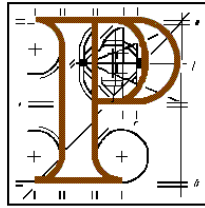


# An Bord Pleanála



## Inspector's Report

**PL 15.246377**

<b>DEVELOPMENT:</b>	Change of use from existing veterinary office and stores to residential unit and the construction of a 3 storey building comprising retail and residential units and associated works at Bachelors Walk, Dundalk, Co. Louth.
<b>Planning Authority:</b>	Louth County Council
<b>Planning Authority Reg. No:</b>	15/5791
<b>Applicant:</b>	Paddy Mackin
<b>Application Type:</b>	Permission
<b>Planning Authority Decision:</b>	Grant Permission
<b>Appellant:</b>	Connor Hanratty
<b>Type of Appeal:</b>	Third Party –v- Grant
<b>Observers:</b>	None
<b>Date of Site Inspection:</b>	22 June 2016
<b>INSPECTOR:</b>	<b>Patricia Calleary</b>

## 1.0 INTRODUCTION

PL 15.246377 relates to a third party appeal against the decision of Louth County Council to issue a notification to **grant permission** for the change of use from an existing veterinary office and stores to a one-bedroom residential unit **and** also the construction of an adjoining new building comprising of a small retail unit on the ground floor and two apartments overhead, one on each of the first and second floor, together with all associated works.

## 2.0 SITE LOCATION AND DESCRIPTION

The appeal site, with a stated area of c. 0.26 hectares is located at Bachelors Walk in Dundalk town in county Louth. It is located on an unused site along a streetscape close to the town centre. The site is bounded to the front (north) by a high boundary wall running along the established streetscape building line. There is a double entrance gate at the western end of the wall. This gate provides vehicular access to an existing single storey building on site, which it is stated was last used as a veterinary office together with stores and an adjoining yard space. There is an existing stone building, 4 storey in scale, located to the west of the site which is stated to be in use as a warehouse, haven been originally built for a grainstore in the mid 19<sup>th</sup> century. To the east and south there is a 2 storey domestic scale building which is laid out as apartments and which lies within the ownership of the applicant.

## 3.0 PROPOSED DEVELOPMENT

The proposed development would consist of the following:

- Change of use of an existing veterinary office and stores to a one bedroom residential unit.
- Construction of a new 3 storey building which would include a retail unit to ground floor with 2 x two bedroom apartments, laid out on the first and second floor and all associated site development works.
- Total area of the proposed development is stated to be 335 sq.m. The following individual areas as presented on the drawings are as follows:

- Ground Floor apartment (change of use) = 60 sq.m
  - Ground Floor Retail unit = 75 sq.m
  - First Floor Apartment = 74 sq.m
  - Second Floor Apartment = 73 sq.m.
- Based on a review of the drawings submitted, it would also appear that an existing store which abuts the warehouse building would be required to be demolished to facilitate the new building.

#### 4.0 PLANNING HISTORY

There is no planning history associated with the appeal site.

#### 5.0 PLANNING AUTHORITY DECISION

##### 5.1 Planning officer's report

Following an initial assessment, a request for further information issued by the Planning Authority on matters of surface water disposal, open space and impact on adjoining warehouse building. A response to the further information request was submitted and a new public notice was published and erected on site advertising the information as being significant further information. The following provides a summary of the planning officer's assessment report on file.

- Relevant planning policy considered.
- 1 no. third party submission received and considered.
- Reference to pre-planning consultation.
- Natura 2000 Sites referenced; NIS not considered necessary.
- Proposal not indicated as being in an area vulnerable to flooding.
- No parking provided – acceptable in location adjacent to Dundalk town centre.
- The principle of the development is acceptable based on the location of the development.
- Changes submitted at further information stage are acceptable.
- As the building is set apart from the existing warehouse building by 1.5m it will provide access for maintenance and will not result in a negative impact on surrounding area.
- Design and layout are acceptable including privacy screens at upper floors and elevational treatment along Bachelors walk. Signage condition should attach.
- Development Contributions calculations included.

A recommendation to **grant permission** was put forward.

