



An
Bord
Pleanála

Inspector's Report

ABP-303976-19

Development

Retain permission for development consisting of high ceiling storage building of galvanized high gauge steel tubes and commercial grade UV protection fabric cover temporarily for period of 5 years.

Location

36 Castle Road, Dundalk, Co Louth.

Planning Authority

Louth County Council

Planning Authority Reg. Ref.

181043

Applicant(s)

Brian Larkin

Type of Application

Retention Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party

Appellant(s)

Brian Larkin

Observer(s)

None

Date of Site Inspection

18th of June 2019

Inspector

Angela Brereton

1.0 Site Location and Description

- 1.1. The application site is located to the east of Dundalk town centre and encompasses and is set behind a former (now vacant) single storey office suppliers building at the northern end of Castle Road. There is a large steel with canvas polytunnel structure to the rear of this building which contains materials and equipment associated with B.K Forklifts (IRL) LTD. On the day of the site visit there was little equipment stored in the polytunnel. This is located within the former garden/yard area and is bounded by high stone walls.
- 1.2. The parent company is associated with (signage indicates) the Hire, Service and Sales of forklift materials. The polytunnel is used for storage purposes, is ancillary to this business, the latter being located on St Helena's Road (R177) to the north east of the site, and adjacent to the entrance to the Lidl store and carparking area. This parent site contains forklift equipment accessed via the entrance to the access road to the Lidl store.
- 1.3. The entrance to the site is via the existing gated entrance from Castle Road. There is a traffic light-controlled junction to the north with the cross roads to St Helena's Road. There is a footpath and on street parking along Castle Road and the views from the existing site entrance are restricted in view of parking and traffic queuing at the traffic lights. On the day of the site visit I noted some parking on the footpath.
- 1.4. The site adjoins a terrace of two storey residential properties, to the south. The majority of which are Protected Structures. The north of the site is also residential with properties facing Saint Helena's Road (R177). In view of its backland location the polytunnel is not visible from the surrounding road network.

2.0 Proposed Development

- 2.1. This is for the Retention of a high ceiling storage building constructed of galvanised high gauge steel tubes and commercial grade UV protection fabric cover temporarily for a period of 5 years.

3.0 Planning Authority Decision

3.1. Decision

On the 19th of February 2019 Louth County Council decided to refuse retention permission for the subject development for 3no. reasons. These are summarised as follows:

1. To permit the extension of the adjoining commercial/light industrial uses into a residential area would materially contravene the zoning objective of the development plan for the area, would establish and undesirable precedent for this form of development and would be contrary to the proper planning and sustainable development of the area.
2. The application documentation fails to demonstrate adequate visibility splays or compliance with DMURS. On the basis of the information submitted the planning authority are not satisfied that the proposal would not create a traffic hazard.
3. The subject site is located in an area that is identified as being vulnerable to coastal flooding. The application has not been supported by a Flood Risk Assessment therefore on the basis of the information submitted the planning authority is not satisfied that the proposal has been designed to provide a suitable finished floor level or adequate freeboard. They are not satisfied that it will not exacerbate flooding in the wider area. It would be contrary to -The Planning System and Flood Risk Guidelines 2009.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report had regard to the locational context of the site, planning history and policy and to the inter-departmental reports. They noted that no submissions or observations were made. Their Assessment included regard to the following:

- They consider that this proposal would represent an inappropriate extension of the BK forklift business into a residential area which would be contrary to the residential RES 1 zoning objective.

