



An  
Bord  
Pleanála

## Inspector's Report

**ABP-304241-19**

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<b>Development</b>	Demolition of residential structure and construction of 6 dwellings.
<b>Location</b>	The Stable's, Hoey's Lane , Dundalk, Co Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	19/60
<b>Applicant(s)</b>	Pat McArdle
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Pat McArdle
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> of July 2019
<b>Inspector</b>	Angela Brereton

## 1.0 Site Location and Description

- 1.1. The subject site is located to the south of Dundalk town centre, on the north side of Hoey's Lane, which connects the Dublin Road to the inner relief road. To the south of the site is College Manor, housing development and further south is O'Fiach College and DkIT. To the north of the site is Muirhevna Park, sports centre and playing fields. To the west is a two storey detached dwelling house and another dwelling further west, with commercial yard (which the Planner's Report understands to be unauthorised) and to the west of that is pedestrian entrance to parkland.
- 1.2. There are currently old agricultural/stable buildings on the site that run perpendicular from the road. The Planner's Report notes that these were permitted as a dwelling house and later converted to multiple occupancy. These buildings extend to 253sq.m and the overall site area is 0.191ha. These are vacant in poor repair and the site is very overgrown. There are trees along the northern and eastern site boundaries and a hedgerow along the roadside boundary. This forms part of a continuous hedgerow along this section of road frontage. There are three entrance gates from Hoey's Lane to the site.
- 1.3. There is no footpath along the site frontage. The footpath extends to the frontage of the adjoining property, the two storey detached house to the west. There is a footpath and cycle lane on the opposite side of the road, in front of College Manor housing estate. There are traffic lights further to the east of the site on Hoey's Lane.

## 2.0 Proposed Development

- 2.1. This is to consist of the following:
  - The demolition of existing residential structure;
  - The construction of 6no. 2 storey dwellings in 3no. semi-detached pairs;
  - The upgrade of existing vehicular entrance for use as main vehicular access;
  - Car parking spaces, Landscaping and all associated site works.
- 2.2. A Planning Statement by EHP Services has been submitted in support of the application. Infrastructure Design Details have also been submitted.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 23<sup>rd</sup> of March 2019, Louth County Council refused permission for the proposed development for the following reason:

“The subject development is located within lands zoned *Recreation, Amenity & Open Space*, where it is the objective of the Plan *To provide for the provision of public parks, open spaces, amenity and recreational facilities*. Section 2.4 of the Plan sets out a land use zoning matrix which expressly precludes all residential uses on ‘Recreation, Amenity and Open Space’ zoned lands. The proposed development comprises the provision of 6no. dwelling houses, in the form of three pairs of semi-detached dwelling houses. The site area is 0.191ha/1910sq.m. Notwithstanding the former non-conforming residential use on a small portion of the site overall, located to the west, the development as proposed would materially contravene the zoning objective for the area as set out in the Dundalk and Environs Development Plan 2009-2015 (as extended). Accordingly, to permit the proposed development would be contrary to the proper planning and sustainable development of the area”.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner has regard to the locational context of the site, planning history and policy and to the reports submitted. They note that no submissions/observations were made. Their Assessment included the following:

- Notwithstanding the non-conforming use on part of the site, the increase in residential use to provide 6no. dwellings on the entire site is not an insignificant development and would materially contravene the zoning objective which is for Recreation, Amenity and Open Space.

- The PA are precluded from considering the proposal in the absence of a material contravention procedure or a change to the underlying zoning objective for the area.
- The Core Strategy does not relate to the land use zoning of the subject site.
- The premises are currently unoccupied and in a poor state of repair.
- The only precedent that can be given relates to the last authorised use of the site.
- The proposal is unacceptable in principle due to the zoning objective of the area.
- It is not considered that the proposal will have any impact on the Natura 2000 network.
- They do not consider that the proposal will have likely significant effects on the environment.
- They considered it unreasonable to request Further Information when the development is unacceptable in principle and recommend that the proposal be refused.

### 3.3. Other Technical Reports

#### Infrastructural Section

They recommended that Further Information be sought to include detailed drawings relative to the road layout, to include turning bays, the proposed frontage to the site, entrance, crossing points, sightlines, footpath widths, cycle lanes, advance warning signs etc all to comply with current standards.

### 4.0 Planning History

The Planner's Report details the history of the site as follows:

- Reg.Ref.98/520115 – Permission refused (10/07/1998) for the retention of 6no. student accommodation units (Applicant Pat McArdle).