## 5.2 Submissions/Observation

The Planning Authority received 1 no. submission from Pdraig Herr on behalf of Conor Hanratty, stated as the owner of the 4 storey warehouse building to the east of the site which is stated as being occupied and used as an authorised storage unit. The main planning points raised include:

- The development would block daylight to 15 windows positioned on the east elevation of the existing warehouse building.
- Development would result in constraints in maintaining and cleaning the warehouse building.
- As positioned so close, development could cause structural damage to substructure and foundations.

## 5.3 Interdepartmental reports

- Infrastructure Section – Requested further information initially. No objection subject to conditions (surface water disposal, repair to damage of public roadway, measures to prevent spillage, road opening licence).
- Operations and Local Services – No response.

## 5.4 Prescribed Bodies

- Irish Water – No objection subject to conditions.
- An Taisce – No response.
- The Heritage Council – No response.
- An Comhairle Ealaíon – No response.
- DAU of Department of Arts, Heritage and the Gaeltacht – No response.

## 5.5 Planning Authority Decision

The Planning Authority issued a decision to **grant permission** subject to 9 conditions, the following of note:

Condition No.2 – Signage details to be submitted.

Condition No.4 – No roller shutters, roller shutter box to be erected without receiving a separate planning permission.

Condition No.8 – Road opening licence required.

## 6.0 GROUNDS OF APPEAL

## **6.1 Third Party Appeal**

A third party appeal was lodged by EHP Services on behalf of Mr. Conor Hanratty. At the outset of the appeal, it is stated that the appellant's property (which lies directly adjacent to the appeal site) is in the Hanratty family ownership for 60 years and is being used as a warehouse having been originally constructed as a grain warehouse in c.1850s.

The principal grounds of the appeal are summarised as follows:

- Overshadowing and loss of natural daylight would result. Development would cast a permanent shadow over eastern elevation.
- 15 no. small rectangular fixed windows on the east elevation which would suffer loss of sunlight.
- Proposal as separated by 1.5m from appellant's warehouse does not address loss of light in any meaningful way.
- Operational expenditure because of increase electricity usage for artificially lighting the building would result as a consequence of the loss of natural light.
- Impact on integrity of established building during demolition and construction phase.
- Fails to meet design requirements as set out in the development plan for the area and relevant design guidelines.
- Scale and design of the proposal is out of character with the majority of the streetscape in terms of height and materials proposed.
- Residential element on upper floors does not appear to be accessible to persons with impaired mobility.
- Design lacks information regarding fire escape and if a physical additional external escape stair would be required.
- No parking provision.
- Layout of apartments lies contrary to Design Guidelines for new apartments and development plan policy as each living room and bedroom is single aspect only.
- Would cause overlooking, overshadowing and loss of privacy on terraced dwellings opposite the appeal site.
- Refuse area not provided.

## **7.0 APPEAL RESPONSES**

## 7.1 First Party Response

- Recognises the building has historic significance but it not a protected structure.
- Appeal site is in applicant's ownership for 20 years and was last used as veterinary offices and ancillary storage. As a result of the downturn in the economy it has remained vacant for several years.
- Would align with Council's stated strategy of promoting vibrancy and vitality of town centres and would provide a mix of commercial and residential uses.
- Would not impact unduly or cause overshadowing or loss of natural light on adjoining warehouse. The existing opes (originally used as ventilation for grain storage) would provide very little natural lighting. Most are blocked up for in excess of 20 years and only 1 ope is fitted with a glazed panel.
- Quotes from the development plan are misplaced as the existing warehouse is not a dwelling.
- Impacts on the integrity of the building would be mitigated against by use of best practice. Urban redevelopment/ construction is a normal everyday occurrence.
- Proposed development would be a positive addition to the street within which it would integrate well.
- 3 storey design will complement the 3 storey warehouse to the west.
- Design meets local and national guidelines in terms of size and design criteria.
- Accessibility has been considered and a Disability Access certificate would be applied for.
- No external escape stairs would be required for fire escape.
- Development contributions will be paid in lieu of parking. One space can be provided outside of the existing gated entrance. Development in town centre is close to public bus and taxi services.
- Impact on residential amenity would be low. Opaque screens are included on the south elevations of balconies to ensure no infringement of existing privacy of neighbouring properties.

A number of photographs are attached.