- This use would fall within a light industrial/warehouse types use.
- The subject site has the capacity to deliver residential development which would be consistent with the underlying zoning objective for the area.
- It could be considered an infill or brownfield site and could readily be added to a vacant site register.
- It would be contrary to the underlying zoning objective and to the proper planning and sustainable development of the area.
- They have regard to the Core Strategy Variation No.1 and note that the subject site is located within the area defined for ‘consolidation of the urban core’ and would not be in keeping with sustainable development patterns in the area.
- The proposal could result in further intensification of uses that would be discordant with the character of the area. To permit the proposal would set a poor precedent.
- It is unlikely the proposal will have any adverse impact on the Natura 2000 network and an EIA is not required.
- The site is located on lands that are vulnerable to flooding; the infrastructure section has requested an FRA for the proposed development.
- They also note the infrastructure section’s concerns about lack of visibility splays and details of traffic movements associated with the proposed development.
- They recommended that the proposed retention be refused for 3no. reasons.

3.3. Other Technical Reports

The Infrastructure Section

As the site is located in an area vulnerable to flooding, they recommended that a Flood Risk Assessment be submitted. Also, that surface water drainage details and calculations in accordance with the GDSDS, visibility splays at the site entrance in accordance with DMURS and that details of traffic movements be submitted.

The Environment Section

They have no comments to make in relation to this application.

3.4. **Prescribed Bodies**

None

3.5. **Third Party Observations**

None

4.0 **Planning History**

The Planner's Report provides details of the Planning History, the most recent being as follows:

- 2018 U 157 – Live enforcement case in respect of the proposed retention development, warning letter issued 25th of July 2018.
- Reg. Ref. 96/520240 – Permission granted (24th of July 1997) for retention of change of use of industrial building to wholesale retail building with proposed new warehouse (Applicant Corcoran and Donnelly). As noted on site, this building is now vacant.

5.0 **Policy Context**

5.1. **National Policy**

- Project Ireland 2040 National Planning Framework (2018).
- Design Manual for Urban Roads and Streets (DMURS) (DECLG and DTTS 2013).
- The Planning System and Flood Risk Management Guidelines (DOEHLG 2009).
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, (DEHLG 2009) and the accompanying Urban Design Manual: A Best Practice Guide, (DEHLG 2009).

5.2. Louth County Development Plan 2015-2021

This Plan provides the strategic planning policies and objectives for the County. Section 2.16.4 notes that the Statutory Plan for Dundalk and the surrounding area is the Dundalk and Environs Development Plan 2009-2015 and Policy SS3 seeks: *To review the Dundalk and Environs Development Plan 2009 – 2015 and to prepare a Local Area Plan for Dundalk and Environs which will be consistent with the provisions of the County Plan.*

In addition to the County Development Plan, I have reviewed the Dundalk Town & Environs Development Plan 2009 – 2015 as this provides the most recent zoning framework for the area.

Dundalk and Environs Development Plan 2009 -2015 (as extended)

This Plan is still current. As shown on Map 4.2 the subject site is located within RES 1(serviced). It is proximate to the Town Centre Mixed Use to the east. Table 2.4 provides the Zoning Matrix. Land use is discussed in the Assessment Section below.

Section 6.2.1 (Table 6.1 and Table 6.1 refer) provides the Residential Zoning Objectives.

Section 6.6.7 refers specifically to Infill/Backland development i.e: *Infill development is small scale development located in gaps between existing buildings.* The following guidance is applicable to out of town centre residential sites. *Development on these sites should match existing surrounding development in terms of design, scale, height and the building line should be in keeping with the existing development and should not be detrimental to the local existing residential amenities in the area.*

This also refers to Design and Scale i.e. *The design and scale of the proposed development should be in keeping with the surrounding character of the area. The proposed design, orientation and massing shall not cause any unacceptable overbearing or overshadowing on existing dwellings and the applicant will be required to demonstrate that there are no adverse effects on the existing buildings.*

Economic Development, Retail & Tourism

Section 3.3.5 for Retail Warehousing and Retail Parks.

Policy EC13 seeks to: *Confine retail warehousing development to lands zoned for that purpose in the plan except where small scale development “open for consideration” as detailed in the zoning matrix.*

Architectural Conservation Area

Other relevant policies to the assessment of this proposal include: Chapter 8 Conservation & Heritage & Appendix 7; as the subject site is located within St. Mary’s ACA (NO. 1). It is noted that while the frontage including the entrance to the subject site is within the ACA, the rear (east) of the site is located outside of this within the RES 1 zoning. To the east of this is the Town Centre Mixed Use zoning where the parent company is based, adjacent to the road entrance to the Lidl.