- Reg.Ref.95/520280 – Permission was granted (05/03/1999) for conversion of existing stables to dwelling house (Pat McArdle).

## 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).
- 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 currently 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 extended) as this provides the most recent zoning framework for the area.

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

#### *Land Use Zoning*

Table 2.3 provides the Land Use Zoning Objectives.

The land is located within the Recreation, Amenity and Open Space (RAO) zoning where the objective seeks: *To provide for the provision of public parks, open spaces, amenity and recreational facilities.*

The land on the opposite site of the road is located in RES 1 (serviced) zoning where the objective seeks: *To protect and improve existing residential amenities and to provide for suitable infill and new residential developments.*

Section 2.5 refers to the Zoning Matrix - Table 2.4 refers to Zoning Uses. It is noted that Residential is *not permitted* within the RAO land use zoning.

#### *Recreation and Amenity and Open Space*

Chapter 7 refers to Recreation and Amenity. As shown on the Land Use Zoning Map the subject site is zoned 'Recreation, Amenity and Open Space'.

Policy SO7 seeks to: *Protect and enhance existing recreation and amenity facilities within the town and to secure the provision of additional facilities subject to demand and availability of resources.*

Policy RA1 seeks to: *Secure the provisions of public parks, open spaces and recreational facilities which are well designed, suitably proportioned and accessible to all sections of the community.*

#### *Housing*

Chapter 6 refers to Housing and Community Facilities - Design and Layout

Section 6.2.1 (Table 6.1 and Table 6.1 refer) provides the Residential Zoning Objectives. Policy HC 1 seeks to: *Ensure that all applicable development complies with the requirements of the Louth Housing Strategy.*

HC2 seeks to: *Secure the provision of residential sites for social and affordable housing development except within the areas delineated on map 6.1.*

Section 6.6.6 notes the need to adhere to Building lines, and that particularly established ones, relative to infill development sites should be *respected*.

Section 6.6.7 refers specifically to Infill/Backland development i.e: Infill development is small scale development located in gaps between existing buildings. This includes: *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.*

Reference is also made to such issues as Density, Access, Materials, Open Space provision and car parking.

Section 6.7.5 refers to Privacy and Spacing between Buildings i.e. *A distance of at least 22 metres is recommended between the windows of habitable rooms which face those of another dwelling. In the case of windows of non-habitable rooms within 22 metres of another facing window, obscure glazing may be acceptable.*

Policy HC 22 refers to Internal Space requirements and requires that they comply with those set out in Appendix 4.

Section 6.7.13 refers to Boundary Walls.

#### Variation No. 1 Dundalk & Environs Development Plan 2009-2015 - Core Strategy

This was Adopted on the 29<sup>th</sup> of August 2011 and includes regard to the Core Strategy. Section 1.2 provides that: *This strategy, based on an evaluation of the development areas, prioritises brownfield and infill development throughout the plan area and specifically highlights the Town Centre and part of the Muirhevnamor development areas as critical to enhance and sustain the performance of Dundalk as a Gateway town.*

Map 2.1 shows the 6no. Development Areas used in the Core Strategy Evaluation.

Map 2.2 shows the Muirhevnamor Development Area – the site is within Muirhevnamor A.

Table 2.1 shows that these lands get a ranking of 2 (i.e below the Town Centre) as a development area.

As shown on the Core Strategy Phasing Map B the site is located within the Muirhevnamor area in the ‘Open Space’ area.

Section 2.5 refers to the suitability of brownfield lands and infill sites for development. Policy CS1 seeks: *To promote sustainable development on*

*brownfield/infill sites by excluding such sites from the requirement to comply with the phasing strategy throughout the Plan Area.*

Section 2.8 provides the Phasing Strategy and prioritises the Consolidation of the Urban Core and lands in the Town Centre and Muirhevnamor A. This includes: *By prioritising brownfield and infill lands and phasing residentially zoned lands, consolidation of the existing urban form of Dundalk will be achieved and, forward beyond 2016, the sequential release of lands from Phase 1 and onto Phase 2 can then be utilised appropriately. It was considered that a change of zoning was unwarranted for the Dundalk and Environs Plan Area as there is currently a sufficient mix of zoned lands within the plan area.*

This also notes that the phasing strategy set out is linked to the Core Strategy Phasing Map B.

#### **5.4. Natural Heritage Designations**

The site is located c.1.4km from Dundalk Bay SPA and SAC.

