



An
Bord
Pleanála

Inspector's Report PL15.247212

Development	Demolish sports hall/science block, erect 25 apartments and associated works.
Location	St Mary's College, St Mary's Road and Nicholas Street, Dundalk County Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	16/217
Applicant(s)	Society of Mary
Type of Application	Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Patrick Maguire
Observer(s)	None
Date of Site Inspection	21 st December 2016
Inspector	Hugh Mannion

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.3. Planning Authority Reports	4
3.19. Prescribed Bodies	6
3.20. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	8
6.3. Planning Authority Response	8
6.4. Observations.....	8
6.5. Further Responses.....	9
7.0 Conditions.....	15

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.7ha and is located within the grounds of the Marist College between St Mary's Road and Nicholas Street in the northern central area of Dundalk Town. The site comprises two areas of car park which serve the school use on site, and a number of two storey and single storey buildings which are proposed for demolition. To the east of the site are recreational grounds previously associated with the Marist College on which a new school has been built (see PL55.253271). To the south along St Mary's Road are St Mary's Church on the corner with Nicholas Street and 5 houses (11, 12, 13, 14 and 15 St Mary's Road) which are protected structures but are not included in the application site. There is then a 'Gospel Hall' also a protected structure and originally a Methodist church for which a change of use is proposed. Following this building is a shared access off St Marys Road which serves the application site as a vehicular/pedestrian access and the adjoining new school as a vehicular/pedestrian access.
- 1.2. To the east of the site are the original buildings associated with the Marist College, these date from about 1750 to 1900 and there is an architectural assessment provided by the Dwyer & Associates Architects included in the application documents which was augmented by the submission of further information. There is then two metre boundary wall of various materials, including brick, rubble and stone; the proposed new access will partially break through this wall. Adjoining this wall there is a pedestrian/vehicular access from Nicholas Street to College Court; a development of 14 two storey houses immediately to the north of the application site. Numbers 8 to 14 College Court face the rear of the elements of the school proposed for demolition. The boundary between the school grounds and College Court is a two-metre-high capped and rendered boundary wall. Between the houses on College Court and the site boundary all is parking and a small green space.

2.0 Proposed Development

The application for permission is for the following:- (i) Demolition of (a) two storey sports hall and single storey science block (modern extensions to the St. Mary's School), (b) outbuildings within the curtilage of the Protected Structure and (c)

boundary stone wall to Nicholas Street, (ii) Construction of the following (a) a three storey apartment block – with solar panels at roof level – of nine apartments, six number x one bed and three number x two bed, all with balconies or ground floor terraces, (b) eight number three storey duplexes with solar panels at roof level, containing eight x two bed ground floor apartments with private open space to the rear, and eight x three bed duplex apartments at the first and second floor with enclosed terrace at first floor level, (c) twenty five number storage sheds and bicycle sheds to the rear of duplex apartments with pedestrian access path,(iii) fifty eight no. car parking spaces to serve the overall education and residential development, (iv) boundary railing, redesigned open space and seven no. car parking spaces to serve the existing Cerdon Community, (v) Change of use of existing Gospel Hall from educational use to Community use, (vi) New vehicular entrance off Nicholas Street, (vii) Landscaped public open spaces to serve the residential and educational use, (viii) Bicycle parking for thirty two bicycles for educational use, refurbishment, reconfiguration, and realignment of interface wall and fenestration between demolished two storey sports hall and original school building. The planning application includes all site works, drainage, including foul and surface water drainage, pedestrian paths, landscaping, boundary treatment, electricity sub-station, all on a site to the side and rear of St. Mary's School and St. Mary's Church (Protected Structures NIAH_Nos. 13702026, 13702025, 13702023). The site is bounded by St. Mary's Road, Nicholas Street, Wellington Place, and entrance road to new school, Dundalk, Co. Louth at St. Mary's College, St. Mary's Road & Nicholas Street, Dundalk, Co. Louth.

3.0 Planning Authority Decision

3.1. Decision

3.2. The planning authority decided on foot of the submission of further information to grant permission subject to conditions.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The initial planner's report recommended requesting further information as follows;

