



An  
Bord  
Pleanála

## Inspector's Report

**ABP-303050-18**

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### Development

Demolition of 3-Storey office Building and Construction of 10-storey Block and 6 Storey Block Fronting onto Walsh Street and Davitt's Quay comprising 122 Residential Units and a number of Commercial Units

### Location

Walsh Street, Davitt's Quay and Meagher Street, Dungarvan, Co. Waterford.

### Planning Authority

Waterford City & County Council

### Planning Authority Reg. Ref.

18612

### Applicant

Michael Ryan

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission

### Type of Appeal

First Party – v - Refusal

### Appellant

Michael Ryan

### Date of Site Inspections

14<sup>th</sup>, February 2019 & 14<sup>th</sup>, May 2019

## 1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of 0.2761 occupies a town centre location located within the historic core of Dungarvan. The bulk of the site is currently vacant having been cleared of previously existing buildings and structures. However, the site also contains a vacant three/four storey office building (fourth storey contained within a mansard roof) dating from the 1970's which fronts onto Davitt's Quay to the east. The offices were previously occupied by Glanbia and used in connection with the operation of laboratories. Before that the site (up until the 1980s) formed part of the site of the primary Waterford Creamery Production Plant.
- 1.2. The site is a brownfield site and roughly U-shaped. The site fronts onto Davitt's Quay and Meagher Street to the east. The site also has extensive street frontage onto Walsh Street to the west. The site wraps arounds Aras Brugha and a vacant building/shed to the rear. Aras Brugha is a three-storey period property (a Protected Structure) fronting onto Davitt's Quay which has recently been converted for use as a hostel. The site also adjoins the 'Bank House' building (also a Protected Structure) which fronts onto Meagher Street. The southern boundary of the site adjoins Lawlor's Hotel and the car park to the rear of the hotel. Lawlor's Hotel is a three/four storey building (fourth floor contained within a mansard roof) fronting onto Meagher Street. The car park to the rear of Lawlor's Hotel is accessed from Walsh Street.
- 1.3. The office building contained within the site together with the adjoining Bank House and (to a lesser extent) Aras Brugha combine to form a significant visual landmark and visual introduction to the town when approaching via Devonshire Bridge (a Protected Structure) over the Colligan River and Harbour.
- 1.4. The County Council Civic Office buildings are located immediately to the north of the site (on the opposite side of Davitt's Quay)
- 1.5. The site frontage onto Walsh Street is currently defined by hoarding enclosing the site. There is a set-down area for cars defined along the Walsh Street carriageway immediately in front of the site. The opposite side of Walsh Street is defined in part by the (blank) rear wall of a cinema complex and in part by a three-storey building in

mixed use - first and second floor residential over ground floor retail units. The entire ground floor of the latter building is currently vacant.

- 1.6. Dungarvan Shopping Centre lies to the south of the appeal site (beyond the Lawlor's Hotel car park). Buildings within the shopping centre scale to a maximum height of four storeys (three-storey above ground floor retail units).
- 1.7. There is on street 'pay and display' parking opposite the site adjoining the harbour and a main bus stop further north along Davitt's Quay.

## 2.0 **Proposed Development**

The proposed development (per the original planning application lodged with the planning authority) has a stated gross floor area of 16,038 sq.m. and involves:

- The demolition of the existing vacant office block (995 sq.m.)
- New 10 storey (part 8 storey) block fronting onto Walsh Street to accommodate 94 short term let holiday apartments; Leisure Centre with swimming pool and ancillary accommodation; 142 car parking spaces over 4 levels; bicycle parking spaces; 3 no. ground floor commercial units; new vehicular entrance from Walsh Street; modification to existing footpath and set-down area; reception and management offices; rood plant; ancillary service, stairs and yard areas; building signage,
- New 6 storey over-basement block fronting onto Davitt's Quay to accommodate 26 no. short term let holiday apartments; reception and management offices; function room and waiting area; basement storage/ service area, roof plant area, ancillary service/plant yard area; building signage,
- All associated site development works, drainage and boundary fencing and boundary fencing.

Revisions to the proposed development are included in the appeal submission lodged with the Board. These revisions provide for a reconfiguration of the height of proposed individual blocks – the block adjoining Aras Brugha and fronting onto Walsh Street will be significantly reduced in height to 4 storeys (maximum height similar to the ridge height of Aras Brugha). The height of Blocks fronting onto Walsh Street will step up to a maximum height of 12 storeys at the southern end of the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

Notification of a decision to refuse planning permission for the proposed development for four reasons was issued by the planning authority per Order dated 25", October

Briefly, the reasons for refusal were as follows:

- (1) Design, height, scale, bulk and mass of the proposed development and visual relationship with adjoining Protected Structures would adversely affect the character and setting of these Protected Structures.
- (2) By reason of its design, height, scale, bulk and mass the proposed development at a prominent town centre location would adversely impact on the amenities of the area. The development would be out of character

with the pattern of development in the vicinity and would constitute a visually discordant feature detrimental to the distinctive architectural and historic character of this area.

- (3) Failure to demonstrate that an adequate potable water supply or wastewater system to serve the proposed development is available. Failure to submit adequate information in relation to surface water/storm water drainage.
- (4) Failure to comply with Development Plan standards as set out in the in the Development Management Standards contained within Variation No. 1 to the Dungarvan Town Development Plan 2012 - 2018 and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (March 2018) in respect of minimum floor areas, open space and storage requirements etc.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Report**

The Planners Report, dated 24<sup>th</sup>, October 2018, is the basis for the Planning Authority's decision. In summary, it includes:

- Three commercial units in the proposed three/ten storey block will be accessed via the proposed car park and will front onto a proposed pedestrian link to be created along the southern fringe of the site linking Walsh Street and Meagher Street. This laneway/link is not in the control of the Council nor would it appear to be in the Applicant's control. This would result in a substandard form of development and would potentially give rise to conflicts between pedestrian and vehicular movements giving rise to traffic safety concerns.
- The design of the proposed development incorporating three floors of car parking with a significant expanse of car park grilles facing onto Walsh Street will present a very poor-quality facade at this location.
- The proposed development is described as short term let residential apartments for holiday use. However, given the substantial number of apartments being proposed (120) combined with the seasonal nature of the tourism industry it is unlikely that occupancy for 12 months per year will be secured. Accordingly, it is

deemed appropriate that, in terms of future proofing the development, compliance with minimum standards as set out in 'Sustainable Urban Housing; Design Standards for New Apartments Guidelines for Planning Authorities' issued by the Department of Housing, Planning & Local Government in 2018 should be applied to an assessment of the application. The proposed development does not comply with specified standards.