#### **5.5. EIA Screening**

Having regard to the limited nature and scale of the proposed development 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 on behalf of the Appellant. They provide details relative to the locational context of the site and their grounds of appeal include the following:

#### *Planning Policy*

- They have regard to precedent and consider that the proposed development does not materially contravene the zoning objective, is appropriate to the site and will provide a positive contribution to housing stock.
- They note the previous residential use on the site and include photographs showing the former now derelict dwelling.
- They consider that this is a brownfield site as set out in the National Planning Framework and relevant Guidelines.
- The proposed development scheme was designed and developed in compliance with all pertinent guidance and requirements set out in national and local planning policy.
- They note that the Core Strategy places the appeal site within the Muirhevna Mor A Development Area which is the second most suitable location for residential development (next to the Town Centre).
- They are satisfied that the proposed development is in compliance with the Core Strategy.
- They consider that the proposal complies with policies and objectives in the Dundalk & Environs DP 2009-2015 (as extended), including the Louth Housing Strategy.

#### *Design and Layout*

- For a development of such a small scale on a spatially restricted site it is not practical or economically justifiable to diversify the proposed house type to make provision for a mix of house types or bedroom numbers.

- The proposal will provide a flexibility and adaptability of house form and layout capable of accommodating various family sizes and occupants with mobility issues.
- The proposal complies with policies and guidelines relative to design and layout and provision of public/private open space.
- Details are provided of the design and layout and it is noted that the building line of the dwelling to the west will be followed.
- The proposed development will be in character with residential in the area.
- The proposed development would be located in proximity to numerous amenities and services and they provide a listing of these.

#### *Impact on Residential Amenities*

- It is not anticipated that the proposed development will give rise to any impact upon neighbouring dwellings.
- They provide details of boundary treatments and note that the proposed design, orientation and massing will not be overbearing, or cause overshadowing or overlooking to existing dwellings.
- The development is considered to be compliant with the relevant policies in the Development Plan.

#### *Material Contravention*

- The Council's decision to refuse relative to the site's zoning is a very narrow and stringent interpretation and takes primacy over all other material considerations and is contrary to good planning.
- The appeal site has never been accessible to the public and has always remained in private ownership.
- They consider the zoning as RAO can only be contributed to a mapping error, as the zoning does not conform to the residential usage on the site or of the area.
- The Council's insistence that the site's zoning takes primacy over all other material considerations is contrary to good planning.

- The proposal represents a sustainable intensification of the long established residential use of the appeal site and will not set an undesirable precedent or fragmentation of the remaining RAO zoning.
- The proposed development irrespective of the RAO zoning represents an entirely appropriate and suitable form of development for the appeal site and the predominant residential nature and use of the area along Hoey's Lane.

#### *Access and Traffic*

- The application proposes to create a new footpath and cycle lane where there is presently none.
- The existing southern boundary planting and gated entrance will be removed to provide a more open frontage and the vehicular access to the development.
- Appendix 4 includes a detailed drawing which satisfies all the necessary information in response to the Further Information requested by the Council's Infrastructure Section.
- The proposal has been designed in accordance with DMURS and will not generate excessive volumes of traffic.

#### *Conclusion*

- The application is in keeping with the site's established residential use and will not materially contravene the RAO zoning objective or set an undesirable precedent.
- The proposed development represents the most appropriate and efficient use of the derelict building and land and will make a small but important contribution to Dundalk's housing stock.
- It will not result in an undesirable precedent or detrimentally affect the integrity and continued viability of the existing RAO zoning.
- They consider that there are more than sufficient and robust reasons to favourably consider this application and grant permission.

## **6.2. Planning Authority Response**

Louth County Council's response includes the following:

- They wish to restate the comments in the Planner's Report at decision stage.
- The Planning Authority considers the proposed development represents a material contravention of the zoning objective for the area, which expressly precludes residential development.
- They note the provisions of Section 37 (2)(b) of the Planning and Development Act 2000 (as amended) in this regard.
- They consider that they are clearly precluded from granting the subject development which clearly contravenes the Dundalk & Environs DP 2009-2015 (as extended).
- They consider that to permit a residential scheme such as proposed on lands zoned Recreation, Amenity and Open Space would set a highly undesirable precedent which would itself and cumulatively be contrary to the proper planning and sustainable development of the area.