- 3.4. Provide revised drawings mitigating overlooking and property to the north and a shadow analysis.
 - 3.5. Provide revised drawings to demonstrate compliance with the Sustainable Urban Housing Design Standards for New Apartments including the standard of materials/construction method of the proposed balconies.
 - 3.6. Ensure that the kitchen/living/dining room sizes meet the national standards.
 - 3.7. Revise the proposed paving within the site.
 - 3.8. Submit a heritage impact assessment.
 - 3.9. Submit a visual impact assessment/photomontages demonstrating the visual impacts on Mary's Road, Wellington Place and Nicholas Street.
 - 3.10. Submit proposed and existing north and east elevations of St Mary's College, illustrate the proposed alterations as a result of the demolition of the PE hall and contiguous elevations of the proposed development.
 - 3.11. Set out a rationale for the new pedestrian access to the Gospel Hall.
 - 3.12. Set out a rationale for the access Nicholas Street access as against the Mary's Road access.
 - 3.13. Detail FFLs and street levels.
 - 3.14. Details of surface water discharge plans.
 - 3.15. Submit a floor risk assessment.
 - 3.16. Submit details of road and footpath construction standards.
 - 3.17. Move the access road northwards to optimise sightlines and take account of car parking on the opposite side of the road.
 - 3.18. Entrance radii to comply with DMURS.
- 3.18.1. **Other Technical Reports**

The initial **Conservation Officer's** report (25th May 2016) recommended further information. The second report (10th August 2016) recommended permission with conditions.

The Department of Arts, Heritage and the Gaeltacht recommended that where a permission was being granted a condition should require archaeological monitoring during development works.

Irish Water reported (13th May 2016) no objection.

The initial **Infrastructure Planning Report** considered the application from the point of view of traffic impacts and raised no objection. The report did seek additional information in relation to other matters. The second report reviewed the further information and recommended a grant of permission with conditions.

3.19. **Prescribed Bodies**

The department of Arts, Heritage, Culture and the Gaeltacht recommended a condition relation to archaeological protection.

3.20. **Third Party Observations**

Observations were made to the planning authority which are generally set out in the appeal.

4.0 **Planning History**

Permission was granted under PL55.243271 for development comprising It is proposed to build a new secondary school on the site. The school would be accommodated in a single building laid out around a courtyard on the western part of the site. The finished floor level of the building would be 4.72mOD, the achievement of which would require filling of the site. The stated area of the school is 8,995m², provided on two floors. The external finishes would include render, brick, acrylic and cement panels, with a metal roof of shallow pitch. The stated capacity of the school is 900 pupils, with 50 classrooms and various other rooms. Basketball courts and a gaelic pitch would be laid out on the eastern part of the site. The existing entrance from the pubic

road would be widened, with a new one-way internal road serving the new school leading to a new exit onto St. Mary's Road. The handball alleys would be demolished to facilitate the internal access road. A bus stop, a drop off zone and a new car park with 65 spaces would be laid out on the southern part of the site. Works to the public road are shown, including a two-way cycle path along the footpath on the northern side of St. Mary's Road and a right turning lane to serve the widened entrance.

5.0 Policy Context

5.1. Development Plan

The site is zoned Town Centre Mixed Use in the Dundalk and Environs Development Plan 2009-2015. 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.

Applications for retail developments in this area will be subject to the application of the sequential test and demonstration that the proposed development will not damage retailing in the town core. Developments within larger sites (excess 0.1ha) shall contain a mix of permitted uses where the residential component is not less than 20 % or more than 80 % of the total floor area of the proposed development.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal may be summarised as follows;

- There is no need for an additional entrance onto Nicholas Street opposite the appellant's house.
- Permission was previously refused on this site because the site is zoned for educational use.
- There are 6 schools in the area which leads to traffic congestion on the surrounding road network.

- The proposed density is much higher than the surrounding area.

6.2. Applicant Response

The applicant responded to the appeal as follows;

- The site is zoned for town centre mixed use in the Dundalk and Environs Development Plan 2015-2021.
- Access off Nicholas Street for the new residential units is preferable to access off St Mary's Road in order to reduce the conflict between school related traffic which uses St Mary's Road.
- A section of the roadside wall along Nicholas Street will be demolished to open up the site and create access to the houses and open space.
- The number of units and predicted modal split of residential related traffic will ensure no unreasonable traffic congestion on Nicholas Street.
- The previous application under 97520/96 was on a different site on land zoned recreation/amenity/open space. That application is not relevant to the present one.
- The proposed development will not give rise to unreasonable noise or overlooking of adjoining property.
- The density is low but is appropriate to a small infill site.

6.3. Planning Authority Response

- The planning authority is satisfied with the rationale for the access to Nicholas Street as set out in item 10 of the response to further information. The access will accord with traffic safety requirements.
- The history case referred to by the appellant was determined under a different plan (Dundalk Urban District Development Plan 1996 and twenty years ago).

6.4. Observations

There are no observations.

6.5. Further Responses

There are no further responses.

6.6. Assessment

6.7. Planning Policy

6.8. The application site is zoned town centre mixed use in the Dundalk and Environs Development Plan 2009-2015. This plan has not been replaced. 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.