## 7.2 Planning Authority Response

- None

## 7.3 Observations

- None

## 8.0 POLICY CONTEXT

### 8.1 Local Planning Policy

The proposed development is governed by the policies and provisions contained in the **Dundalk and Environs Development Plan 2009-2015** which continues to the statutory development plan for the area. Within the plan, the following policies and objectives are considered relevant.

- The site is located in an area with a zoning objective '**Residential 1 – (serviced)/RES 1 – To protect and improve existing residential amenities and to provide for infill and new residential developments**'.
- Permissible uses = **residential**; Open for consideration = **shop-local (2)** i.e. a convenience retail unit of < 200 sq.m net floor area.
- Car parking provision – **1 per apartment; 1 per 50 sq.m of retail space.**
- **Section 6.6.7 – Infill/ Backland development.** Design and Scale – Design and scale of the proposed development should be in keeping with the surrounding character of the area.
- **Table 6.7 – Residential Car Parking Standards** – Brownfield/Town Centre = 1.0 spaces per dwelling; **Policy HC 21** – Certain town centre development permit a financial contribution in lieu of car parking.
- **Appendix 2 – Urban Design Guidance:** general range of building heights and number of storeys on a street should be retained; Roofline should reflect rhythm of streetscape; shopfront guidelines.
- **Appendix 4: Internal Room Standards:** 2 bed /4p apartment: Target GFA: 73 sq.m; Main Living Room: 13 sq.m; Aggregate living area = 30 sq.m; Aggregate bedroom area = 25 sq.m; Storage area = 7 sq.m). 1 bed /2p apartment: Target GFA: 45 sq.m; Main Living Room: 11 sq.m; Aggregate living area = 23 sq.m; Aggregate bedroom area = 11 sq.m; Storage area = 3 sq.m).

### 8.2 National Policy

- Guidelines for Planning Authorities on **Sustainable Residential Development in Urban Areas**, May 2009.
- **Urban Design Manual: A Best Practice Guide** May 2009.
- **Sustainable Urban Housing: Design Standards for New Apartments** (Guidelines for Planning Authorities) – 2015.
  - Apartment floor areas: 1-bedroom apartment: minimum size = 45 sq.m; 2 bedroom apartments: minimum size = 73 sq.m.
  - 50% of apartments should be dual aspect.
  - Private amenity space required as patios/terraces on ground floor and balconies on upper floors.

## 9.0 ASSESSMENT

I have read and considered the contents of the planning application, grounds of appeal, responses and relevant planning policy. I have also attended the site and environs. The following assessment covers my considerations on the key planning issues and also encapsulates my *de novo* consideration of the application. I consider the key issues in determining the application and appeal before the Board are as follows:

- Principle of development
- Design, Scale and Form
- Loss of Light, Overshadowing and Residential amenity.
- Impact on integrity of established building
- Other Issues

I outline my considerations on each of those aspects as presented under.

### 9.1 Principle of Development

The site is located within an area which is zoned as *'Residential 1(serviced)/ RES 1 – To protect and improve existing residential amenities and to provide for infill and new residential developments'* within the **'Dundalk and Environs Development Plan 2009-2015'**. Based on the planning policy and objectives contained within the statutory plan for the area, I am satisfied that the proposed development for 3 apartments and a small scale retail unit, which are both uses consistent with the land use zoning objective, is acceptable in principle subject to showing adequate regard for good design principles and protection of amenity of the adjoining properties. I will examine those specific planning aspects in the following sections of my assessment.



## 9.2 Design, Scale and Form

The third party contends that the proposed development design is out of character with the surrounding predominately terraced streetscape which is largely 2 storey in form. The first party contends that the development would make a positive contribution to the streetscape replacing a semi-derelict site with a new building of appropriate design. On the day of my inspection, I noted that the appeal site hosts a single storey building, last used as a veterinary office, and also a yard and small store, all located behind a blank high boundary wall. The proposal would involve the change of use of the office rooms to form a single residential unit of 60 sq.m which would be single aspect. Existing open space (25 sq.m) between the unit and the front boundary wall would become the private space for the residential unit. While it would ordinarily be preferable that a residential unit would face onto the street and the private space be located to its rear, I am cognisant that this building form already exists on site and I also note that there are existing apartments to the rear of the unit. In this context, I am satisfied that the design and form is acceptable for the change of use element of the proposal which would result in one residential unit.

