



An
Bord
Pleanála

Inspector's Report

ABP-305136-19

Development	Permission to vary permitted development PA Ref. 16/111. The development will consist of and is limited to alterations to external elevations of houses and duplex / apartment buildings, alterations to internal layouts of certain dwellings and part reconfiguration of the permitted car parking layout serving dwellings
Location	Site at Rampart Road, Dundalk, Co. Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	19/121
Applicant(s)	Urban life Developments Ltd
Type of Application	Permission
Planning Authority Decision	Grant permission (7 no. conditions)
Type of Appeal	Third Party
Appellant(s)	Niall McCourt
Date of Site Inspection	05/11/2011
Inspector	Conor McGrath

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1.0 Site Location and Description

- 1.1. The appeal site comprises a stated area of 1.707ha located in a central position in Dundalk, on Rampart Road. Marshes Shopping centre lies immediately east of the site and an associated surface car park and service yard bound the site to the south. The site to the west is identified in the application as a former telecoms site, which accommodates a three-storey building and large free-standing antennae structure toward the rear. There is a range of commercial uses along Rampart Road to the north. The site is level and has been cleared with the exception of a former two-storey dwelling in the north western corner.

2.0 Proposed Development

- 2.1. The proposed development comprises amendments to a previously permitted commercial and residential development on the site. That scheme comprised two commercial blocks fronting Rampart Road, with a central entry providing access to 65 no. dwellings to the rear, in a mix of terraced, detached, semi-detached and duplex units.
- 2.2. The proposed amendments relate to the residential component of the permitted development, comprising revised dwelling designs with no change to the overall number of units proposed on the site. The stated rationale for the application is to meet the internal layout requirements of an approved housing body who are purchasing the site for social housing. There is no change proposed to the permitted retail / office buildings to the front of the site.
- 2.3. Other amendments to the proposed development include a reduction in the number and layout of parking spaces on the site. The design of the surface water drainage network is also amended and involves the provision of attenuation storage systems and swale infrastructure.

3.0 Planning Authority Decision

3.1. Decision

In considering the application, the planning authority sought further information in respect of the proposed amendments. The planning authority subsequently decided to grant permission for the proposed development subject to 7 no. conditions, including the following:

- 1(b) All relevant conditions as attached to permitted development granted under planning ref. 16/111 shall be complied with.
- 2(b) The permission shall expire on 28/08/2021.
6. Redesign of the surface water network to facilitate direct discharge to the Rampart River as per the previously approved drainage layout (06/111).

3.2. Planning Authority Reports

3.2.1. Planning Reports:

3.2.2. SEP: The principle of development is considered acceptable. The original scheme was well-considered in the context of the Sustainable Urban Housing guidelines. The scheme will significantly alter the heights within that scheme such that only duplex blocks will be three-storeys in height. There is no potential to convert attic spaces in two-storey dwellings. This reduction in heights is retrograde and contrary to the NPF and Building Height Guidelines. The site could deliver higher densities and the permitted scheme could be deemed to be underdevelopment of this key brownfield site. The form of roof structure will reduce future adaptability of the houses. Revised parking layout reduces the quality and character of the landscaping and site layout. The Senior Executive Planner recommended refusal but the Senior Planner subsequently recommended that further information be sought.

3.2.3. Subsequent planning reports noted that the overriding need is to deliver dwelling units as per Rebuilding Ireland. The amendments increase the density of bed spaces from 314 - 316, and to 334 no. if attic spaces are converted. While heights

have been reduced somewhat at variance with policy guidelines, the amendments at further information stage are welcome. The changes to a permitted development can be justified. Permission recommended.

3.2.4. **Other Technical Reports**

- Infrastructure: No objection subject to conditions. Conditions included revisions to the surface water management proposals

3.3. **Prescribed Bodies**

- Irish Water: No objection subject to conditions.

3.4. **Third Party Observations**

One observation was received by the planning authority from the third-party appellant on this case, Niall McCourt, which raised the following issues:

- There are no speed controls on Rampart Road and sightlines at the entrance are deficient.
- Adjoining commercial and school uses generate significant traffic on this road and no traffic impact assessment has been undertaken.
- Existing pedestrian crossing facilities at this location are inadequate.
- There is an existing yellow box opposite the site.
- Linkage to further development on adjoining lands to the east is not sustainable.
- Inadequate parking provision.
- Open space provision is deficient.
- There is a history of flooding in the wider area.