- The proposal adjoins the 'Bank House' which is a Protected Structure. Planning permission has recently been obtained (Appeal No. 301937-18) for change of use of this building to a restaurant and Public Bar. The layout of the proposed development would conflict with the service access arrangements for the Bank House restaurant as permitted under the terms of the latter permission.
- The proposed development completely dominates and overawes the adjoining Protected Structures (the 'Bank House' and Aras Brugha) fundamentally changing the character of the traditional northern entrance to the town when viewed from Devonshire Bridge and Davitt's Quay. The proposed development would negatively impact on the visual amenities of the town.
- The proposed development would constitute overdevelopment of the site.
- The proposal has been assessed in light of the 'Urban Development and Building Heights, Guidelines for Planning Authorities Consultation Draft (August 2018). The proposed development is not considered to comply with the (draft) guidance which suggests that proposals for increased building height should 'successfully integrate into/enhance the character and public realm of the area, ...its cultural context, setting and key landmarks, protection of key views....'
- Given the historic nature of Dungarvan town, the protected vistas and approaches to the town and the proximity of the site to a number of Protected Structures and to the adjoining Architectural Conservation Area the proposal is wholly inappropriate and relates poorly to the existing built form surrounding the site.
- The proposed development represents a missed opportunity to take advantage of and add to the vibrancy of the town centre and would negatively impact on the

public realm. The proposed public plaza off the pedestrian link/laneway has no active facade, no passive surveillance and poor sunlight resulting in a very poor-quality space.

The decision is in accordance with the Planner's recommendation.

### 3.2.2. **Other Technical Reports**

#### ***Senior Architect***

Report dated 19, October 2018 includes:

- The scale of the proposed development is far too large for the site. The proposal completely dominates and overawes the adjoining Protected Structures negatively impacting on the visual amenities of the area.
- The proposed development will negatively impact on the amenities of adjoining property (in particular Arus Brugha) by reason of overshadowing and possible overlooking.
- The proposed development will negatively impact on the public realm. It will create inactive facades (along Walsh Street and along the proposed pedestrian link between Walsh Street and Meagher Street) creating no opportunity for interaction between the street and the public realm. This is a missed opportunity in terms of promoting the vibrancy of the town centre.
- The proposed development is disappointing in design terms. It misses the opportunity to capitalise on the prominence of the site at one of the main entrance hubs to the town centre. The proposal has none of the quality spaces associated with a hotel and lacks any sense of arrival, entrance or amenity.
- The proposed residential accommodation fails to meet minimum design standards for new apartments.
- Apart from the swimming pool there is little communal open space.
- The proposal endeavours unsuccessfully to straddle two distinct development types (the town centre hotel) and the residential apartment block. It fails to reach minimum acceptable standards for either.

#### ***Conservation Officer***

Report dated 227, October 2018 includes:

- The proposed development is located immediately adjacent to the medieval core of the planned town of Dungarvan.
- The site is immediately adjacent to the Architectural Conservation Area (ACA). There are nine Protected Structures within 100m of the site.
- The site is within a designated zone of Archaeological Protection.
- The proposed buildings, by reason of their design, scale, height and massing will not harmonise with adjacent new or historic buildings. They will overshadow the existing structures.
- The height, scale and massing of the proposed development completely ignores the scale of the buildings in the adjacent historic town core. The proposed building would be more suited to a city centre environment than to an historic provincial town.
- The proposed use of brick as an external finish would not complement or harmonise with the existing and historic finishes in the town where buildings are predominantly rendered.
- The proposed development will have a negative visual impact on vistas and settings, in particular, the approach road to and from Grattan Square from Devonshire Bridge and Mary Street and the view from Abbeyside towards the castle and Quays. It will also affect the harmony of the setting around Devonshire Bridge, the quays, the causeway and landmark buildings such as the Bank House and Aras Brugha.
- The Protected Structures immediately adjacent to the appeal site, in particular, the Bank House and Aras Brugha will be completely overwhelmed by the proposed development.
- In principle new development is welcome in the area, but in the current instance it is difficult to redesign the proposed development in a sensitive manner.
- From a Conservation point of view a refusal of planning permission for the proposed development is recommended.

### ***Transportation***



Report dated 22", October 2018 includes:

- The access to the proposed development has not been considered along the public road with no roadside parking provision.
- The proposed Local Authority pedestrian access link road is not in the ownership of the Council.

### ***Water Services***

Report dated 19, October 2018 includes:

- No evidence on file of a pre-connection agreement with Irish Water for either a water supply connection or waste water connection.
- No evidence has been submitted in respect of engagement with the Roads Department in relation to storm water, no assessment of capacity of the existing storm water system, no evidence that proposed run-off can be accommodated, no attenuation proposals.
- The proposed development must be deemed to be premature in the absence of evidence of agreement with Irish Water in respect of potable water supply and waste water disposal.

### ***Senior Executive Engineer Environment***

No report

### ***Building Control Officer***

No report

### 3.3. Prescribed Bodies

#### ***Department of Culture, Heritage and the Gaeltacht***

Report dated 16", October 2018 includes:

- The Department is concerned that the proposed development by virtue of height and massing may have an impact on the character of the ACA (in contravention of Policy BH 6 of the Development Plan and Item 10.9 of the Planning Guidelines for Architectural Conservation Areas), on the adjoining Protected Structures in contravention of Policy ECD 23; Objective ECD 7 and Policy BH 1). The proposed development would also have an adverse impact on vistas within the town.
- The Department recommends that an Architectural Heritage Impact Assessment and a detailed Visual Impact Assessment be requested from the Applicant.

A desk-based Archaeological Assessment Report was submitted with the application to the planning authority. It concluded that several areas within the site have previously been disturbed by the construction of earlier buildings and a programme of pre-development archaeological testing was recommended. However, there is a possibility that undisturbed archaeological deposits may survive within some areas of the site. Further archaeological testing should be carried out. An Archaeological Impact Assessment should be compiled and submitted as further information.

#### ***Transport Infrastructure Ireland***

No report

### 3.4. Third Party Observations

Observations from three third parties objecting to the proposed development were received by the planning authority. The grounds of objection are as set out below.

#### **Michael Burke** (Abbeyside, Dungarvan)

- The development by reason of its height, scale, massing and bulk dominates vistas from the harbour and would adversely impact on the visual amenities of the area.
- The proposed quantum of development constitutes overdevelopment of the site. Development at this scale is unprecedented within the town.

- The proposed development would be more appropriate to a city with a dense urban form.
- Notwithstanding the holiday let nature of the proposed development, it lacks any meaningful amenity space for residents.
- The development would set a highly undesirable precedent for other developments of a similar scale.
- The proposed development will destroy the setting of a Protected Structure ~ the 'Bank Building'.
- The proposed structure will overshadow other houses and local businesses.
- No AA Screening Report accompanied the application for planning permission.

**Kay McKiernan** (the owner of Aras Brugha Hostel & Café — a Protected Structure)

- The proposed development will injure the amenities of Aras Brugha by reason of overlooking and overshadowing.
- The proposed development will dwarf and degrade the existing architecture of Dungarvan Town.
- The proposed development is excessively high.
- The proposed development will adversely impact on the business being operated at Aras Brugha Hostel.
- It is intended to lodge an application for planning permission for an extension to the rear of Aras Brugha Hostel in the near future. The 8-storey section of the proposed development containing multiple windows and setback only 1m from the shared boundary will compromise the future development potential of Aras Brugha Hostel.
- The proposed development may result in fire safety issues for Aras Brugha.
- Development of the site at a substantially reduced height and scale would be acceptable.

**Colette O'Connell** (Davis Street, Dungarvan)

- The proposed development represents as a big, ambitious development in the wrong place.