## 7.0 Assessment

### 7.1. Principle of Development and Planning Policy

- 7.1.1. The lands are shown zoned as 'Recreation, Amenity and Open Space' in the Dundalk and Environs Development Plan 2009-2015 (as extended). It is noted that the zoning matrix does not permit Residential use in this land use zoning. Regard is also had to Variation 1 of the Plan which incorporates the Core Strategy. As shown on the Core Strategy Phasing Map B the site is within the 'Open Space Area' and so is not included within the phasing of lands for residential development.
- 7.1.2. As shown on Map 2.2 the site is within Muirhevnamor A Development Area, which ranks second to the Town Centre as a Development Area. The First Party considers that in view of the previous and long standing residential use on this site, that it can now be considered as a brownfield/infill site suitable for residential development. However as noted in Section 2.8 of Variation 1 relative to the Phasing Strategy: *It was considered that a change of zoning was unwarranted for the Dundalk and Environs Plan Area as there is currently a sufficient mix of zoned lands within the*

*plan area*. Therefore, the subject lands remain zoned for Recreation, Amenity and Open Space, where residential is not permitted.

- 7.1.3. Regard is had to the 'National Planning Framework Plan 2040' which seeks to increase housing supply and to encourage compact urban growth, supported by jobs, houses, services and amenities rather than continued sprawl and unplanned, uneconomic growth. This supports consolidation, the regeneration of brownfield sites and infill development. 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.*
- 7.1.4. The 'Sustainable Residential Development in Urban Areas Guidelines' 2009 includes in Section 5.7(b) regard to: 'Brownfield' lands, which may be defined as "*any land which has been subjected to building, engineering or other operations, excluding temporary uses or urban green spaces*". Also, of note is Section 5.9 of the Guidelines, which provides: *In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.*
- 7.1.5. The First Party considers that the proposed development is entirely appropriate to the site and compatible with its previous residential use. They note the former residential use of The Stables site and consider that this proposal to facilitate 6no. housing units on the site will rehabilitate a derelict and vacant site and will make a positive contribution to the local housing stock and ongoing national housing crises. They consider that it is in compliance with the Core Strategy, relative to consolidation, regeneration of a brownfield site and appropriate infill development.
- 7.1.6. However, it is noted that neither the National Planning Framework nor the Guidelines refer to housing being permissible on land zoned for Recreation, Amenity and Open Space. Having regard to the land use zoning and as noted in the Zoning Matrix (Table 2.4 of the Dundalk and Environs DP) where residential is not permitted, there is concern that as noted in the Council's reason for refusal that the principle of the proposed development would not be acceptable and would therefore be in material

contravention of the Development Plan. Regard is had to these issues and to the proper planning and sustainable development of the area in this Assessment below.

## 7.2. Material Contravention

7.2.1. In this case, because of the particular wording used by the Planning Authority in its reason for refusal, Section 37 (2) (b) of the 2000 Planning and Development Act (as amended) applies. This states:-

“(2)(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that:

- (i) the proposed development is of strategic or national importance
- (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.”

7.2.2. In the light of this legal requirement, the first issue to be decided by the Board is whether it considers that the development comes within any of the four exceptions provided for in this Section, as outlined above. I propose to deal with each of the four exceptions listed in Section 37 (2)(b), in turn, to see whether they apply in the present case. If any do apply, so as to permit the Board to grant a permission, then the question to be determined is whether such a favourable decision should, in the circumstances of the present case, be made.

7.2.3. The proposed development is not of *strategic or national importance*. The objectives in the Development plan are not conflicting and are clearly stated related to the

Recreation, Amenity and Open Space zoning objective and the Zoning Matrix, which provides in Table 2.4 *Zoning Uses* that residential is not permitted.

- 7.2.4. It is considered that the development i.e to provide additional housing in view of the shortage of housing stock, is specifically supported by guidelines under section 28 or 29 of the Act. However, the current guidelines do not include that it is permissible to locate a housing scheme on land that is zoned for Recreation, Amenity and Open Space.
- 7.2.5. The Applicant considers that permission should have been granted having regard to the pattern of development in the area. It is noted that the derelict stables building currently on site, was formerly used as a dwelling. Also, there are some single dwellings within the RAO land use zoning on this side of the road. However, this proposal is for a scheme of 6no. dwellings which would be an intensification of the use of the site, which is now very overgrown and appears relatively undeveloped. It is noted that the land on the opposite side of the road is zoned residential and includes College Manor residential development.
- 7.2.6. Having regard to the above I would consider that the proposed development would be in material contravention of the RAO land use zoning which precludes residential development. It would therefore be in material contravention of the zoning objective in the Dundalk & Environs Development Plan 2009-2015 (as extended).
- 7.2.7. Regard is had to Section 5.12 of the Development Management Guidelines 2007. It is noted that Section 34(6) of the Planning Act sets out the procedure under which a planning authority may decide to grant permission for a development which would materially contravene its development plan. Section 34(8)(d) provides for an extension of time in such cases. It is noted that no such procedures have been carried out relative to the subject application.

