not be permitted”.

A commercial use such as the nursing home proposed is not in keeping with any of the permissible uses specified under Policy S18.

Furthermore it cannot be considered ancillary or complementary to the campus role in future educational research, recreational and sporting uses. Utilisation of a significant tract of the campus to accommodate a non-compliant and conflicting use will reduce the overall area of land available to accommodate compliant uses. If the planning permission is allowed to stand, it will encourage the further “trivialisation” of the Framework Plan.

7.0 APPEAL RESPONSES

7.1 Planning Authority Response to Grounds of Appeal

A response received by Louth County Council on 21st September, 2015 notes that under the zoning matrix for the Dundalk and Environs Development Plan ‘nursing and assisted living’ is open for consideration. Reference is also made to Policy HC29 where it is the policy of the Council to support nursing home provision.

It is considered that the location of the nursing home adjacent to Crowne Plaza and campus of the DKIT is a suitable location in that it allows for:

- Combination trips as there is a hotel adjacent.
- Opportunities for social inclusion.
- Accessibility to public transport. It is considered that the nursing home location in such close proximity to the DKIT campus which includes a Nursing School and Headquarters of the Aid Friendly Netwell Centre gives potential for collaboration. A condition to ensure that the operation of the proposed nursing home would complement or augment facilities within the DKIT campus would be welcome. The Council has specific policies in relation to age friendly society.
- It is considered that the use of a nursing home is a complementary use to existing uses in the Institute and in so being, it would be in keeping with Policy S18 of the Mullagharlin Framework Plan. The fact that the development is a commercial development is not a material consideration as both the student housing and the Crowne Plaza Hotel are all in themselves commercial developments. The purpose of the Mullagharlin Framework Plan is to provide an

implementation strategy to link and unite landholdings with the Plan area. The Plan provides an indicative layout only, whereby the footprint and form of buildings are not definitive. A degree of flexibility in the layout was always promoted.

- Reference is made to S24 which states that uses within the DKIT campus character will not be restricted to educational use. Complementary and ancillary uses are also encouraged, in particular small incubator units, healthcare, recreational, cultural and other activities that enhance the day to day functioning of the campus.

7.2 Applicant's Response to the Grounds of Appeal

A response was submitted on behalf of the applicant by Stephen Ward, Town Planning and Development Consultant.

In the first instance the Board are requested to dismiss the appeal as a vexatious appeal centred on commercial interests. It is stated that the appellant has received outline planning permission for a 42 bedroomed residential care home on a site to the south in the outskirts of Blackrock.

Notwithstanding the points set out above, it is respectfully requested that An Bord Pleanála restrict its deliberations solely to the nursing home element of the proposed development.

The site in question is zoned for development and are allocated in the Development Plan Core Strategy for "Consolidation of the Urban Core".

It is also stated that there is significant need for student accommodation in the area as there is a shortage of rental accommodation in the Dundalk area. It is suggested that foreign direct investment in the Dundalk area may be under threat due to the lack of rental properties.

Likewise it is argued that there is a chronic need for nursing home accommodation nationally and references are made to national reports which support this conclusion. National policies in relation to nursing home provision and the urgent requirement for these nursing homes are set out in the appeal response. Details with regard to nursing home policy as set out in the Development Plan are also referred to. The Board are therefore asked to prioritise the appeal for early determination.

It is argued based on the Development Plan provisions, that the proposed nursing home is located within a defined and built-up area of Dundalk where public utilities are available and where there are multiple opportunities for social inclusion and integration within the surrounding community. Visitors to the home could easily combine their trip with neighbouring land uses including the nearby town centre.

Reference is made to paragraph 6.8.4 of the Development Plan where it is stated that planning applications for nursing homes will be assessed having regard to:

- Site location and suitability.
- Accessibility.
- Design and layout.
- Amenity.
- Utilities.

It is stated that the proposed development meets all the above requirements on the subject site.

It is also submitted that there is no conflict between the proposed development and the Mullagharlin Framework Plan. However the status of the Framework Plan/Master Plan relative to the Development Plan is made very clear in Section 2.2 of the Dundalk and Environs Development Plan. It states that if any conflict arises between the provisions of any existing plan identified (including the subject Mullagharlin Framework Plan) and the statutory Development Plan, the Development Plan will take precedence.

As distinct from a local area plan, the framework plan is intended to act as a guidance document complementary and subservient to the Dundalk and Environs Plan. Indeed it is set out in the Framework Plan that the guidance provided is not intended to be overly prescriptive or rigidly enforced. The Plan has been designed so that creativity and innovation is encouraged in the design process so long as it does not compromise the overall vision set out in the Framework Plan. In the Plan hierarchy, the Framework Plan has status below that of a development plan and below that of a local area plan. The Framework Plan merely provides guidance and the Planning Authority is not bound by the provisions set out in any Framework Plan.