This includes Policy CH10 relative to ACA’s i.e: *Protect designated Architectural Conservation Areas within the plan area and require that new development within such areas is sensitively designed so as not to detract from the character of the areas.*

5.3. Natural Heritage Designations

The site is located within proximity of Dundalk Bay SPA and SAC to the east.

5.4. EIA Screening

Having regard to the limited nature and scale of the development proposed for retention and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. 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 submitted by Environmental Heritage Planning (EHP Services) on behalf of the Applicants relative to the Council’s reasons for refusal.

- They provide details of the operations of BK Forklifts and note the main commercial premises is separate from the subject site. This premises is lacking in space and they include photographs to show the cluttered service yard area. They note that it is not practical to locate any further covered storage area therein.
- The unauthorised structure the subject of this appeal, is located in an adjoining, commercial premises to the south west of BK Forklifts.
- They note the historic commercial usage of this site fronting onto Castle Road. The site was home to the former building contractors JP Castle (Dundalk) Ltd until its liquidation in 2014.
- They provide details of the usage of the structure proposed for retention for a temporary period of 5 years. Also, of its storage function relative to the main commercial premises.
- They note the stone walls along the site boundaries provide screening.
- They provide photographs of the structure. Appendix 1 includes an aerial photograph showing the subject site relative to BK Forklifts.
- They provide that the structure does not generate excessive levels of vehicular or pedestrian traffic. Equipment is moved from the main premises to the appeal site via St. Helena's Terrace, Castle Road and the gated entrance.
- They have regard to planning policy and do not contest that the structure for retention is detrimental to the RES 1 Residential zoning.
- They consider the Council's reasons for refusal are flawed.

First Reason for Refusal

- They contend that the Council's assessment was materially deficient in failing to have proper regard to the sites' historic and continuous non-residential use and history of planning permissions for industrial/commercial development. They provide a list of historic planning permissions relative to the site.
- The structure is subservient to other developments and does not undermine the residential amenities of the area.

- It does not materially or detrimentally intrude upon the physical or visual characteristics of the surround area.
- It does not represent an intensification of use in comparison to its former use as an office supply business. Traffic movements have been drastically reduced.
- They submit that the existing structure does not fundamentally contravene the RES 1 zoning of the area or the precepts of Policy TC4 and is entirely compatible with the proper planning and sustainable development of the area.

Second Reason for Refusal

- The Planner's reason for refusal runs contrary to the Infrastructure Team's request for Further Information.
- The Site Layout Plan shows that there is a 4m footpath and visibility splays and sightlines in excess of the minimum DMURS requirements.
- They provide that the standard by which an entrance within an urban setting is assessed is set out in Table 4.2 of DMURS.
- They attach a drawing in Appendix 5 for the Board's consideration illustrating provision of the appropriate visibility splays and submit that this drawing provides all the necessary information.
- They suggest that the second reason for refusal is overly arbitrary in nature and is unjust and unfair.
- They provide that the existing vehicular entrance is in total compliance with the requirement of Table 4.2 and this is sufficient to dismiss the second reason for refusal.

The Third Reason for Refusal

- They consider that without fully appreciating the subject structure's physical setting and circumstances the appropriateness of a Flood Risk Assessment Report and surface water drainage details/calculations is questionable and ultimately unnecessary.
- They note that this is a brown field site, the structure is temporary and has no foundations nor is it connected to services.

- As such if it were to flood in a 1:200 year event it would pose no direct or residual risk to the surrounding built up area.
- They provide that ODM Surveyors & Engineers remain of the considered opinion that given these mitigating factors and an objective and reasonable assessment of the appeal site, physical setting and circumstances an FRA is unnecessary and superfluous.
- As such they consider that the Council's third reason for refusal is unsupported and should be dismissed.