## 4.0 Planning History

### ***Appeal Site:***

**Reg. Ref. 01510036** — Planning permission for change of use from office and laboratories to residential (12 no. 2 bedroom, 6 no. 1 bedroom apartments) at the former Glanbia Laboratories building was granted by the planning authority per Order dated 4, September 2001.

### ***Adjoining Sites:***

**Reg. Ref. 1847 (Appeal No. 301937)** - Planning permission for change of use of former Bank House building to restaurant and public bar granted by the Board per Order dated January 2019.

**Reg. Ref. 17221** - Change of use of Aras Brugha from office to hostel and café at ground floor and hostel at first and second floor and for demolition of single storey rear extension and the creation of a garden room at Aras Brugha, Davitt's Quay was granted by the planning authority per Order dated 29", May 2017.

**Reg. Ref. 17904** - Planning permission for extension to toilet block at Aras Brugha, Davitt's Quay was granted by the planning authority per Order dated 24", February 2018.

## 5.0 Policy and Context

### 5.1. Development Plan

#### 5.1.1. Dungarvan Town Council Plan 2012-2018

5.1.2. Following the establishment of Waterford City and County Council on 18t, June 2014 the three existing Development Plans in the amalgamated Council area consisting of Waterford City Development Plan 2013-2019, Waterford County Development Plan 2011-2017 and the Dungarvan Town Development Plan 2012-2018 had their lifetime extended pursuant to S. 11A of the Planning and Development Act, 2000 (as amended) and will remain in effect until the new Regional Spatial & Economic Strategy is made by the Southern Regional Assembly.

- 5.1.3. The subject site is zoned Town Centre with the objective, 'To provide for an integrated mix of residential, commercial, community and social uses within the town or village centre.
- 5.1.4. The site is located immediately adjacent to the Architectural Protection Area (ACA) associated with the historic core of Dungarvan town.
- 5.1.5. **Policy ECD 15** seeks 'To continue building on the strengths of Dungarvan, giving priority to sustainably developing the tourism product, festivals and events and to consolidate the retail, hospitality and tourism sectors in the Town.'
- 5.1.6. **Policy BH1** seeks 'to protect the built heritage and to encourage sensitive redevelopment or reuse of buildings to promote economic growth and regeneration'.
- 5.1.7. **Policy BH3** seeks 'to maintain a Record of Protected Structures within the Town to protect all the structures or parts of structures which are of historical, architectural, artistic, archaeological, social, scientific, technical and cultural interest.'
- 5.1.8. **Policy BH6** stipulates that 'within Architectural Conservation Areas (ACAs) it is the policy of the Council to identify, protect and enhance the unique character of a streetscape by providing guidelines on appropriate development to retain its distinctive character;..... Ensure that the design of new buildings within a streetscape respects the established character of the area in height, scale and massing'.
- 5.1.9. **Section 7.3.2** refers to 'Vistas and Settings including:
- The approach to/from Grattan Square from Devonshire Bridge
  - The view from Abbeyside towards the castle and Quays
  - The view towards Abbeyside from the Quays and
  - The view towards Market House from the Square

Any new development should respect the existing character of its setting and blend in harmoniously. New developments should consider the existing building heights, vertical and horizontal lines, window size and fenestration in the vicinity.... New developments should be sited and designed sympathetically so as not to detract from the setting'.

- 5.1.10. **Policy BH8** seeks to '....encourage the sensitive redevelopment of vacant or derelict sites in the streetscape'.

- 5.1.11. **Policy BH11** seeks to ensure that ‘..... development in the vicinity of a site of archaeological interest shall be designed and sited sympathetically and shall not be detrimental to the character of the archaeological site or its setting by reason of its location, scale, bulk or detailing’.
- 5.1.12. **Heritage Map 2** identifies the appeal site within an area of archaeological potential.
- 5.1.13. **Chapter 10** refers to Development Standards.
- 5.1.14. **Appendix A3** Record of Protected Structures

**Adjoining Sites:**

RPS No. 26 Former Provincial Bank, Davitt's Quay, Dungarvan (Commercial).  
National Inventory of Architectural Heritage (NIAH): Reg. No:22821017.

RPS No. 29 Office Block, Aras Brugha, Davitt's Quay.

NIAH Reg. 22821016

Other Protected Structures within 100m of the site include: Devonshire Bridge ((DV740013); The Causeway (DV740185); Davitt's Quay ((DV740093); Greenway Offices (DV740094); Court House (DV740022); Railway Bridge (DV740109) and Lawlor's Hotel (DV740035).

**5.2. Relevant Government Policy**

**5.3. Architectural Heritage Protection for Planning Authorities**

- 5.3.1. These Guidelines were issued by the Department of the Environment, Heritage and Local Government in 2004. The Guidelines seek to guide planning authorities concerning development objectives for protecting structures, or parts of structures, which are of special architectural, artistic, cultural, scientific, social or technical interest.
- 5.3.2. The guidelines provide guidance in relation to development in, within the curtilage of and adjoining Protected Structures and in relation to development in and adjoining Architectural Conservation Areas.

**5.4. Urban Development and Building Heights, Guidelines for Planning Authorities (2018)**

- 5.4.1. The Guidelines state that they seek to provide a shift towards ‘*more dynamic and more sustainable cities and towns*’ and ‘*are intended to set a new and more responsive policy and regulatory framework for planning the growth and development of our cities and towns upwards, rather than ever outwards*’.

- 5.4.2. Section 1.10 of the Guidelines stipulates that in city and town centre areas (defined as Dublin, Cork, Limerick, Galway and other major towns identified for strategic development in the National Planning Framework and the Regional Spatial and Economic Strategies) *'it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights by the application of the objectives and criteria laid out in Section 2 and Section 3 of these guidelines...'*
- 5.4.3. Section 1.14 states that *'that where SPPRs (specific planning policy requirements) are stated in this document, they take precedence over any conflicting policies and objectives contained in development plans, local plans and strategic development zone planning schemes'*.
- 5.4.4. Section 1.18 of the guidelines highlights the fact that National Policy Objective (NPO) 13 of the National Planning Framework which identifies building height as an important measure for urban areas to deliver and achieve compact growth.
- 5.4.5. Section 1.19 of the Guidelines states that *'Meeting the scale of challenges set out in NPO 13 requires new approaches to urban planning and development and securing an effective mix of uses. In particular there is a need to support the development of a balance of uses within our urban centres (e.g. living, working, leisure)...'*
- 5.4.6. Development Management Criteria 3.2 of the Guidelines stipulate that (at the scale of eth relevant city/town):
- 'development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect'*.
- 5.4.7. Criteria 3.2 also include:
- 'on larger urban redevelopment sites, proposed developments should make a positive contribution to place making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining densities and create visual interest in the streetscape'*.

5.4.8. Section 3.1` of the Guidelines sets out Development Management Principles that must be applied in considering development proposals for buildings taller than prevailing building heights in urban areas. These include:

- *Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular supporting the National Strategic Objective to deliver compact growth in our urban centres.*
- *Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines.*
- *Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework.*

## **5.5. Sustainable Urban Housing : Design Standards for New Apartments Guidelines for Planning Authorities (2018)**

5.5.1. Section 9.1 of the guidelines states that ‘.....the purpose of this update of guidance is to strike an effective regulatory balance in setting out planning guidance to achieve both high quality apartment development and a significantly increased overall level of apartment output’.