The main yard space and also a separate store (which it appears would be removed to facilitate the new building) is proposed to be developed as a small retail unit on the ground floor with two apartments located overhead, one on each of the first and second floors. In the context of the street setting in the urban area, where a mix of building heights and uses already exist, I consider the height of the building to be wholly acceptable. I welcome the mix of uses, particularly the residential element on the upper floors which would contribute positively to the life of the street, offering natural surveillance and vibrancy to the area. Noting the generous size of the new apartments (2 bed c.73 and 74 sq.m), each which are dual aspect in design, and the sizeable private open space (20 sq.m) to the south on each of the 2 levels, I consider these apartments are well designed and would have potential to offer high quality accommodation for their future occupants.

The ground floor retail element would provide an active frontage onto the street where a blank inactive wall currently exists and would positively contribute to the streetscape and the town if delivered.

Overall I am satisfied that the proposed development is acceptable in terms of its design, scale and form. I will separately deal with issues of overlooking and overshadowing which have been specifically raised by the third party in their appeal.

### **9.3 Loss of Light, Overshadowing and Residential Amenity**

The third party expresses concern regarding the impact the development could pose on his warehouse in terms of loss of light and overshadowing. He states that the interior of the warehouse is served by 15 no. very small rectangular windows on the east elevation which overlook the appeal site at 3 above levels above ground floor. The main concern raised is that the new building would block light into the warehouse through the 15 windows and that the warehouse relies on the eastern sunlight. Consequently, it is submitted, that the electricity usage would increase because of the need for additional artificial lighting which would be an unacceptable cost burden. In response the first party states that these are not windows but rather small ventilation opes used in the building when it originally functioned as a grain store. It is stated that currently only one of the opes has a glazed panel fitted and that most of the others are blocked up for a period in excess of 20 years.

Accordingly, it is disputed that the building now proposed would block natural sunlight or cause overshadowing. Photographs to support this argument are included with the response.

On the day of my inspection, I observed the opes referred to. I concur with the first party that these are small opes and are more akin to ventilation openings than windows. I counted c.4 of these which were glazed which I observed externally and internally. They glazed area measured c.130mm x 55mm. The majority of others were blocked up. I do not agree that they are normal windows which facilitate the infiltration of natural light into the building and I noted artificial light sources were required internally to walk safely through the building in its current use for storage. The photographs which I attach in the appendix of this report will inform the board that this argument made regarding loss of light and overshadowing cannot be sustained. The revised proposals at further information stage shows the building positioned 1.5m away from the site boundary / warehouse building. I consider this is reasonable. Reference is made by the third party to situations where overlooking and overshadowing should not be caused to existing dwellinghouses as set out under Section 6.6.7 of the development plan. The existing warehouse is not a dwellinghouse so this section does not apply in this instance. I am also of the view that the proposed development would not unduly cause loss of light or overshadowing on any dwellinghouse in the vicinity such would warrant a recommendation to refuse permission.

I consider that no overlooking issues would arise onto private amenity space of the houses to the rear of the appeal site, having regard to the opaque screens proposed around the balconies and the presence of an apartment building and also commercial buildings to the rear of the site acting as a buffer between the proposed development and the houses. Neither do I agree with the third party that the development would be overbearing or cause overlooking on dwellinghouses on the opposite side of the street, in an urban setting. If that were the case, it would preclude much of the sustainable patterns of residential living in town centres. I also note that no third party submissions were made at the planning stage or appeals to the board by other parties including residents of the area.

Overall I am satisfied that the proposed development would not result in overshadowing or loss of light on the adjoining established warehouse building to the west or cause a reduction in residential amenity in the vicinity of the site and I recommend that the development should not be refused for reasons of overlooking, overshadowing or loss of residential amenity.

#### **9.4 Impact on Integrity of established building**

The appellant states that the warehouse (former grain store) was constructed on shallow foundations in the mid 19<sup>th</sup> century. Express is raised regarding the impact which vibrations would cause on the integrity of his structure during the demolition and construction phase and that the development could lead to structural damage to this long established building. In response, the first party sets out mitigation proposals which include the separation of the buildings by 1.5m, the surveying of existing properties and employing suitable building techniques. It is also stated that similar development /construction take place daily across urban areas. Having regard to the issues raised, I concur with the first party and consider that engineering measures can be employed to ensure the integrity of the building would be protected during demolition and construction works. I do not consider this is a planning matter which I need to consider further. Neither do I consider the protection of the integrity of an adjoining building in an urban setting to be a reason for refusal.