Conclusion

- The proposed development is in keeping with the site's long established history of non-residential usage. The structure is compatible with the last established warehouse usage on the site.
- It is comparable with numerous other non-conforming uses within the surrounding RES 1 zoning that have benefitted from permission in the past.
- It does not materially intrude or detrimentally affect or diminish the diverse visual character and urban form of the surrounding area or impact adversely on the character and amenities of the area.
- The temporary permission would not set an irrevocable precedent that would materially compromise the area.
- The Appellant considers that a grant of permission subject to any reasonable conditions will provide all the necessary controls and reassurances in respect of the proper planning and sustainable development of the area. They ask the Board to grant permission.

6.2. Planning Authority Response

The Planning Section in Louth County Council have regard to the grounds of appeal and their response includes the following:

- Section 9.0 of the planner's report fully acknowledges and addresses the site history and non-conforming land uses at this location.

- It is their opinion that this proposal will result in the inappropriate extension of BK Forklifts, into the subject planning unit. The proposal remains unacceptable in principle to the planning authority having regard to the underlying land use zoning objective.
- As noted in section 9.0(ix) and (x) of the planner's report the infrastructure section report in relation to flooding and traffic concerns was given full and due regard. As per the Development Management Guidelines it would have been unreasonable to request F.I on these matters when the principle of development was not acceptable and favourable consideration could not be given to the proposal.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. The site is located in the residential area within the development boundaries of Dundalk as shown on the Dundalk and Environs Development Plan 2009-2015 (as extended). Map 4.2 shows that the Site is within the eastern boundaries of the Town Centre Zoning, zoned RES 1 – Residential, where the objective seeks: *To protect and improve existing residential amenities and to provide for suitable infill and new residential developments. This also seeks to: Ensure that any new development in existing area would have a minimal impact on and enhance existing residential amenity*'. Therefore, sustainable infill development would be in accordance with the residential zoning objective. Regard is had to Table 2.4 of the Dundalk Plan which provides the Zoning Uses. It is noted that light industrial, retail warehouse or warehousing is not permitted within the Residential land use zoning. Therefore, having regard to the land use zoning matrix this usage is not permitted in principle.
- 7.1.2. The area to the east, where BK Forklifts and Lidl are located is zoned Town Centre Mixed Use -TCMU. It is noted in Table 2.4, that light industrial or retail warehouse is open to consideration in this zoning. However, warehousing is not permitted.
- 7.1.3. Regard is also had to Policy TC 4 of the Dundalk Plan which is referred to by the First Party. This seeks to: *Protect existing residential amenities of primary residential areas within the town centre and to resist the conversion of dwellings to uses other*

than residential. As shown in Appendix 7 the frontage of the site is located in an Architectural Conservation Area- ACA 1 – St. Mary's Road and the adjoining residential properties to the south, facing Castle Road are Protected Structures. Policy CH10 seeks to: *Protect designated Architectural Conservation Areas within the plan area and require that new development within such areas is sensitively designed so as not to detract from the character of the areas.*

- 7.1.4. Regard is also had to the 'National Planning Framework Plan 2040' which seeks to increase housing supply and to encourage compact and urban growth, supported by jobs, houses, services and amenities rather than continued sprawl and unplanned, uneconomic growth. Chapter 4 refers to *Making Stronger Urban Places* and includes National Policy Objective 4 which seeks to: *Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.*
- 7.1.5. However, this proposal is not for residential infill. While the First Party does not dispute the location in the residential land use zoning, they provide that each proposal should be considered on its merits and the Council's assessment of the application was materially deficient in failing to have proper regard to the site's historic and continuous non-residential use and history of planning permissions for industrial/commercial development. They consider that the subject structure is compatible with the historically established non-conforming industrial/commercial use of the appeal site and does not adversely impact on the residential amenities of the area. They submit that the existing structure does not fundamentally contravene the RES1 zoning objective for the area or the precepts of Policy TC4 and is entirely consistent and compatible with the proper planning and sustainable development of the area.
- 7.1.6. Therefore, while the principle of the retention of this development is not permitted within the RES 1 zoning, the issue is whether the proposed retention and temporary usage of the structure could be considered compatible having regard to the historical use of the site for commercial/light industrial purposes. Regard is also had to the access/traffic issues and flood risk elements as noted in the Council's reasons for refusal and to the impact on the character and amenities of the area in this Assessment below.