5.5.2. Section 17.1 states ‘Apartment design parameters addressed in these guidelines include:

- General locational consideration;
- Apartment mix within apartment schemes;
- Internal space requirements for different types of apartments;
- Dual aspect ratios;
- Floor to ceiling height;
- Apartments to stair/lift core ratios;



- Storage spaces;
- Amenity spaces including balconies/patios;
- Car parking; and
- Room dimensions for certain rooms.

5.5.3. The guidelines also address the emerging 'build to rent' and 'shared accommodation' schemes.

## 5.6. **Natural Heritage Designations**

Glendine Wood Special Area of Conservation (SAC) (Site Code 002324) is located c. 3.6 km north-east of the site.

Blackwater River (Cork/Waterford) SAC (Site Code 002170) is located c. 6.4 km south-west of the site.

Helvick Head SAC (Site Code 000665) is located c. 6.6 km south-east of the site.

Comeragh Mountains SAC (Site Code 001952) is located c 9.4 km north of the site.

Dungarvan Harbour Special Area of Protection SPA (Site Code 004032) is located c. 100 m east of the site.

Mid-Waterford Coast SPA (Site Code 004193) is located c. 8.1 km east of the site.

## 5.7. **EIA Screening**

5.7.1. Notwithstanding the location of the site within a Zone of Archaeological Potential and in close proximity to an Architectural Conservation Area as identified in the Dungarvan Town Development Plan 2012- 2018, it is considered that having regard to the limited site area, at 0.2761 ha. And the urban location of the site the development would not result in a real likelihood of significant effects on the environment such as to warrant Environmental Impact Assessment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been lodged against the planning authority decision to refuse planning permission. The grounds of appeal include:

- The appeal site is a brownfield site and has, in the past, accommodated commercial/manufacturing (former Waterford Creamery) development of significant scale.
- During pre-application consultation with the planning authority it was understood by the Applicant that height was not necessarily an issue, subject to appropriate design.
- The pattern of development in the vicinity of the subject site has changed dramatically in recent years. Notwithstanding the presence of the Protected Structures, four to five storey buildings are now commonplace in the immediately surrounding area.
- Preliminary sketches of a revised proposal have been submitted to allow the Board to consider the potential of the site. The revised scheme has been reduced in height nearest Aras Brugha and allows for a more graduated increase in height up to twelve storeys at the southern end of the site (as against the 10 storey maximum originally proposed).
- It is accepted that no pre-planning consultation or application for connections have been made to Irish Water. However, details of a pre-connection agreement are not a mandatory requirement. Lack of agreement to date does not imply or presume that there is no available water supply or wastewater capacity.
- There is no requirement for surface water attenuation at the site. However, SuDS could be provided on site with the use of blue roofs in lieu of green roofs. Similarly, all public realm areas could be developed using permeable paving and green areas.
- The development will require complex water connection arrangements given the varying nature of the proposed building heights. This could be the subject of a condition for detailed discussion and agreement with Irish Water.
- In applying standards as set out in the guidance contained in 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for

Planning Authorities', the planning authority has fundamentally misunderstood the nature of the proposed development which is an aparthotel. As such, the standards referenced are not applicable. Even if the proposal were not for short term let holiday accommodation, the proposed development could as easily be assessed in terms of the standards recommended in the recently published 'Built to Rent' standards and the development accords with these standards.

[The above grounds were elaborated upon during the Oral Hearing conducted on 15<sup>th</sup>, May 2019. At the time of Oral Hearing consultations between the Applicant and Irish Water in respect of water supply and drainage were at an advanced stage]

## 6.2. **Planning Authority Response**

None

## 7.0 **Oral Hearing**

- 7.1.1. The submitted grounds of appeal included a request for an Oral Hearing. On the 14<sup>th</sup>, March 2019, the Board directed that an Oral Hearing be held. This was held on 15<sup>th</sup>, May 2019 in the Dungarvan Enterprise Centre. A list of the attendees at the Oral Hearing together with a summary of the proceeding and submissions to the Oral Hearing are contained within Appendix A of this report.

## 8.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed.

The issues can be dealt with under the following headings:

- Height, Scale and Design
- Water Supply and Drainage
- Site Development Standards
- Appropriate Assessment

### 8.1.1. Height, Scale and Design

- 8.1.2. Reason No. 1 and Reason No. 2 of the planning authority notification of decision to refuse planning permission for the proposed development refer to the general unacceptability of the proposed development by reason of its excessive height, scale and mass and its adverse impact on the setting and adjacent development including Protected Structures and on the visual amenities of the town.
- 8.1.3. Reason No. 1 refers specifically to the fact that the proposed development by reason of its design, height, scale, bulk and mass on a prominent town centre site would materially and adversely affect the character and setting of Protected Structures (Aras Brugha and the Bank House) which it is a policy of Dungarvan Town Development Plan 2012 – 2018 to protect.
- 8.1.4. Reason No. 2 refers specifically to the proposed development being unacceptable by reason of its design, height, scale and mass on a prominent town centre site and its adverse impact on the visual amenities of the streetscape, wider townscape, vistas and settings which it is a policy of the Dungarvan Town Development Plan 2012 - 2018 to protect. It is also considered that the proposed development by reason of its excessive height next to Aras Brugha would constitute a visually discordant feature in the town and would be out of character with the distinctive architectural and historic character of the area.
- 8.1.5. The Architectural and Urban Design Statement that accompanied the application lodged with the planning authority together with the visual impact documentation submitted to the Oral Hearing both contain historic photographs of the site when it was in its former use by Waterford Creamery. These highlight the fact that at that time the site accommodated large scale buildings and other structures. It was stated on behalf of the Applicant at the Oral Hearing that some of these structures scaled to a similar height as a modern 8 storey high building (indicated elsewhere as being up to 10 storeys in height).
- 8.1.6. Given its former use, the site has historically functioned as a landmark site in the town. The vacant office building on site together with the Bank House and Aras Brugha (both Protected Structures) on either side continue to function as a prominent landmark within the town (Policy BH3 of the of the Dungarvan Town Development Plan 2012-2018 seeks to protect these structures). These buildings are clearly visible from the quayside and on approaching the town via Devonshire Bridge

(Policy 7.3.2 of the Dungarvan Town Development Plan 2012-2018 seeks to protect this view).