6.9. The Plan requires that proposals for larger sites (excess 0.1ha) shall contain a mix of permitted uses where the residential component is not less than 20 % or more than 80 % of the total floor area of the proposed development. The planning authority took the view that in the particular circumstances of this application, although the site is about 0.7ha, that the proposal comprises the development of an infill site and is in keeping with the objectives set out in the Town Development Plan.

6.10. Louth County Council's core strategy set out in Variation number 1 amended the Dundalk Land Use Map. Table 2.1 of the varied plan sets out a ranking for development within Dundalk town. The application site is located in the town centre, which is ranked first in priority for encouraging development – particularly of brownfield sites. Having regard to the core strategy set out in Variation number 1, the location of the site within the central area of the town, the pattern of development in the area including the school use permitted under PL55.243271 I conclude that the proposed development is acceptable in terms of the landuse policy for the area.

6.11. Traffic

6.12. The appeal makes the point that the proposed access from Nicholas Street is unnecessary and will exacerbate traffic congestion in the area. The applicant makes

the point that the new access from Nicholas Street will reduce conflict between school related traffic which currently uses St Mary's Road and vehicular traffic associated with the proposed development.

- 6.13. Under PL55.243271 the Board granted permission for a 50 class room school with a target school population of 900 pupils. The Board determined that the proposal would not give rise to traffic hazard or inconvenience to pedestrians.
- 6.14. Urban areas are, of their nature, going to be subject to some level of traffic congestion. In the present case the site is in an area where educational uses have been a feature of the landuse pattern. Looking at the site the obvious alternative location for an access would be onto St Mary's Road shared with the new access to the new school. I consider that no good public safety objective would be achieved by moving the proposed Nicholas Street access to St Mary's Road; contrariwise I consider that a residential use access directly adjoining a school access would give rise to additional conflict between pedestrians/vehicles which would not improve road safety in the area.
- 6.15. There are no traffic lights proposed at the new entrance and therefore no light spill will occur at the houses opposite the access on Nicholas Street.
- 6.16. **Density.**
- 6.17. The appellant makes the case that the proposed density of the proposed development is much higher than the surrounding area.
- 6.18. The proposed development comprises 25 units on about 0.7ha for a gross density of about 35 units per ha. Policy HC18 the Town Development Plan states that the policy in relation to residential densities in the town will have regard to the Sustainable Residential Development in Urban Areas Guidelines for Planning

Authorities. These guidelines make the point that serviced land in urban areas should be developed to a density which makes best use of expensive public services and especially transport infrastructure. A minimum density of 50 units per ha should be provided where there is access to public transport (1km in the case of light rail or 500m in the case of bus service).

6.19. Having regard to the availability of public service bus routes in the area and the Irish Rail station south of the site with its connection to Dublin and Belfast, to the relatively restricted area of the site and necessity to protect the amenity of adjoining property I conclude that the proposed density is acceptable.

6.20. **Protected Structures**

6.21. The application site includes partial demolition of more recent elements of protected structures. The protected structures on site are St Mary's College/school (RPS reference D244) which dates from about the 1900, St Mary's College Chapel (RPS reference D245) which dates from 1874, St Mary's College/school (RPS reference D246) which dates from 1874, St Mary's College/school (RPS reference D247) which dates from 1780, St Mary's Roman Catholic Church (RPS reference D248) which from 1945. The proposed works include the demolition of more recent elements within the curtilage of this complex of structures but which are not of themselves named in the RPS (highlighted copy attached). These buildings are (see the first page of the O'Dwyer and Associates Architects Condition, Survey and Analysis submitted to the planning authority on the 7th April 2016) buildings E and F built in 1954 and extending in the 1970s and in use as PE hall, class rooms/science labs and building G built in 1986 and in use as class rooms.

6.22. The planning authority by way of a request for further information sought a more detailed rationale for the loss of these buildings within the curtilage of the protected structures. The applicant makes the case (see applicant's response received by the planning authority on 21st July 2016) that the elements to be demolished have no particular interest, that the opening up of the central area will enhance the setting of

the rear elevations of the actual protected structures and that the demolitions are necessary for the carrying out of the development.

6.23. The Architectural Heritage Protection Guidelines make the case that an application for partial demolition of a protected structure must demonstrate that (a) the elements to be demolished do not contribute to the special interest of the whole (b) that the partial demolition is essential to the proposed development and (c) will allow for the proper conservation of the whole structure. Having regard to the material submitted with the application I consider that the special interest for which the protected structures were included in the RPS relate to the elements listed in the RPS and not to the more recent PE hall, class rooms and physics/chemistry lab erected between the 1950s and the 1980s. I consider that the demolition of the PE hall, class rooms and physics/chemistry lab is necessary for the carrying out of the proposed development and to give effect to the zoning of the site for town centre development which includes residential development. I conclude, therefore, that the demolition works are acceptable.