7.2. Regard to Planning History and Usage of the Site

- 7.2.1. The appeal site comprises of the historic commercial industrial building fronting onto Castle Road and a long narrow concreted yard stretching eastwards from the gated vehicular entrance that is sited immediately to the side of the commercial building. Details of the Planning History are noted in the relevant section above. The First Party notes that the last occupant of the site, Corcoran and Donnelly, operated an office supply business until 2013. It is noted that the former commercial building to the site frontage is now vacant and appears not to have been in use for some time. Therefore, the site is vacant other than the use proposed for retention.
- 7.2.2. The First Party Grounds of Appeal provide a history of the operations of BK Forklifts and relative to the usage of the subject site. It is noted that the main commercial premises is located separately at the shared entrance to Lidl with access off Saint Helena's Road (R177). This comprises of the maintenance shed, an ancillary mobile office building and a concreted storage area which is full of primarily forklifts and durable parts and equipment. They include photographs to show the lack of space in the service yard area of this premises.
- 7.2.3. They provide that the subject structure was purchased by the Appellant in 2017 and is used only as an overflow storage area for less durable machines and equipment that are for sale or hire and cannot be stored at the main storage yard exposed to the elements. Photo no.10 of their appeal statement refers to the limited extent of stored material and equipment. It is noted that this is similar to what was seen stored in the poly tunnel on site on the day of the site visit. They provide that all equipment necessary for the maintenance of forklifts is kept within easy reach in the main servicing building. Also, the duration of storage varies depending on the marketability and use of the item but generally equipment for sale or hire is not stored for long periods.
- 7.2.4. Therefore, the usage of the site is ancillary to the commercial operations of BK Forklifts. However, while proximate to it is not physically connected to this site and has a separate access from Castle Road. Therefore, it is seen as a separate entity. Also, it is noted that the site in the RES 1 land use zoning is currently underused and in view of its locational context and setting would be more appropriate for residential infill.

7.3. Design & Layout and impact on the Character and Amenities of the Area

- 7.3.1. The First Party provides details of the structure for retention. This includes that the subject structure is located at the rear of the existing yard and measures 9.3m wide x 4.47m high x 37.06m long. It is constructed from galvanised high gauge steel tubing frame bolted to the ground rising in a peaked arch and covered with panels of interlaced white commercial grade UV fabric. The structure sits atop a thin polished concrete floor poured over the original concrete yard which remains in-situ from the gated entrance to the public road.
- 7.3.2. It is provided that the structure is temporary in both nature and intended duration defined by the expected lifespan of the UV protection fabric and the Appellant's need for the structure. The retention application seeks a 5year temporary permission.
- 7.3.3. The structure takes up the width of the rear yard area adjacent to a high stone wall defining the yard's northern boundary. The wall comprises part of the northern neighbour's two storey former cart shed/stable/outbuildings. The site's rear boundary is defined by a 2.5m high stone wall abutting part of BK Forklifts and the service area for the adjoining Lidl supermarket. The appeal site's southern boundary is defined by a lower concrete block wall and abuts the southern neighbour's rear garden which accommodates a smaller poly tunnel structure.
- 7.3.4. It is contended that the structure does not undermine the residential amenities of the area by virtue of overlooking, overshadowing, noise, dust, dirt, odours, vibrations and general disturbance and nuisance. It is effectively screened by the high stone/block walls around the rear boundaries of the site. It is well set back on site to the rear of the existing now vacant commercial building and is not visible from the public road. There are some slight views from the Lidl carpark to the rear of the existing BK Forklifts building. It is provided that the structure is subservient to the size, massing and scale of development in the area and does not materially or detrimentally intrude upon the physical or visual characteristics of the surrounding area.