4.0 **Planning History**

PA ref. 16/111: Permission granted for a mixed-use development on the site comprising 65 no. dwellings, 2 no. 3-storey retail / office buildings to the front of the site and associated works including 123 no. parking spaces. Permitted dwellings

comprised 37 no. 2 / 2.5-storey terraced and semi-detached houses and 28 Duplex units.

Permission was granted subject to 17 no. mainly standard conditions.

5.0 Policy Context

5.1. Local and National Policy

5.1.1. Dundalk & Environs Development Plan 2009-2015

This remains the operative plan for the area. The appeal site and adjoining lands are zoned Town Centre Retail. Residential use is permissible in principle within such zone.

Consolidation of the urban core is a priority in the phased development of the town. Town centre lands are ranked highest for residential development in the development plan as varied.

Policy CS1 promotes sustainable development on brownfield/ infill sites by excluding such sites from the requirement to comply with the residential phasing strategy throughout the Plan Area.

Within the town centre area, the residential parking requirement is one space per dwelling unit, while office and retail uses require parking at one space per 50-sq.m.

Chapter 4: Town Centre, identifies the site as being located within The Marshes Character area, wherein objectives include:

- Transform the Ramparts into an attractive urban avenue or boulevard
- Ensure the Ramparts comprises a mix of quality designed, fine grained, active frontage blocks constructed along a new recessed building line
- Encourage mixed use development along the Ramparts with active uses located on the ground floor
- Facilitate, in the long term, a transformation of the Marshes area into a mixed use area containing medium to high density development.

5.1.2. **Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities (2009)**

The guidelines encourage higher densities on residential zoned lands, particularly on inner suburban and infill sites and along public transport corridors, identifying minimum densities of 50 / ha in such corridors, subject to appropriate design and amenity standards.

In the case of large infill sites or brown field sites public open space should be provided at a minimum rate of 10% of the total site area. Section 4.21 encourages a more flexible approach to open space standards with greater emphasis on quality. Close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered.

5.1.3. **Sustainable Urban Housing: Design Standards for new Apartments Guidelines for Planning Authorities (March 2018)**

Specific Planning Policy Requirement 3 sets Minimum Apartment Floor Areas. The majority of all apartments in any proposed scheme shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3-bedroom unit types, by a minimum of 10%.

Specific Planning Policy Requirement 4 refers to the provision of dual aspect apartments. The importance of well-designed communal amenity space is noted. Appendix 1 identifies minimum standards for apartment design as well as both communal and private amenity space.

5.2. **Natural Heritage Designations**

The appeal site is not subject to any natural heritage designations. Dundalk Bay SPA (004026) & SAC (000455) lie approx. 1km north and northeast of the appeal site.

5.3. **EIA Screening**

The development comprises amendments to a previously permitted retail, office and residential development on a site of 1.707 ha, including 65 no. dwelling units. The

development falls below the thresholds set out in Schedule 5, Development for the purposes of part 10, Part 2 10 (b)

- (i) Construction of more than 500 dwelling units
- (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity and the absence of direct connection 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

Niall McCourt makes the following points in his appeal against the decision to grant permission:

- No regard was had to his original submission on the planning application (copy appended to the appeal).
- The submission was not available on the E-Plan system.
- There have been illegal early morning development works on the site.

6.2. Applicant Response

The applicants make the following comments on the third-party appeal:

- The appeal should be dismissed as vexatious, frivolous and without foundation.
- This is a variation to a permitted development and not a de novo application. Issues of design, access, infrastructure and services were previously agreed.
- No objections to the original application were received. The appellant's address is remote from the site and will not be impacted.

- The proposal is required to deliver housing in accordance with Rebuilding Ireland.
- The proposal accords with national, regional and local planning policy and there has been no material changes in this regard since the original permission.
- The density of the scheme is the highest currently permitted in Dundalk.
- Two new post-primary schools have been completed within walking distance of the site.
- No changes to the entrance arrangements are proposed in this application.
- The site is located within the 50kph zone in the town centre and traffic speeds are not excessive.
- Adequate sightlines are demonstrated for this location, which is the same as the permitted development.
- The existing signal-controlled pedestrian crossing 50m north-west of the site can adequately cater for the development.
- No change to the existing yellow box junction is proposed.
- There will be no conflict with adjoining commercial access / egress points.
- The proposal contains no additional units and remains below the threshold for traffic impact assessment.
- Connectivity to adjoining lands is provided for in accordance with DMURS and at the request of the planning authority.
- This is a town centre site and the proposal provides 22 no. commercial parking spaces and 74 no. residential spaces, which is adequate for this location.
- CFRAMS flood mapping clearly shows that there is no flood risk on the site.
- There is no change in the level of public open space provision. Adequate provision on the residential portion of the site is provided while two high quality areas of public realm will be provided on Rampart Road.
- The scheme accords with the objectives of the Dundalk Urban Design Framework Plan and the objectives of the Marshes Character Area relating to Rampart Road.
- Parking provision meets the development plan requirements. There are also three public car parks in the vicinity of the site providing 1300 no. spaces.