Notwithstanding the arguments set out above, it is strongly contended that there is in fact no conflict between the two plans. Section 18 of the

Framework Plan states that uses within the character area shall be restricted to educational, research, innovation, sport, recreation, cultural and complementary uses. It is contended that the nursing home is a complementary use to education and research, particularly as DKIT has a large and expanding nursing school. There is potential for strong synergy between the nursing home and the college school of nursing. The nursing home in this instance will occupy between 3.9 and 4.4% of the total land area available at the campus. The nursing home is also very well located in relation to Louth County Hospital.

The response goes on to argue that the provision of student housing on site is fully in accordance with national and regional planning policy, the development plan, the framework plan and fully complies with all development management guidance.

Finally it is noted that the Planning Authority has also submitted a succinct and firm rebuttal to the appellant's grounds of appeal which further supports the acceptability of the proposal.

8.0 PLANNING POLICY CONTEXT

8.1 Dundalk and Environs Development Plan 2009-2015

The subject site together with the adjoining land are zoned REI – Research, Education and Innovation for which the objective is to “provide for education, recreation, enterprise and innovation”. Under the zoning matrix for the Plan nursing/assisted home is open for consideration.

Section 6.8.2 relates to the Dundalk Institute of Technology (DKIT) it notes that DKIT acquired the adjoining PJ Carrolls Factory and expanded its range of third level course and facilities. This included a nursing course and a state of the art nursing and midwife building. Policy HC27 seeks to support the expansion and development of Dundalk Institute of Technology and its elevation to full university status.

Section 6.8.4 of the Development Plan relates to nursing homes. A nursing home may be defined as a facility where care of older people, sick or disabled people is provided. Such facilities can range in size from a small domestic dwelling with a capacity of two or three bed spaces to large institutions with hundreds of bed spaces.

The Planning Authority considers that nursing homes should be located within or adjacent to built-up areas where:

- Public utilities such as water and sewage facilities are available.
- Opportunities for greater social inclusion and integration into the community exists.
- Accessibility by means of public transport is available.
- Visitors can combine trips to see patients and relatives with other trips such as shopping and worship.

In assessing planning applications for nursing homes, the Planning Authority will have regard to the following:

- Site location and suitability – having regard to the zoning objectives for the area and the site size, shape and adjoining buildings and its compatibility with other uses in the area.
 - Accessibility – access must be provided in the manner that is safe and adequate to meet the traffic flows anticipated and adequate parking provision in accordance with the standards set out in the Plan. The location of nursing homes along public transport routes is highly recommended in the interest of sustainability and to facilitate employees, relatives and visitors who depend on public transport.
 - Design and Layout – should respect the characteristics of the site and fit in comfortably with the landscape and adjoining properties. Applicants should consult with the North-Eastern Health Board with regard to internal design and layout at design stage.
 - Amenity – Sufficient amenity space and landscaped area should be provided to meet the needs of residents and provide an attractive setting.
 - Utilities – connection to the public water supply and foul drainage will be required. Private water supply and foul drainage will only be considered as a temporary measure where connection to the public facilities will shortly be available.
-
- Policy HC29 seeks to support the provision of nursing homes.

8.2 Mullagharlin Framework Plan

The above Plan does not appear to be contained on the Louth County Council website. However partial details of the Plan are contained in the grounds of appeal and relevant points are summarised below:

In terms of character area the site is located in the DKIT zone. Section 5.5 deals with the DKIT campus. It states that the existing DKIT campus is in the process of transformation and growth. The ultimate aim is for a unified campus that is physically integrated in a sustainable manner with the surrounding area and wider region.

Site specific objectives for the DKIT campus and character area is:

- To support the expansion of educational research, innovation support, sports, recreational, cultural and ancillary uses in a high quality landscape setting that is served by a fast and efficient public transport system that connects with the wider area.

Policy S18 states that uses within the DKIT campus character area shall be restricted to educational, research, innovation support, sports, recreation, cultural and ancillary and complementary uses.

Policy S19 seeks integration with public transport modes that will help reduce car dependent journeys will be an important part of the future expansion and should be accommodated as part of future developments in DKIT campus.