- 8.1.7. The planning authority Area Planner, Conservation Officer and Senior Architect are all opposed to the proposed development for reasons relating to its excessive height, bulk and scale, inappropriate location next to the historic core of the town and the impact of the proposed development on Protected Structures adjoining and adjacent to the site. Observations were received by the planning authority from three third parties objecting to the proposed development on grounds of excessive height and scale.
- 8.1.8. The planning authority Architect and Senior Executive Planner have both expressed dissatisfaction with the design of the proposed Walsh Street frontage. It is considered that the proposed design provides for an inactive design coupled with grilles fronting car parking above street level. The planning authority are also concerned about the lack of appropriate mix of uses within the development. In this regard, the absence of any retail space provision and the limited amount of commercial space proposed have been highlighted. The planning authority also consider that the proposal to provide (three) commercial units along the southern boundary of the site but only opening internally into the proposed car parking area constitutes an unacceptable design and layout.
- 8.1.9. The design of the proposed development has been significantly modified in the appeal submission lodged with Board. Revisions include a significant reduction in the height of the proposed block adjoining Aras Brugha fronting onto Walsh Street (from 8 storeys to 4 storeys). A stepping in the height of blocks along Walsh Street from 4 storeys adjoining Aras Brugha up to 12 storeys (previously 10 storeys high) at the southern end of the site.
- 8.1.10. It has been submitted on behalf of the Applicant that height of the proposed building is appropriate for this landmark site and is in keeping with the scale of development that formerly existed on the site (Waterford Creamery). It is submitted that the proposed development avoids the use of pastiche and incorporates a high standard of design details and finishes (including brick) that are appropriate in the context of Irish provincial towns. In the course of the Oral Hearing it was submitted that the Walsh Street frontage will be animated by the incorporation of extensive glazing at ground floor (street) level which will allow views into the leisure centre swimming pool and the activity therein. It is submitted that entrances into the leisure centre from Walsh Street will also help to animate this street.

- 8.1.11. It was stated at Oral Hearing that it is not intended that the proposed 3 no. commercial units along the southern boundary of the site will be occupied until such time as a proposed pedestrian linkway (linking Meagher Street and Walsh Street) alongside the southern boundary of the site has been provided at which stage the commercial units can be modified so that they open onto the pedestrian linkway. Thus, the proposal to provide commercial units served by openings into the internal car park only has effectively been dropped.
- 8.1.12. It was also suggested, on behalf of the Applicant, in the course of the Oral Hearing, that the proposed development could facilitate the delivery of a new town square/civic space created in the car parking area to the rear of Lawlor's Hotel and the shopping centre car park. This space would be enclosed along its northern boundary by the proposed development, on its eastern boundary by Lawlor's Hotel and on its southern boundary by the supermarket. The proposed new pedestrian linkage between Meagher Street and Walsh Street would pass through this space.
- 8.1.13. The issue of the applicability of the provisions of the *Urban Development & Building Heights, Guidelines for Planning Authorities* (December 2018) (the 'Guidelines') was addressed by both the Applicant and the planning authority in the context of the Oral Hearing. Both parties agreed that the provisions of the Guidelines apply to a Provincial Towns including Dungarvan.
- 8.1.14. Submissions on behalf of the Applicant emphasise the provision under SPPR1 (policy to support increased building height and density in town and city cores to be included in Development Plans) and SPPR2 (Development Plan policies to drive increases in building height to encourage appropriate mix of uses taking account of employment generating potential and contemporary economic and social needs in various sectors including the provision of leisure facilities). It is further submitted that the proposed development will generally be compatible with securing the objectives of the National Planning Framework and will be in accordance with the Development Management Criteria contained within the Guidelines.
- 8.1.15. The planning authority Senior Executive Planner considers that the proposed development does not satisfactorily comply with the Development Management criteria indicated in Section 3.2 of the Guidelines which emphasise that *'..development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into and enhance the public realm of the area, having regard to topography, cultural context, setting of key landmarks, protection of views... etc.* The opinion of the

Senior Executive Planner in this matter is informed by the shortcomings of the proposed development identified by the planning authority in relation to the overall height, scale and mass of the development involving construction tight to the edge of a restricted site, the poor quality of the proposed frontage onto Walsh Street and the southern boundary of the site together with the setting of the site within the historic core of the town adjacent to Protected Structures etc.

- 8.1.16. The planning authority Senior Executive Planner in the course of the Oral Hearing stated that, in principle, there is no objection to high buildings the town. She stated that some increase in height would be acceptable in relation to the appeal site. However, in order for a high building to be permitted in the town centre it must support and enhance the public realm. In her opinion, there are other sites (unspecified) in the town that would be more suitable to accommodate a very high building. Furthermore, she expressed the opinion that the identification of sites suitable high and landmark buildings in the town should be 'plan led'. She pointed out that the development now being proposed conflicts with a number of provisions of the current Development Plan (the Dungarvan Town Development Plan 2012-2018).
- 8.1.17. I note that Dungarvan is generally characterised by low rise buildings. The highest buildings in the town include mixed use retail/commercial, office and residential buildings up to four and five storeys in height fronting onto the quayside at Davitt's Quay together with the 4 storeys high Dungarvan Shopping Centre (to the south of the site) and the 4 storeys high Lawlor's Hotel (to the south/east of the site). The proposed development, either in the format originally proposed or as revised, will tower well above the maximum height of any of the existing buildings on neighbouring sites or indeed anywhere else in the town.
- 8.1.18. It is true that the former Waterford Creamery contained large buildings and structures and formed a significant visual landmark in the town. An examination of the historic photographs submitted by the Applicant reveals that the taller Creamery structures appear to have been less bulky in terms of their overall mass and scale to the buildings currently being proposed. Furthermore, evidence presented at the Oral Hearing suggests that the majority of the site has been cleared for in excess of 30 years. The policies and objectives contained in the current Dungarvan Town Development Plan which was adopted in 2012 make no specific provision for a high building on the site based on its historic use. Nonetheless, I consider that it is reasonable to have regard to the precedent in terms of building height and scale

established by the former Creamery use of the site. In my opinion, the former use warrants significant weight in the assessment of any proposal for redevelopment of the site.

8.1.19. The proposed development involves the insertion of a landmark building into the town and townscape on a site that is already a landmark site (as defined by its proximity to Devonshire Bridge, the waterfront (quays), Aras Brugha and the Bank House). The proposed development would be highly visible from nearby and more distant vantage points. In this regard, I share the opinion of the Applicant and the planning authority Senior Executive Planner that, in principle, there is no impediment to the introduction of modern, high and iconic landmark buildings into the town. Nonetheless, in the current instance the development currently being proposed is not 'plan led'. In fact, as has been highlighted by the planning authority Senior Executive Planner and Senior Architect and in concerns expressed by the Department of Culture, Heritage and the Gaeltacht the proposed development does not comply with a number of policies contained within the current Dungarvan Development Plan including Policy BH3 which seeks to protect (Protected Structures) which are of artistic, architectural, historical or cultural importance and policy as set out at Section 7.3.2 of the plan which in seeks to protect certain 'views and settings'. These include views of the approach to and from Grattan Square from Devonshire Bridge. Section 7.3.2 stipulates that new development should respect the existing character of its setting and should be sited and designed sympathetically so as not to detract from the setting. Furthermore, the site is located immediately adjacent to a designated Architectural Conservation Area. Policy BH6 of the Development Plan seeks to identify, protect and enhance the unique character of a streetscape and ensure that the design of new buildings respects the established character of the area in height, scale and massing within such areas.