6.3. **Planning Authority Response**

The planning authority make the following comments on the appeal:

- The appellants submission was noted on the planning file.
- The infrastructure section of the planning authority recommended a conditional grant of permission.

7.0 **Assessment**

7.1. It is proposed to consider the appeal under the following broad headings:

- Principle of Development
- Residential Amenity
- Traffic and Parking
- Surface Water Drainage

7.2. **Principle of Development**

7.2.1. The proposed development comprises amendments to a permitted mixed-use scheme on this town centre site, which amendments relate primarily to the design of the permitted dwelling units and amendments to the site layout and parking provision. Residential use is permissible at this location and I note that the overall intensity of development on the site will not be altered by the proposed amendments. The permitted and proposed developments provide for a density of approx. 45 units / ha when taking the residential portion of the overall site into account. This is lower than that which might otherwise be considered acceptable or appropriate for such a town centre location. Having regard to the nature of the proposed development and the permitted development on the site, however, this can be regarded as acceptable in this instance.

7.3. **Residential Amenity**

- 7.3.1. The revised dwelling units generally accord with the floor area and residential standards contained in the development plan and relevant planning guidelines, and adequate standards of residential amenity are maintained having regard to the central location of this site. I regard the permitted elevation design as superior to that proposed in the current application, however, I would not regard the proposed development as unacceptable in principle. There will be no streetscape impacts arising from the proposed development on Rampart Road.
- 7.3.2. A stated area of 1,677-sq.m. of public open space is proposed on the western site boundary in accordance with the permitted development on the site. In respect of the residential portion of the site, this complies with the guideline standards and a greater level of provision might not be considered appropriate on a such a centrally located site. I do not consider that the areas to the front of the commercial blocks can be regarded as public open space for the purposes of this residential development.
- 7.3.3. I would query the stated area of the semi-private space to the rear of permitted Blocks 2 & 10. With regard to Block 2, for example, the identified area of 272-sq.m. would appear to be more accurately measured as approx. 205-sq.m. There is no material change to these spaces in the proposed development and notwithstanding this issue I note that the relevant standards for these dwelling types are still achieved.
- 7.3.4. The revised floorplans extend the footprint of Block no. 1 approx. 6m further north. This has the effect of marginally reducing the area of rear private open space of a number of units. I note also that the provision of the ESB sub-station to the rear of no. 7 would be detrimental to residential amenities of that property. Relocation of the sub-station on the site would be appropriate.

7.4. Traffic and Parking

- 7.4.1. The site is located within the centre of Dundalk and there are no amendments to the permitted access arrangements proposed as part of the application. Traffic volumes on adjoining roads would reflect the inner urban character of the area and I do not consider that the development would give rise to particular concerns with regard to pedestrian or traffic safety. There are adequate pedestrian facilities, including

crossing facilities, in the area. Additional traffic calming or speed controls are not warranted in this instance.

- 7.4.2. Parking provision on the site has been reduced from 123 no. spaces in the permitted development to 96 no. spaces in the proposed development. This level of provision is stated to comprise 22 no. commercial parking spaces and 74 no. residential spaces. I note that total permitted retail and office space is 1,400-sq.m. net, giving rise to a development plan parking requirement for 28 no. spaces. Combined with 65 dwelling units, there would be a development plan requirement for 93 no. spaces on the site.
- 7.4.3. The reduction of 6 no. commercial car parking arises from the extension of block no. 1 to the north. No rationale for the reduction in commercial parking below the permitted levels of provision / development plan standard is provided. While applicants indicate that there is adequate parking in the surrounding area, I note that such is paid parking associated with surrounding uses and no evidence of any arrangements with providers in lieu of on-site provision have been submitted. Any shortfall in on-site commercial parking provision is likely to result in overflow onto adjoining residential roads within the development, with potential to give rise to the creation of a traffic hazard.
- 7.4.4. Parking provision for Block 1 has also been reduced, with only 5 no. proximate parking spaces provided. The revised footprint of houses in Block 1 reduces the available area for head-on parking with a consequent reduced in the level of provision. This Block is located at the entrance to the remainder of the residential estate and combined with reduced commercial parking, likely resulting on-street parking would tend to create traffic congestion and would be prejudicial to public safety by reason of traffic hazard.
- 7.4.5. I consider that the revisions to the design and layout of Block 1 are unsatisfactory, having negative impacts on roads and parking and on residential amenity. The omission of one dwelling unit from this block would facilitate the original permitted commercial parking layout and it is considered that concerns in this regard could be addressed by way of condition. Alternatively, the proposed amendments to Block 1 could be omitted from any grant of permission, reverting to the original permitted development in this area.