9.0 PLANNING ASSESSMENT

I have read the entire contents of the file, visited the site and have particular regard to the issues raised in the grounds of appeal and the associated responses. I consider the key issues in determining the application and appeal before the Board are as follows:

- Vexatious Nature of the Appeal
- The Requirement to Assess the Entire Application De Novo
- Material Contravention of the Development Plan
- Other Issues

Vexatious Nature of the Appeal

The applicant in its response to the grounds of appeal by way of introduction request that the Board consider dismissing the appeal as vexatious on the grounds that it is purely predicated on commercial competition. The underlying motives where any appeal cannot be readily ascertained by the Board. The key consideration is whether or not the issues raised in any third party appeal are material and planning terms and raise issues in respect of whether or not the proposed development is in accordance with the proper planning and sustainable development of the area. In this instance the third party appellant has raised issues of a planning nature and therefore the proposed application and appeal should be assessed on that basis. I therefore do not consider it appropriate to dismiss the appeal on the grounds suggested by the applicant in its response to the third party appeal. I further note that the Board have accepted the bona fides of the appeal submission and have not considered the grounds of appeal to be invalid in this instance.

Requirement to Assess the Entire Application De Novo

Again the applicant in its response to the grounds of appeal suggest that the only issue which need be considered by the Board in this instance (notwithstanding the arguments that the appeal in this instance is vexatious) relates to the nursing home only. I consider that the Board could restrict its deliberations to whether or not the proposed nursing home on the subject site is in accordance with the proper planning and sustainable development of the area. It is clear from the zoning provisions relating to the site that the other use, namely student housing is fully in accordance with the zoning provisions and was deemed acceptable on the subject site by the Planning Authority. Furthermore I note that no aspect of the third party appeal challenges the suitability of the site for student accommodation or a research, development and training centre. The applicant in response to the grounds of appeal in Section 6 adequately assesses and concludes that the uses other than the nursing home fully complies with the zoning objectives and the Development Management Standards set out in the Development Plan for such uses. Based on the above I consider that the Board could restrict its deliberations to the nursing home aspect of the proposed development.

Contravention of the Development Plan

The main thrust of the grounds of appeal suggest that:

- (a) Louth County Council were incorrect in _____ precedent to the policies and provisions contained in the Dundalk and Environs Development Plan over and above the policies and provisions contained in the Mullagharlin Framework Plan.
- (b) Notwithstanding the argument set out above it is also argued that the proposal is incompatible with the zoning objective associated with the Development Plan.

In respect of the first issue the grounds of appeal argue that the Mullagharlin Framework Plan is more prescriptive and detailed than the Dundalk and Environs Area Plan.

Regardless of the contents of the local framework plan it is explicitly clear in Section 2.2 of the Dundalk and Environs Development Plan that “if any conflict arises between the provision of any of the existing plans outlined below (including the Mullagharlin Framework Plan) the Development Plan will at all times take precedence. It is therefore unambiguously and unequivocally clear that in terms of the hierarchy of plans the Dundalk and Environs Development Plan takes precedent over the Framework Plan referred to in the grounds of appeal.

With regard to the suitability of the proposed nursing home as a land use on the subject site the Development Plan clearly states that such a use is open for consideration. It should also be borne in mind however that Policy HC29 seeks to support the provision of nursing homes. While the use in question is open to consideration under the land use zoning objective such a use would be acceptable where its “nature and scale would not be in conflict with the primary zoning objective for the area”.

The applicant in its response to the grounds of appeal has reasonably argued in my view that the proposed development would be complementary to the existing uses in the vicinity. Both the applicant and the Development Plan makes specific reference to the fact that a nursing course is now available at the DKIT and provision of a nursing home in this instance would in my view be a complementary use.

It is not unusual to have health care/hospital facilities run hand in hand with educational centres. St. Vincent’s University Hospital in Dublin is a

good example in this regard. Both the Hospital and University are run side by side so as to ensure that medical practice and education are appropriately integrated.

It can be reasonably argued in this instance therefore that a nursing home is a complementary use within the third level campus.

I am also satisfied that the criteria set out in Section 6.8.4 of the Development Plan with regard to assessing planning applications for nursing homes are fully met under the current application. The site's size, shape and adjoining land uses are compatible with the provision of a nursing home on the subject site. The site is bounded by good quality road network to provide adequate accessibility. Some public transport is available along the Dublin Road to the west of the site however the site is in relatively close proximity to the town centre where public transport and other services are available. With regard to design and layout I consider that the applicant has adequately demonstrated during the initial assessment by the local authority that the proposal will comply with HSE and HIQA requirements for residential care for the elderly. The site is well landscaped, good quality amenity space is provided in the immediate vicinity of the site to meet the needs of any residents. Landscaping and amenity provision has also been improved throughout the course of the Planning Authority's assessment of the application. Finally appropriate utilities are available as the site is fully serviced.

As the proposed development meets the criteria set out in the Development Plan I consider that the use is acceptable in this instance and that the proposal notwithstanding the fact that it is only open for consideration under the zoning matrix, would be an acceptable type of development on the lands in question. As such I do not consider that the proposed development materially contravenes the provisions of the Development Plan.