6.24. The application includes a change of use of the 'Gospel Hall' to a community use. The hall, which dates from 1820, has been subject to alterations since its construction and is now in use as a domestic science class room. At present the access to this building is through a door in the rear wall into the school site. The application proposes to open a gate through the existing boundary wall along St Mary's Road and make the original St Mary's Road door accessible again. The conservation officer's first report sought additional details on this aspect of the application. The response to the further information request set out a rationale for these works but the details of the new pedestrian access are limited. I recommend a condition requiring details of this new opening in the boundary to be agreed in writing with the planning authority.

6.25. Apartment Standards

- 6.26. The planning authority requested further information in relation to (a) overlooking from windows on the northern elevation and (b) how the proposed apartments comply with the Sustainable Urban Housing Design Standards for New Apartments (DOECLG December 2015).
- 6.27. In relation to overlooking from the apartments to the north it should be noted that the area of College Court immediately over the boundary comprises surface car parking and a small triangular grassed area of public open space. I consider that allowing windows from the apartments to overlook this area would enhance its security through and that overlooking of public areas of open space and car parking is generally supported by the guidance documents on sustainable urban development. Furthermore, I do not agree that the northern elevation has any capacity to impact on the amenity of the College Court houses which face onto the proposed development. Therefore, I recommend that the elevation with only high level windows (as provided for in the revised drawing 1308-P-03 Rev A submitted to the planning authority on the 21st July 2016) is not an improvement on the originally submitted elevation. I recommend that this elevation accord with the original drawing number 1308-P-03 submitted to the planning authority on the 21st day of July 2016.
- 6.28. While I consider that obscured glass is acceptable for terraces to protect amenity I recommend that there be no requirement for obscure glass on north facing living room windows as provided for in the revised plans. I note the shadow analysis submitted with the further information and conclude that the proposed development will not overshadow adjoining property. Having regard to the foregoing I conclude that the proposed development will not negatively impact on the amenity of residential property in college court.
- 6.29. Having regard to compliance with the Sustainable Urban Housing Design Standards for New Apartments (DOECLG December 2015), particularly apartment sizes, internal storage space and balcony sizes I consider that the apartments meet the

national standards. The duplex units (numbers 11 to 25) provide ground floor two bed apartments with ground floor east facing rear gardens. First and second floors accommodate three bed units with a patio accessible from the first floor living/dining areas. These units were not amended by the further information and, I conclude, are of an acceptable standard.

6.30. The Louth County Development Plan (Policy TC 31) requires the planning authority to “to support and facilitate, where appropriate, the network of electric vehicle supporting infrastructure across County Louth in accordance with national policy on the promotion of electric vehicles requiring that EV ducting for 10% of all car parking spaces is provided for in all car parks”. A condition providing for power points for electric cars is included in the draft order set out below.

6.31. **Appropriate Assessment**

6.32. The planning authority has conducted an appropriate assessment screening exercise and concludes that there will be no adverse impacts on any European site.

6.33. Having regard to the existing use of the site largely as school buildings and related car parking, to the availability of public water supply and sewerage and to the likely emissions from the proposed development I conclude that 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.

6.34. **Recommendation**

6.35. Having regard to the foregoing I recommend a grant of planning permission in accordance with the reasons and considerations and subject to the conditions set out below.

6.36. Reasons and Considerations

Having regard to the zoning of the site for town centre uses in the Dundalk Town Development Plan, to the sequencing of development within the town set out in the Louth County Development Plan Core Strategy, to the pattern of development in the vicinity of the site and subject to the conditions set out below it is considered that the proposed development would not give rise to traffic congestion, would not seriously injure the amenity of residential property in the vicinity and would otherwise accord with the proper planning and sustainable development of the area.

7.0 Conditions

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

Reason: In the interest of clarity.

2. The northern elevation shall be constructed in accordance with drawing number 1308-P-03 submitted to the planning authority on the 21st day of July 2016.

Reason: To improve this aspect of the development when viewed from adjoining property to the north.

3. Prior to commencement of development the applicant shall submit details for the written agreement of the planning authority of the proposed new opening and pedestrian access, including any new gate, in the boundary wall between the 'Gospel Hall' and the public footpath onto St Mary's Road.

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

4. 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.

5. 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.

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

Reason: In the interest of public health.

7. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots.

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

8. Site development and building works shall be carried out only 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 or public holidays. Deviation from these times shall 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.

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

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

Reason: To comply with Development Plan requirements as set out in the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and in the interest of the proper planning and sustainable development of the area.

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

Reason: To provide for the appropriate management of waste and, in

particular recyclable materials, in the interest of protecting the environment.

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

Hugh Mannion

Planning Inspector

3rd January 2017