8.1.20. The precedent in terms of height and scale established by the former use of the site must be coupled with consideration of government policies and provisions contained in the Guidelines in any assessment of the current proposal for the site. Section 1.14 of the Guidelines make it clear that where Specific Planning Policy Requirements (SPPRs) are stated in the Guidelines they take precedence over any conflicting, policies and objectives of development plans, local area plans etc. SPPR 3 stipulates that a planning authority may approve a development even where specific objectives of the relevant Development Plan or Local Area Plan may indicate otherwise. However, this provision is subject to an overarching qualification that the proposed



development must comply with a range of qualitative criteria contained within the Guidelines including Criteria 3.2 which stipulates that (at the scale of the relevant town) *Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character of the public realm of the area, having regard topography, its cultural context, setting of key landmarks, protection of views...*

8.1.21. On balance, I would share the conclusions of the planning authority Senior Architect in relation to the shortcomings of the proposed design in relation to the manner in which it integrates with the existing public realm. In this regard, the site has significant frontage onto Walsh Street. Walsh Street is a significant route linking the Davitt's Quay and the public spaces surrounding the Civic Offices with Dungarvan Shopping Centre. The street suffers due to the poor quality of existing development on the opposite side of the street to the application site combined with the blank façade of an adjacent cinema building. In this context, the proposed redevelopment of the application site offers a valuable opportunity to enhance, upgrade and improve the vitality and viability this street. In my opinion, the proposed façade onto Walsh Street fails to provide a sufficiently active façade along this significant route in the town. The proposed development incorporates significant glazing at street level which allows views of the leisure centre swimming pool. However, I consider that a route as significant in the town as Walsh Street demands a much more active façade at street level. The proposed Walsh Street facade also incorporates a barrier-controlled entrance to the proposed multi-storey car park (3 levels) above street level on Walsh Street. This entrance combined with the proposed treatment to the frontage of the car park will, in my opinion, do little to enliven the streetscape and enhance the public realm.

8.1.22. In addition to the shortcomings identified in relation to the Walsh Street frontage, I would have significant concerns in relation to the delivery of a satisfactory standard of design and finish along the southern frontage of the site. The proposed development as shown in the submitted drawings has a hard edge to the southern boundary of the site. It is proposed to provide three commercial units abutting this boundary at street level. Furthermore, it is proposed to provide a pedestrian linkage from Meagher Street to Walsh Street adjoining the southern boundary of the site. However, the strip of land needed to secure delivery of this laneway is in the ownership of a third party. The planning authority in the course of the Oral Hearing indicated that while they would support the provision of such a linkage, there are no

immediate plans to compulsorily purchase this strip of lands. Immediately prior to the closing of the Oral Hearing a letter was submitted (on behalf of the Applicant – attached document marked ‘J’, Appendix A) indicating that negotiations have been entered into between the Applicant and a third party in relation to the acquisition by the Applicant of the relevant strip of land. However, it appears that no contract has yet been entered into between the parties in relation to this strip of land. Elsewhere in the course of the oral hearing it was submitted, on behalf of the Applicant, that the three commercial units proposed along the southern boundary of the development will not be occupied until such time as the pedestrian route has been delivered. In these circumstances, I consider that it is unsatisfactory that the proposals for the southern frontage of the development are, to some extent, left in limbo pending the Applicant successfully delivering upon his stated aspiration to secure ownership of the strip of land in question.

8.1.23. In the course of the Oral Hearing, the Applicant sought to justify the height, scale and mass of the proposed development by reference to the fact that the proposed landmark building could define a possible new town square/civic space. In this scenario, a new town square would be defined by the redevelopment of the car park to the rear of Lawlor’s Hotel and the adjoining Shopping Centre car park. Thus, the proposed landmark building, Lawlor’s Hotel and the Shopping Centre would define the boundaries of this space. While such a development would undoubtedly enhance Dungarvan and would, therefore to be welcomed, it would be highly dependent on the co-operation of third parties in relation to the manner in which land in their ownership is to be developed in the future. The Applicant has presented no evidence that the relevant third parties would be willing to co-operate in relation to the Applicant’s vision for these lands or in relation to a timeframe for the delivery of same. In the absence of any agreement between the parties (or Masterplan in respect of the overall lands) I consider that the Applicant’s aspirations in relation to the possible future development of lands owned by third parties cannot be used as a source of justification for the scale of building now being proposed.

8.1.24. The proposed development on the lands in the ownership and control of the Applicant (the lands the subject of the current application and appeal) involves a development of significant height, mass and scale abutting the boundaries of the site on both Walsh Street and along the southern boundary. In the context of the established pattern of development in the area which comprises an historic quarter of the town (whose character is defined by Protected Structures on immediately

adjoining and adjacent sites) and in close proximity to a designated Architectural Conservation Area, I consider that the proposed development would not complement nor enhance the existing pattern of development in the vicinity of the site or the receiving townscape. In this respect, I would share the conclusions of planning authority Area Planner, Conservation Officer and Senior Planner in respect of the unacceptability of the proposed development in terms of its overall design and scale.

8.1.25. Finally, I note that Section 1.10 of the Guidelines states that within the canal ring of Dublin and analogous areas of Cork, Limerick, Galway and Waterford and other major towns (as identified for development in the National Planning Framework and Regional Spatial and Economic Strategies) it would be appropriate to support building heights of at least 6 storeys at street level as the default objective with scope to consider even greater building heights by the application of the objectives and criteria set out elsewhere in the Guidelines. Furthermore, in such instances, the Guidelines require suitably configured sites and that the architectural, urban design and public realm outcomes would be of very high quality. In my opinion, for the reasons already outlined above, the proposed development does not meet these requirements in relation to architectural, urban design and public realm outcomes.

## **8.2. Water Supply and Drainage**

8.2.1. The planning authority Water Services Engineer has reported that no details of a pre-connection agreement with Irish Water in relation to either water supply or waste water disposal have been submitted. Furthermore, it is pointed out that no details have been provided in relation to storm water design and run-off calculations. These concerns are reflected in Reason No. 3 of the planning authority notification of decision to refuse planning permission for the proposed development.

8.2.2. In relation to water supply, it has been pointed out by the planning authority that the roof level is not far off the level of the Water tower serving Dungarvan town. In these circumstances, a simple water connection will not be adequate for the proposed building. Furthermore, the Developer must engage with Irish Water to see if he can secure agreement for a water supply connection.

8.2.3. In the course of the Oral Hearing Mr. Richard McCrea, Consulting Engineer on behalf of the Applicant, acknowledged that a simple connection will not suffice to serve the proposed development. However, it was pointed out that a simple water connection is not being proposed. In this regard, it was stated that (as indicated in

the documentation submitted with the planning application) it is proposed that incoming water supply to each block will be connected to a break tank from which water will be pumped to roof top water tanks. It is not intended to rely on pressure from the public main. Furthermore, the site currently has a significant and active public water supply. In this context, it is not envisaged that water supply will be a significant issue.