### 7.3. **Design and Layout**

- 7.3.1. The existing stables, former dwelling (253sq.m) is vacant and in poor condition and is not a protected structure. I would have no objection to its demolition. It is laid out perpendicular to the road and takes up only a narrow strip of the site. The area of the subject site is 0.191sq.m.

- 7.3.2. The Site Layout Plan shows that it is proposed to have 6no. dwelling units, in the form of 3no. semi-detached pairs. These are to be set back from the road, in line with the existing dwelling to the west. There are no dwellings to the east or north of the site (public park). There are trees/shrubs along these boundaries and if the Board decides to permit it is recommended that it be conditioned that these be retained.
- 7.3.3. This is a restricted site area and the proposed density of 6 units on this site would be c.32 units per hectare, which is less than the 35-50 range recommended for Outer Suburban/'Greenfield Sites in urban areas in Section 5.11 of the Guidelines for *Sustainable Residential Development in Urban Areas 2009*. However, this would not relate to land which is zoned for RAO, but to land zoned for residential development.
- 7.3.4. They are shown as 3 bedroomed with pitched roofs c.9.6m in height. As shown on the Floor Plans, the floor area of each of the units proposed is 101.3sq.m. Regard is had to Policy HC22 and Appendix 4 of the Dundalk & Environs DP which provides Internal Room Standards for dwellinghouses having regard to the *Quality Housing for Sustainable Communities, Best Practice, Guidelines for Delivering Homes, Sustaining Communities, DoEHLG, 2007*. The proposed dwellings comply with these standards. In view of the small scale nature of the scheme it is not envisaged to provide a variety in house type.
- 7.3.5. The Planning Statement submitted provides that the new dwellings are to be finished in painted render, blue/black roof tiles, uPVC rainwater goods and windows which are similar to and in keeping with the diversity of external materials and finishes of proximate residential estates. These houses are to be constructed to achieve the highest BRE energy rating.
- 7.3.6. Table 6.4 of the DP provides the Private Amenity Space Standards, which is 80sq.m for a 3 plus bedroom (greenfield/suburban) house and 50sq.m for a Town Centre/Brownfield site. As shown on the Site Layout Plan these vary from 69 to 93sq.m. On site parking is to be provided in the site curtilage.
- 7.3.7. The existing northern and eastern site boundaries panel fencing and planting are to be retained. A new 2.1m high block wall fencing and planting is proposed along the site's western boundary separating the development from the residential property to the west. It is proposed to remove that roadside boundary trees/hedge along the



frontage, to provide the vehicular entrance and allow for sightlines. This will remove part of a continuous row of roadside trees to the east. If the Board decides to permit I would recommend that a landscaping condition be included.

- 7.3.8. A narrow area of public open space is proposed along the site frontage. It is provided that the two public open spaces to the front of the application site will be 220sq.m in area which is short of the 267.4sqm or 14% of the 0.191ha site area – Policy HC20 of the Dundalk and Environs DP refers. The First Party note the various facilities and green areas in the vicinity and provide that the extent of proposed public open space is acceptable in the circumstances. In this respect it is noted that the areas of public open space proposed are small (individually less than 200sq.m each, contrary to Policy HC 20) and are not particularly usable in view of their linear nature and proximity to the road. If the Board decides to permit I would recommend a condition to provide for the inclusion of a development contribution in lieu of public open space.

#### **7.4. Access and Parking**

- 7.4.1. The existing accesses are to be removed and a new more centrally located vehicular access is to be provided. The application proposes creating a new roadside footpath along the site frontage (where there is presently none) to link up to the footpath to the west. They are also proposing to provide a cycle lane to contribute to the overall provision in Hoey's Lane. On my site visit I noted that there is a footpath and cycle lane provided on the opposite side of the road.
- 7.4.2. The Council's Infrastructure Section recommended that Further Information be submitted including relative to sight lines, street lighting, the internal road layout, the tie in of the proposed footpath and cycle track with the adjacent footpath to the west and detail of tactile crossing points and footpaths in accordance with current standards.
- 7.4.3. While this was not requested by the Council, in view of their concerns regarding the principle of development and the material contravention issue, the First Party have submitted a response in the context of their grounds of appeal. They refer to their Appendix 4 which includes a drawing in the form of revisions to the Site Layout Plan to address the issues raised by the Infrastructure Section, including relative to

sightlines, access, footpaths, cycleway etc. If the Council decides to permit I would recommend that the amendments shown on this drawing be conditioned.