7.4. Access and Traffic

- 7.4.1. As noted on the Site Layout Plan, the access to the poly tunnel structure to be retained, is via the gated entrance onto Castle Road. The First Party provides that the equipment is moved from the main premises to the appeal site via St. Helena's

Terrace, Castle Road and the gated entrance. Customers interested in buying or hiring any item stored in the subject structure may occasionally (rarely), request a visual inspection. If the item is not already taken around to the main premises a staff member would walk around with them to allow access. They provide that the structure does not generate excessive levels of vehicular or pedestrian traffic. On average the appeal site and structure are accessed 2-3 times per month.

- 7.4.2. The First Party provides that the subject structure and use of the appeal site does not represent an intensification of use in comparison to its former use as an office supply business. In comparison to the frequent HGV and delivery of lorries that entered and exited the site when in use by Corcoran and Donnelly the volume and frequency of vehicle movements and the type of vehicles entering/exiting the appeal site is drastically reduced. They provide that that consequently the use of the appeal site does not represent a danger to the free flow of traffic along S.t Helena Terrace and Castle Road and does not threaten the safety of pedestrians and other road users.
- 7.4.3. The Council's Infrastructure Section advised that the site layout drawing showing visibility splays at the site entrance in accordance with the Design Manual for Urban Roads and Street (DMURS) be submitted and that visibility splays should generally be kept clear of on-street parking. Also, that details of traffic movements to and from the development (i.e. frequency and type of vehicles) and turning areas be submitted.
- 7.4.4. It is noted that the Council did not request such further information and their second reason for refusal concerns that adequate visibility splays were not demonstrated in compliance with DMURS and that on the basis of the information submitted with the application the planning authority are not satisfied that the proposal will not be a traffic hazard.
- 7.4.5. The First Party Appeal includes a scaled Site Layout Plan to demonstrate that the 4m deep footpath already provided visibility splays and sightlines in excess of the minimum DMURS requirements. They also refer to Table 4.2 of this document in Figure 1 and note that the Castle Road has a 30mph/50kph speed limit typical of any urban/town centre road. They note that the Site Layout Plan submitted with the application and an annotated version illustrates provision of a 2.4m set back (x-

distance) and 45m wide visibility splays either side (y-distance). They provide that the existing vehicular entrance is in compliance with the requirements of Table 4.2 and is sufficient to dismiss the second reason for refusal.

- 7.4.6. On my site visit I noted that parked cars (including partially on the footpath) particularly to the south of the gated entrance to Castle Road restrict visibility. There are also traffic lights to the north on Castle Road proximate to the crossroads and the junction with Saint Helena's Road (R177). I noted that there was queuing back along Castle Road relative to the operations of these traffic lights and that the entrance to the subject site, is relatively proximate to them. As, noted above it is within the urban speed limits. However, these visibility splays would need to be kept clear and this would impact on on-street parking for the residential to the south of the entrance. If the Board decides to permit, I would recommend that it be conditioned that the access comply with the requirements of the Council for these works.

7.5. Flood Risk issues

- 7.5.1. The Council's third reason for refusal notes that the site is located in an area that has been identified as being vulnerable to coastal flooding and that the application has not been supported by a Flood Risk Assessment. Regard is had to OPW Floodmaps.ie and it is noted that the site is proximate to an area prone to coastal flooding.
- 7.5.2. Regard is had to 'The Planning System and Flood Risk Management Guidelines' 2009. This includes that the vulnerability of development to flooding depends on the nature of the development, its occupation and the construction methods used (S.2.19 refers). Table 3.1 provides a classification of vulnerability of different types of development. It is considered that the proposed retention development would fall into the category of less vulnerable development i.e. *Buildings used for: retail, leisure, warehousing, commercial, industrial and non-residential institutions.*
- 7.5.3. The First Party notes that this is not a greenfield site and is completely built over. The subject structure and its polished concrete floor were built on top of the appeal site's existing covered yard. Instead of falling on a concrete yard precipitation now falls upon the subject structure's external covering but still drains to existing pipes. They provide that neither the subject structure nor its use has had or will continue to