- 8.2.4. The Applicant acknowledges that (as has been pointed out by the planning authority) no pre-connection agreement is in place with Irish Water. However, a pre-connection application was made to Irish Water in November 2018. Irish Water responded per letter dated January 2019 (received by the Applicant's agent in April 2019) stating that the proposed connection can be facilitated by Irish Water.
- 8.2.5. It has been stated, on behalf of the Applicant, that all conditions attached to the terms of any connection agreement issued by Irish Water will be fully complied with.
- 8.2.6. It was accepted by the planning authority Senior Engineer, in the course of the Oral Hearing, that securing agreement in relation to water supply is a matter between the Applicant and Irish Water and that the completion of any such agreement is not a pre-condition for the granting of planning permission. The planning authority also accept that negotiations between the Applicant and Irish Water in respect of water supply are now at an advance stage.
- 8.2.7. In the circumstances outlined, I consider that a refusal of planning permission for a reason relating to failure to yet complete an agreement with Irish Water in relation to water supply would be unwarranted.
- 8.2.8. Matters in relation to proposed foul and surface water effluent disposal were further clarified in the context of the Oral Hearing. Mr. Richard McCrea, Consulting Engineer, on behalf of the Applicant, highlighted the fact that the site of the proposed development is a former industrial site. There is currently an active 300mm diameter connection to the existing combined sewer system in Meagher Street. Given the size of this connection, which currently accepts foul (and unattenuated surface water) from the site, it would appear that a waste water connection to the site could be accommodated.
- 8.2.9. The waste water calculations provided with the application were based on IS EN 12056-2 (Drainage Systems for Buildings) and flows in the pipe network were calculated using Windes Software, which is an industry standard software. The

combined foul flow from Blocks A and B calculated at 28.1l/s. If this flow is directed to the 300 mm diameter site connection it would easily be accommodated.

- 8.2.10. A pre-connection application was submitted to Irish Water in November 2018. Irish Water have confirmed (January 2019) that, subject to a valid connection agreement, a connection can be facilitated.
- 8.2.11. It was accepted by the planning authority Senior Engineer, in the course of the Oral Hearing, that securing agreement in relation to foul water disposal is a matter between the Applicant and Irish Water and that the completion of any such agreement is not a pre-condition for the granting of planning permission. The planning authority also accept that negotiations between the Applicant and Irish Water in relation foul water disposal are now at an advanced stage.
- 8.2.12. In the circumstances outlined, I consider that a refusal of planning permission for reasons related to foul water drainage would be unwarranted.
- 8.2.13. In relation to surface water drainage, Reason No. 3 of the planning authority notification of decision to refuse planning permission states that the Applicant has failed to submit adequate information and that there is an absence of specific proposals in relation to surface water and storm water drainage. It has been submitted on behalf of the Applicant, in response, that the written Infrastructure Services Report (and supporting documentation) that accompanied the planning application lodged with the planning authority addressed many of these concerns. A full set of calculations detailing the outflows from the proposed development have been submitted. Green roofs are proposed (except to roof plant areas) and free draining permeable pavements are proposed for the small sections of paving at ground level. Calculations included in the Infrastructure Services Report included simulations of flows from the roof areas for 1, 30 and 100 year storm return events with allowance for a 10% climate change factor.
- 8.2.14. The site is currently drained unattenuated and it is expected that there would be capacity in the existing system. No proposals for attenuation tanks were included in the application initially lodged with the planning authority. However, it is now proposed (per documentation lodged with the appeal and at Oral Hearing stage) to revise (immaterially) the application to substantially reduce surface water discharge through the use of further SUDs measures such as attenuation tanks (in addition to the green roofs already proposed) to demonstrate a demonstrable reduction in surface water discharge flows.

- 8.2.15. It is proposed to connect surface water to an outlet on Walsh Street which connects to the combined system. Consequently, Irish Water are involved in the decision making in respect of surface water drainage. Correspondence with Irish Water states that no surface water should discharge to the combined system. However, it is noted that the site currently drains unattenuated surface water to the system. To address this matter, the calculations have been submitted to show that if surface water is attenuated back to green field rates, then the combined foul and surface water flows will be less than the un-attenuated surface water flow currently discharging from the site. Such an outcome is consistent with the requirements of Irish Water for developments which are being proposed on brown field sites and where the storm water system already discharges to an Irish Water combined sewer (i.e. the storm water drainage system should be designed to ensure that storm water discharge from the infill development area is at or less than that which existed prior to the development and ideally as near to a greenfield storm run-off rate as is practicably possible based on a SUDs assessment)
- 8.2.16. The planning authority Senior Engineer in his evidence at Oral Hearing acknowledged that matters in relation to water supply and drainage arrangements (including surface water drainage) are matters between the Applicant and Irish Water. However, he highlighted the fact that in the event that surface water attenuation tanks are required on site and if surface water is to discharge directly into Dungarvan Harbour (a designated Special Protection Area), via the quay, then the issue of surface water drainage would become a matter falling within the planning authority's remit.
- 8.2.17. I acknowledge the validity of the concerns of the planning authority Senior Engineer in this regard. However, it has been explicitly stated, on behalf of the Applicant, that although discharging surface water directly to Dungarvan Bay via the quay would be a simpler solution, this is seen as undesirable in circumstances where Dungarvan Bay is designated as a Special Protection Area and consent would be required from third parties in order to connect to the harbour.
- 8.2.18. Finally, I note that the (draft) CFRAM maps indicate that the site (although close to the Colligan River) lies outside any area designated as being at risk of coastal flooding or fluvial flooding. The site is classified as being at low risk of flooding (Flood Zone C). The proposed development is acceptable within 'Flood Zone C'. The application relates to a brown field site in an urban area that previously

accommodated a large number of buildings and other structures that generated a substantial amount of run-off (the former Waterford Creamery).

8.2.19. On balance, I consider that the Applicant has satisfactorily demonstrated that surface water drainage arrangements to serve the proposed development are capable of complying with the requirements of Irish Water. Negotiations between the parties in respect of securing an agreement now appear to be at an advanced stage. In the circumstances outlined, I consider that a refusal of planning permission for the proposed development for a reason related to proposed surface water drainage arrangements (which are ultimately a matter for Irish Water) would be unwarranted.

### 8.3. Site Development Standards

8.3.1. The proposed development is described per the submitted public notices as including the provision of 122 'short let holiday apartments' (reduced to 120 units in appeal submission) together with 3 commercial units, a function room, leisure centre, swimming pool, car parking and reception and management offices etc. Despite the proposed mix of uses, the bulk of the proposed development involves the provision of short let holiday apartments.

8.3.2. The planning authority Area Planner in her assessment of the proposed development acknowledges that the proposed apartments are intended for short term letting only primarily to meet a tourist demand. However, she also highlights the fact that the proposal involves the provision a large number of units and that it is unlikely that full occupancy will be secured for 12 months of the year. Accordingly, the Area Planner considers that it is reasonable to 'future proof' the development and provide for a more sustainable form of development by requiring that the development comply with quantitative and qualitative standards set out in the Dungarvan Town Development Plan 2012-2018 and in the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, (December 2018)* (the 'Guidelines'). The proposed development does not comply with the provisions of the Guidelines. The majority of the proposed units do not comply with standards stipulated in respect of private open space provision, internal storage space etc. Many of the units are single aspect and north facing.

8.3.3. Reason No. 4 of the planning authority notification of decision to refuse planning permission cites failure to comply with site development standards as set out in the Development Plan and in the Guidelines. In this respect the planning authority

concludes that the proposed development is a substandard development and constitutes overdevelopment of the site.