7.5. Surface Water Drainage

- 7.5.1. The engineering report accompanying the planning application identifies flaws in the original permitted surface water drainage design and proposes amendments as part of this application. Attenuation storage is now proposed in two locations, based on a 100-year return period, including a 20% allowance for climate change. A petrol interceptor is provided prior to discharge off-site. The report notes that, based on a CFRAM mapping, the site is not at risk of coastal or pluvial flooding, and lies within Flood Zone C.
- 7.5.2. The amended design will achieve an improved level of surface water management over that originally permitted on the site and I regard the proposals as generally satisfactory. While the application provides for discharge to an existing sewer on Rampart Road, I note Condition no. 6 of the planning authority decision and consider that in the event of a decision to grant permission, final design details in this regard should be subject to agreement with the planning authority prior to the commencement of development.

8.0 Appropriate Assessment Screening

- 8.1. The appeal site is not designated as a European site. The closest sites are Dundalk Bay SPA (004026) & SAC (000455) approx. 1km to the north and northeast of the appeal site.
- 8.2. Qualifying interests for these sites are:

Dundalk Bay SAC (000455)	Dundalk Bay SPA (004026)
Estuaries Mudflats and sandflats not covered by seawater at low tide Perennial vegetation of stony banks <i>Salicornia</i> and other annuals colonizing mud and sand Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) Mediterranean salt meadows (<i>Juncetalia</i>)	Greylag Goose Light-bellied Brent Goose Shelduck Teal Mallard Anas Pintail Common Scoter Red-breasted Oystercatcher Ringed Plover Golden Plover Grey Plover

	Lapwing Knot Dunlin Black-tailed Godwit Bar-tailed Godwit Curlew Numenius Redshank Black-headed Gull Common Gull Herring Gull Wetlands & Waterbirds
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- 8.3. The site does not contain any habitats for which these sites are designated, nor does it contain any habitats or features that would serve as an ex-situ site for foraging or roosting for any species of interest. The development will not give rise to any disturbance impacts.
- 8.4. The proposed development comprises amendments to the design of dwellings previously permitted on this town centre site under PA ref. 06/111. I note that the application submitted under 06/111 was accompanied by an AA screening report which concluded that the development was not likely to have a significant negative effect on Natura Sites. There is no increase in the number of dwelling units proposed in the amended development. The development will connect to mains wastewater services. Surface water is conditioned to discharge to the Rampart River in line with the permitted development on the site.
- 8.5. The Rampart River flows northeast through open channel and culverted sections and discharges to the inner Bay area. Having regard to the extremely small portion of the overall bay catchment contributed by the subject site, it is not considered that this is likely to have any significant impact on the conservation objectives of the qualifying interests of the European sites.
- 8.6. Having regard to the nature of the proposed development, it is reasonable to conclude on the basis of the information on the file, which is adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 004026, 000405, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

9.0 Recommendation

9.1. That permission be granted for the proposed development.

10.0 Reasons and Considerations

Having regard to the provisions of the development plan for the area, the nature of the proposed development being amendments to a development permitted on the site under PA reference 06/111, it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of residential amenity, would not give rise to the creation of a traffic hazard and would be acceptable in terms of public health. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 26 day of June 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(b) One dwelling unit shall be omitted from Block 1 of the proposed development and one parking space for each dwelling shall be provided</p>

	<p>adjacent to the dwelling.</p> <p>(a) Car parking for commercial units to the rear of Block A shall be provided generally in accordance with the plans and particulars granted permission under planning authority reference 06/111.</p> <p>(c) The proposed ESB sub-station shall be relocated from the rear of unit no. 7 in Block no. 1 in order to ensure an adequate standard of residential amenity.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential amenity and in order to avoid overflow parking onto adjoining residential roads.</p>
3.	<p>Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s) granted on 28/08/2016 under, planning register reference number 06/111, and any agreements entered into thereunder.</p> <p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p>

	<p>In particular, details of the final discharge point of attenuated surface water from the development site shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>

Conor McGrath
Planning Inspector

18/11/2019