have any negative impact upon the appeal site's predevelopment surface water attenuation levels. Also, that it will not exacerbate the surrounding area's susceptibility to an extreme 1: 200 year coastal flooding event. It is noted that the structure is temporary in nature, has no foundations nor is it connected to foul or water mains, electrical grid etc. Therefore, they provide that it is not a structure than requires or necessitates ...*a suitable finished floor level or adequate freeboard*. As such if it were to flood in a 1: 200 year event it would pose no direct or residual risk to the surrounding built up area.

- 7.5.4. They include that ODM Surveyors & Engineers remain of the considered opinion that given the above mitigating factors and circumstances an FRA is unnecessary in this case and they do not support the Council's third reason for refusal. Having regard to these issues, and the nature and usage of the structure for retention I would not consider that a Flood Risk Assessment would be necessary in this case.

7.6. Temporary Permissions

- 7.6.1. The First Party provides that given the subject structure is temporary in nature and the extent of permission being sought is only for 5 years a grant of permission would not set any irrevocable precedent that would materially compromise the principle of ensuring the proper planning and sustainable development of the area.
- 7.6.2. In relation to Temporary Permissions regard is had to Section 7.5 of the Development Management Guidelines 2007. These provide that in deciding whether a temporary permission, which can apply to a particular structure or use is appropriate, three main factors should be taken into account. The first provides that such will rarely be justified where an applicant wishes to carry out development of a permanent nature that conforms with the provisions of the development plan. In this case the proposed retention does not conform with the land use zoning.
- 7.6.3. The second provision is that it is undesirable to impose a condition involving the removal or demolition of a structure that is clearly intended to be permanent. In this case it has not been demonstrated as to what will happen when the temporary period is up. For example, are there any plans to extend the existing BK Forklifts to accommodate the storage facilities provided by the structure for retention. Also, a Business Plan has not been submitted.

7.6.4. Thirdly it is provided, that material considerations to which regard must be had in dealing with applications are not limited or made different by a decision to make the permission a temporary one i.e. *Thus, the reason for a temporary permission can never be that a time limit is necessary because of the adverse effect of the development on the amenities of the area. If the amenities will certainly be affected by the development they can only be safeguarded by ensuring that it does not take place.* In this case the development has taken place in that this is an application for retention.

7.6.5. In view of the RES 1 Residential zoning of the site, where such development is 'not permitted', the demonstrated need for additional storage space by BK Forklifts and the lack of consideration as to how to accommodate such usage/storage in the future, I would be concerned that the retention of this proposal would set an undesirable precedent. I would not consider that the granting of a temporary permission is desirable or in the interests of the proper planning and sustainable development of the area in this case.

7.7. **Screening for Appropriate Assessment**

7.7.1. Having regard to nature and scale of the proposed development to provide one additional house in a fully serviced and zoned residential area and the nature of the receiving environment and the distance and lack of connections to the nearest European sites: Dundalk Bay SPA (site code: 004026) and SAC (site code: 000455), 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.

8.0 **Recommendation**

8.1. I recommend that temporary retention permission for the development be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the nature, scale and usage of the structure, the locational context of the site within the RES 1, residential zoning in the Dundalk and Environs Development Plan 2009-2015 (as extended) where such uses, as provided on Table 2.4 of the Plan are 'not permitted', it is considered that the proposed retention development, albeit on a temporary basis would not be justifiable and would be contrary to the land use zoning objective and would set an undesirable precedent in terms of consistency in development control. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

28th of June 2019