- 8.3.4. The grounds of appeal describe the proposed development as an 'Aparthotel'. It is submitted that site development standards as set out in the Development Plan and contained within the Guidelines (which refer to apartment accommodation intended for long term occupancy) should not apply in this instance. It is submitted that the proposed accommodation is intended for short letting akin to the type of development envisaged under the 'Build to Rent' schemes provided for in the Guidelines. It is Suggested that the proposed development would comply with the standards recommended for such schemes.
- 8.3.5. The Guidelines allow for only a marginal relaxation in normal standards for apartments development in the case of 'Build to Rent' schemes. In this respect, the applicant is incorrect is stating that the proposed development would comply with site development Standards in the case of a 'Build to Rent' scheme. Less stringent standards would apply in the case of a 'Shared Living' scheme. However, clearly the proposed development (short term holiday let apartments) does not fall within the ambit of either a 'Built to Rent' or 'Shared Living' scheme as envisaged in the Guidelines. (In any event, a proposal for a development of 120 units that would classify under either of the latter schemes should properly been made as a Strategic Housing application).
- 8.3.6. Clarification in relation to the nature of the proposed development was provided at the Oral Hearing. It was stated, on behalf of the Applicant, that the proposed development is for an 'Aparthotel'. The proposed accommodation will meet the requirements for a four star ranking, at least, based on the criteria set by Fáilte Ireland in relation to tourist accommodation. It was acknowledged that no national guidance exists in relation to minimum site development standards for an Aparthotel. However, it was stated that the proposed accommodation will be provided only on the basis of short lets. It is not proposed that any of the proposed holiday units will be made available for long term occupation. The maximum letting period will be for 3 weeks. The Applicant is happy to accept that a condition be attached to any grant of planning permission that may issue from the Board restricting the maximum period of occupation to 3 weeks. It was pointed out, on behalf of the Applicant, that the Board previously granted planning permission for a development Strand Street Great in Dublin that included an Aparthotel (Appeal No. 29N.249258 – see attached document marked with the letter 'K', Appendix A). Condition No. 3 of the latter



decision specified that the permitted *'Aparthotel shall be used only as a short-stay tourist accommodation facility with a maximum occupancy period of two months and shall not be used for permanent occupancy or for use as a student residence'*. The Applicant would welcome a similar restriction on the current in respect of the development now being proposed in Dungarvan.

- 8.3.7. It was stated, on behalf of the Applicant, that the proposed development will be available to meet a tourist demand in the area generally. However, the Applicant's business plan for the development is focused, in particular, in catering for a demand for short stay tourist accommodation generated by the recently completed Waterford/Dungarvan Greenway cycling/walking route. The Applicant is confident that the nature of cycling and walking tourism is spread more evenly throughout the year than other sorts of tourist demand. There is a limited 'off-season' period associated with this type of tourism. Accordingly, it is submitted that the concerns of the planning authority in respect of the proposed units being occupied on a longer term (semi-permanent basis) in the winter months is unfounded.
- 8.3.8. The Applicant submitted 2018 figures prepared by Fáilte Ireland on Hotel Performance for 2018 (Attached – I have marked this document with the letter 'M'). This submission indicates that the provision of hotel bedspaces is not evenly distributed. Fáilte Ireland has identified Dublin, Galway and Kilkenny as cities where opportunities for increased capacity exists. (It was submitted to the Oral Hearing that Waterford falls within a similar category to Kilkenny).
- 8.3.9. The Applicant submits that it is not necessary to 'future proof' the proposed development by requiring that the proposed residential units meet site development standards as set out in the Guidelines. In the event that the propose Aparthotel is not commercially successful it is suggested that the proposed development is of a sufficient large scale to allow for the remodeling of the space into apartments that comply with the requirements of the Guidelines to facilitate future occupation of (at least some) the units for permanent apartment living. Any such proposal would be the subject matter of a fresh application for planning permission.
- 8.3.10. I consider that Dungarvan is an attractive and vibrant tourist town. The town benefits from a range of tourist attractions (restaurants, pubs, shops, facilities for water sports etc.). The town is also well positioned in terms of access to other coastal amenities including beaches and the 'Copper Coast' amenity area located between Dungarvan and Tramore. Tourism in the town has undoubtedly experienced a major boost from the recently completed 'Waterford Greenway' walking and cycling route. In this

content, the identification of a latent demand for short let tourist apartments is not surprising. It is somewhat disappointing that no details of projected occupancy rates underpinning the scheme on a monthly and annual basis etc. have been provided.

I consider that the concerns of the planning authority in terms of 'future proofing' the proposed development in order to ensure that the proposed units comply with the requirements of the Guidelines rendering them suitable for long term occupation as apartments, and thus provide for a potentially more sustainable form of development, are not unreasonable. Nonetheless, the current proposal is for a specific type of tourist accommodation only. Planning permission for short let holiday apartments only has been sought. In these circumstances, I consider that requiring strict compliance with all of the minimum standards for apartments intended for permanent occupation as set out in the Guidelines is unwarranted. On balance, therefore, I consider that it would be unreasonable to refuse planning permission for the proposed development on grounds of failure to comply with minimum standards as set out in the Guidelines. Nonetheless, I consider that an appropriately worded condition should be attached to any grant of planning permission that might issue from the Board restricting the use of the proposed accommodation units strictly for use as Aparthotel short let tourist accommodation units and specifying that the units not be used as long term residential units for permanent occupation.

#### **8.4. Appropriate Assessment**

The application was screened by the planning authority and the need for a stage 2 appropriate assessment was screened out. Having regard to the nature of the proposed development (redevelopment of a brownfield site located in the town centre of Dungarvan), I agree with the conclusions of the planning authority in this matter.

Having regard to the nature and scale of the proposed development located on a brownfield site in an existing town centre and noting the proposal to discharge both foul and surface water to existing infrastructure services, 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.

## 9.0 Recommendation

I recommend that planning permission for the proposed development be refused for the reasons and considerations as set out below.

## 10.0 Reasons and Considerations

- (1) Having regard to the massing, scale and design of the proposed development on a prominent landmark site in Dungarvan, it is considered that the proposed development would constitute a visually dominant and discordant feature in the townscape. The proposed development would integrate poorly within the context of the setting of the site and the surrounding receiving environment which is characterised by historic buildings including a number of Protected Structures. Furthermore, the proposed development would fail to enhance the public realm by reason of the poor quality of proposed frontage onto Walsh Street (both at street level and in respect of the proposed frontage to the car park above) and lack of clarity in relation to the southern boundary of the site particularly in relation to the delivery of a possible future pedestrian route (linking Meagher Street with Walsh Street) . The proposed development would, therefore, detract from architectural heritage, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.
  
- (2) It is considered that the proposed development by reason of its design, scale and bulk would be out of character with the established pattern of development in the vicinity of the site which is characterised by historic landmark buildings that are Protected Structures including the Bank House (Record of Protected Structures No. DV740026) and Aras Brugha (Record of Protected Structures No. DV740029). The proposed development would detract from the character and setting of these buildings. Accordingly, the proposed development would contravene Development Plan policy as set out in Policy BH3 of the Dungarvan Town Development Plan 2012-2018 which seeks to protect structures which are of historic, architectural, artistic or cultural interest and policy as set out in Section 7.3.2 of the Dungarvan Town Development Plan 2012-2018 which seeks to ensure that new development blends in harmoniously and is sited and

designed sympathetically so as not to detract from its setting. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Paddy Keogh  
Planning Inspector

22<sup>nd</sup>, July 2019