Finally on this issue I would refer the Board to S18 of the Local Framework Plan which states that uses within the DKIT campus character area shall be restricted to educational, research, innovation, support, sports, recreational, cultural, ancillary and complementary uses. The proposed nursing home constitutes a complementary use to the existing education and training courses carried out at the campus and therefore, contrary to what is stated in the grounds of appeal I consider that the proposed development in this instance would fully accord with S18 of the Local Framework Plan as well as the policy set out in the Dundalk and Environs Development Plan.

Other Issues

Notwithstanding the fact that I have argued that the Board could restrict its deliberations to the issues raised in the grounds of appeal, namely suitability of the nursing home on the site in question, I would also argue that in the case that the Board decide to evaluate the acceptability of the overall proposal on the subject lands I am satisfied that the proposed land uses are fully in accordance with the zoning objectives to provide for education, recreation, enterprise and innovation and that the proposed uses also fully comply with the Development Management Standards set out in the Development Plan. I consider that the traffic impact assessment submitted with the application as amended adequately demonstrate that the proposed development would be acceptable in terms of traffic safety and convenience and would not give rise to excessive traffic congestion. Finally I consider the overall design approach to be acceptable in this suburban location which apparently accommodates buildings of a similar size and scale to that proposed. I am therefore satisfied that the overall development is in accordance with the proper planning and sustainable development of the area.

10.0 DECISION

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the nature of proposed uses on site and the zoning objectives relating to the site to provide for education, recreation, enterprise and innovation it is considered that the proposed development subject to conditions set out below would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and will generally 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 received by the planning authority on the 13th

day of May 2015, and the 21st day of July 2015, 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

3. Externgen

4. The proposed student accommodation shall be used solely for the accommodation of students associated with the Dundalk Institute of Technology and shall not be used as residential accommodation for any other purpose unless it is subject to a separate planning approval from the planning authority or An Bord Pleanála.

Reason: In the interest of residential amenity.

5. Details of all boundary fencing or walling around the perimeter of the site and along common boundaries with adjacent sites shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

6. Details of the proposed phasing associated with the development including timescales, provision of infrastructure, boundary treatment, landscaping and parking associated with each of the land uses proposed shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

7. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. This scheme shall include the following:-
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
 - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

8. Proposals for a street name/unit name for each of the proposed buildings together with associated signage shall be submitted to, and agreed with, the planning authority prior to the commencement of development. Thereafter all estate and street signs shall be provided in accordance with the agreed scheme. No advertisement/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement for the proposed names.

Reason: In the interest of urban legibility.

9. No sign/symbol/nameplate or advertising shall be erected without the prior written approval of the planning authority whether or not such a development would otherwise constitute exempted development.

Reason: In the interest of visual amenity.

10. 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. [All existing over ground cables shall be relocated underground as part of the site development works.]

Reason: In the interests of visual and residential amenity.

11. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

12. Details of proposed bin storage/cycling facilities to be made available at the proposed development including their location, design and signage shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and to protect the environment in the vicinity of the development from litter.

13. The internal road layout and network serving the proposed development including turning bays, junctions, parking area, footpaths and kerbs and access road to the service area shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

14. 243 car parking spaces shall be provided within the site. The locations and layout of these spaces and how they are attributed to the individual land use proposed shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

Reason: To ensure adequate off-street car parking provision is available to serve the development.

15. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

16. The proposed development shall incorporate the provision of a left hand turn filter for vehicles exiting the development onto the N52. The construction of the filter lane shall be completed within 5 years of the commencement of the construction of development or as otherwise agreed with the planning authority.

Reason: In the interest of traffic safety.

17. The applicant shall make all necessary arrangements to apply for and obtain a road opening licence from Louth County Council in respect of all opening into public areas and shall pay road opening licensing fees and road restoration costs. The applicant shall abide by the conditions set out in any said licence issued.

Reason: In the interest of traffic safety.

18. The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road/footpath arising from the construction work and shall either make good any such damage forthwith to the satisfaction of Louth County Council or pay to the Council the cost of making good any such damage.

Reason: In the interest of traffic safety.

19. All necessary measures shall be taken by the developer/contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining public roads or footpaths during the course of the development works. The developer shall ensure that all vehicles leaving the development are free from any material that would be likely to deposit on the road or in the event of any such deposition immediate steps should be taken to remove the material from the road surface. The developer shall be responsible for the full cost of carrying out road/footpath cleaning work.

Reason: In the interest of traffic safety.

20. 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.

- 21. The developer shall pay to the planning authority a financial contribution of €1,190,092 (one million one hundred and ninety thousand and ninety two euro) 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. The application of any indexation required by this condition 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.

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.

22. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space 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 or maintenance 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 until taken in charge.

**Paul Caprani,
Senior Planning Inspector.**

December, 2015.

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