#### **9.5 Appropriate Assessment**

The closest Natura 2000 sites are Dundalk Bay SAC (located 600m north) and Dundalk Bay SPA (located 800m north east) of the appeal site. Having regard to the nature and scale of the development proposed and to the

nature of the receiving environment, namely an urban brownfield fully serviced location, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.6 Other Issues

Other issues raised by the appellants are considered under.

### Parking

No parking is proposed within the scheme. The first party states at appeal stage that there will be space available for 1 parking space if the double yellow line would be removed from the street at the existing vehicular entrance. I consider the road/street marking is a matter for the Local Authority, separate to this appeal. In any case, I consider that the absence of parking in a town centre setting, where public parking is available is appropriate and as proposed by the Planning Authority, can be dealt with by way of a development contribution in lieu of parking provision.

### Accessibility and Fire escape

Issues of accessibility and fire safety were raised by the third party and I note that the first party stated that no external stairs for use as a fire escape would be required to be added to the elevation. I am also satisfied that access for persons with mobility impairment can be provided to the retail unit and the ground floor apartment. There is no statutory requirement for the provision of lift access for such a small scheme. Otherwise, these matters would be more appropriately addressed under separate statutory requirements set down under the current Building Control Regulations and the Building Regulations.

### Flood Risk

Based on a review of the OPW's online National Flood Hazard mapping, I am satisfied that there are no flood events recorded on or proximate to the appeal site. Data from the OPW CFRAM studies indicate that the site would have a low risk of flooding as it lies outside of an area of 0.5% AEP (200 year event) on the indicative PFRA Flood Maps. The Planning officer accepted that the area is not prone to flooding.

In conclusion, I do not consider the development should be refused on matters of lack of parking, accessibility, fire escape or flood risk.

## 10.0 CONCLUSIONS AND RECOMMENDATION

Further to the above assessment of matters pertaining to this appeal, including the consideration of the submissions made in connection with the appeal and including my site inspection, I recommend that permission be **granted** for the reasons and considerations hereunder.

## **REASONS AND CONSIDERATIONS**

Having regard to the location of the infill underutilised and vacant site on residentially zoned lands within the current **Dundalk and Environs Development Plan 2009-2015** plan area, where residential development is permitted and small scale retail (Shop-local) is open for consideration, to the nature and scale of the proposed development and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining properties and would have no adverse impact on property in the vicinity. 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 planning authority on the 01<sup>st</sup> day of September 2015, as amended by the further plans and particulars received by the planning authority on the 16<sup>th</sup> day of February 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. Surface water drainage arrangements, including attenuation, shall comply with the requirements of the planning authority for such works and services.

**Reason:** To ensure a proper standard of development.

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

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

4. Details of the proposed shopfront and signage for the retail unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development.

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

5. No external shutters shall be erected on the retail premises unless authorised by a further grant of planning permission.

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

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

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

7. The delivery of materials to the site during the construction phase shall be organised so that deliveries are minimised during the morning or evening periods of peak traffic flow. Site development and building works shall be carried out between the hours of 07.00 to 19.00 Mondays to Fridays, between 08.00 to 14.00 on Saturdays and not at all on Sundays or public holidays. Deviation from these shall only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.

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

8. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining roads / streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe.

9. All necessary measures, as may be determined by the Planning Authority, shall be taken by the developer to prevent the spillage of 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 and 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 the road/footpath cleaning work.

**Reason:** In the interest of traffic safety.

10. The 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 Lout County Council or pay the cost of making good any such damage on a demand thereof being issued by the Council.

**Reason:** In the interest of traffic safety.

11. A plan containing details for the management of waste, including the provision of facilities for the storage, separation and collection of waste and recyclables for each apartment, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity and to ensure the provision of adequate refuse storage.

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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

---

Patricia Calleary  
Senior Planning Inspector

29 June 2016

**Appendix:** Location Maps & photographs