- 7.4.4. It is of note that Hoey's Lane serves as a transport link between the Inner Relief Road and the Dublin Road and is well serviced by bus routes linking the application site with the town centre. It is provided that this proposal complies with DMURS and will not create excessive volumes of associated traffic that would adversely impact upon the carrying capacity of Hoey's Lane or the safety of other road users. In this respect regard is also had to the traffic lights on Hoey's Lane further to the east of the site.
- 7.4.5. The Site Layout Plan shows that one on-site carparking area is to be provided per dwelling. Table 6.7 of the Dundalk and Environs DP sets out the Residential Car Parking Standards i.e 2 per dwelling unit on Greenfield Sites/Suburban and 1 per unit for Brownfield/Town Centre. It is however, noted that no visitor parking is provided, therefore there would be concern that there would be a deficit of parking spaces for the proposed development on site, in particular having regard to its access to the busy through route of Hoey's Lane.

## 7.5. Drainage

- 7.5.1. The Infrastructure Design Details submitted includes regard to access, disposal of foul wastewater and surface water, attenuation storage and the internal drainage network and flood risk. As noted in the Planning Statement submitted the Office of Public Works (OPW) flood risk map (Fig. 4 refers) indicates that there has been no previously reported single or repetitive incident of flooding within the application site or the immediate environs. The OPW's Catchment Flood Risk Assessment & Management (CFRAM) mapping data (Fig. 5) indicates that the application site is not vulnerable to any potential pluvial, fluvial or coastal flood event.
- 7.5.2. Drawings submitted with the application indicate the proposed watermain layout and details are given of this connecting to the existing watermains along the northern side of Hoey's Lane. The proposed development is also to connect to the combined sewer pipe located on the south side of Hoey's Lane. Regard is also had to surface water drainage and to the incorporation of SuDS and to the provision of an attenuation storage area on site. It is provided in the Planning Statement submitted

that the existing public infrastructural system has ample surplus capacity to accommodate the water usage requirements and hydrological and organic loading associated with the proposal's increased population equivalent (P.E) without posing a risk to public health. Also, that a pre-connection application has been lodged with Irish Water. It is noted that neither the Council's Water Services Section or Irish Water have commented on this application. Having regard to the details submitted and provided current standards are adhered to it is not considered that drainage is a significant issue.

## **7.6. Screening for Appropriate Assessment**

- 7.6.1. The Planning Statement submitted provides a section on Environment. Dundalk Bay is a designated SAC (site code: 004026) and SPA (site code: 000455), that is approx. 1.4km from the site. This notes that there are no direct or indirect conduits or pathways linking the site to Dundalk Bay. Given the urban environment and fully serviced nature of the area, it is not considered that the proposal would negatively impact upon the integrity of the Natura 2000 site network, its qualifying interests or hinder in the implementation of the designated sites' conservation objectives.
- 7.6.2. Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European Site, 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 and projects on a European Site.

## **8.0 Recommendation**

- 8.1. I recommend that permission be refused for the reasons and considerations below.

## **9.0 Reasons and Considerations**

1. The site is located in an area zoned objective *Residential, Amenity and Open Space* in the current development plan for the area. The Board considers that notwithstanding the existing non-conforming use for one former dwelling on the subject site, the proposed development for a residential development of 6no. units on this site would represent an intensification and would materially

contravene the zoning objective, as set out in Table 2.3 of this plan and Section 2.5 and Table 2.4 of the Dundalk and Environs Development Plan 2009-2015 (as extended) which set out the Zoning Matrix, and note residential is *not permitted* within this land use zoning. The Board pursuant to the provisions of section 37 (2)(b) of the Planning and Development Act, 2000, is precluded from the granting of planning permission for the proposed development as none of the provisions of section 37 (2)(b ) (i), (ii), (iii) or (iv) of the said Act apply in this case. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Angela Brereton  
Planning Inspector

30<sup>th</sup> of July 2019