



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306650-20

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<b>Development</b>	Construction of 5 dwellings, landscaping, modifications to existing boundary wall and connection to public services on a site with a Protected Structure.
<b>Location</b>	Castle Road, Townparks, Dundalk, Co Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	19385
<b>Applicant(s)</b>	Michael O'Neill.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John and Linda Murphy.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	8 <sup>th</sup> May 2020.
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

- 1.1. The 0.088ha appeal site is situated to the east of Dundalk town centre, County Louth. It lies to the west of Castle Road and comprises the rear yard of no. 20 Faughart Terrace, St. Mary's Road, a protected structure (NIAH Reg. No. 13702068). The appellant's property lies to the west of the appeal site and comprises no. 18 Faughart Terrace, St. Mary's Road.
- 1.2. The appeal site is bounded by stone walls along its eastern and western boundaries and by residential properties to the north and south. West of the appeal site are residential gardens of properties facing St. Mary's Terrace and Castle Road.

## 2.0 Proposed Development

- 2.1. The proposed development, as revised by way of significant further information, received on the 26<sup>th</sup> February 2020, comprises the construction of a terrace of **4 no. two storey dwellings** (3-bedroom) to face Castle Road. Each dwelling is finished in red brick, aluminium windows and blue/black slates and will be raised by c.1.5m above the level of the adjoining public road to a FFL of 4.71mAOD (Plans, Elevation and Sections Drawing, FI, no. 5571-19-2.01). A rear garden is provided to the rear of each unit. The existing stone wall along Castle Street will be altered to allow individual pedestrian access to each unit and to the rear of the terrace. Car parking is provided alongside the street. Accompanying the planning application is:

- Architectural Heritage Impact Assessment (December 2019).
- Sustainable Drainage System Design – Surface Water Attenuation.
- Flood Risk Assessment.
- Streetscape Montage.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 22<sup>nd</sup> of January 2020, the planning authority decided to grant permission for the development subject to 9 conditions including the following:

- C8 – Development to be constructed in accordance with the conservation method statement detailed in the Architectural Impact Assessment (submitted on the 19<sup>th</sup> December 2019).
- C9 – Development to be constructed as per drawing no. 5571-19-1.01 Rev A and the recommendations contained in the site specific Flood Risk Assessment. Finished floor levels are to be 4.71m AOD.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- 26<sup>th</sup> June 2019 - The report refers to the residential zoning of the site, relevant local and national policies/policy documents, submissions and observations, internal and external reports. It considers that the development is acceptable in principle (zoning and core strategy of the Dundalk and Environs Development Plan, Variation No. 1) and recommends further information in respect of a number of matters including heritage and design issues, provision of Architectural Heritage Impact Statement, visual impact assessment, compliance with garden size requirements of the development plan, minimum FFL of 4.71m in accordance with the government's guidelines on Flood Risk Management and the predicted Extreme Water Level for the site of 3.71m (1 in 200 year return period) and a Flood Risk Assessment.
- 20<sup>th</sup> January 2020 – Considers that the matters raised have been addressed and recommends granting permission subject to condition.

### 3.2.2. Other Technical Reports

- Infrastructure (25<sup>th</sup> June 2019) – Site is vulnerable to coastal flooding (Extreme Water Level of 3.71m, 1 in 200 year storm event). Recommends fixing floor levels with an appropriate freeboard (1000mm) i.e. at 4.71m AOD and provision of Flood Risk Assessment. Subsequent report (17<sup>th</sup> January 2020), no objections subject to conditions including FFL of development.
- Architectural Conservation (26<sup>th</sup> June 2019) – Concerns with visual impact of development and effect on Protected Structures.

### 3.3. Prescribed Bodies

- Irish Water (27<sup>th</sup> June 2019) – No objections.

### 3.4. Third Party Observations

- L. Kiernan, M. Watson, P. Hartley and J. Edelen – All hold an interest in the land to be developed. No consultation so objecting to all aspects of the development.
- J. and L. Murphy (18 Faughart Terrace, St. Mary's Road) – Overlooking of rear garden and loss of privacy. Overshadowing and loss of light. Impact of proposed surface water sewer and foul sewer on boundary wall (not considered in Architectural Heritage Impact Assessment Report).  
Development in a Flood Zone and has the potential to increase the risk of flooding on adjacent lands.

## 4.0 Planning History

None.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The appeal site is zoned 'Residential 1 (serviced)' in the Dundalk and Environs Development Plan 2009 – 2015 (as extended). The objective of the zoning is to *'protect and improve existing residential amenities and to provide for infill and new residential developments'*.
- 5.1.2. The appeal site lies within St. Mary's Road Architectural Conservation Area (ACA no. 1), which is considered to be well laid out and ordered example of Victorian/Edwardian urban housing, with a distinctive character of red brick terraces bounded by the wide and leafy St. Mary's Road. Objectives of the designation are to protect and enhance the character of the area and the setting of protected structures within it, to encourage the preservation and reinstatement of traditional details and materials and to protect and enhance the relationship between buildings and open

space and to retain and protect decorative elements and features in the area such as railings and boundary walls. Policy CH10 affords protection to designated Architectural Conservation Areas and requires that new development in such areas be sensitively designed so as not to detract from the character of the areas

- 5.1.3. Properties to the north and east of the appeal site are designated as protected structures, nos. 18, 19 and 20 Faughart Terrace, St. Mary's Place (nos. D322, D478 and D479) and nos. 34 and 35 Castle Road (nos. DO65 and DO66). Policy CH9 of the Plan affords protection to structures listed in the Record of Protected Structures in the Plan.

## 5.2. Natural Heritage Designations

- 5.2.1. Dundalk Bay, to the east of Dundalk town and c.200m to the east of the appeal site. It is designated as a Special Area of Conservation (site code 000455) and Special Protection Area (site code 004026).

## 5.3. EIA Screening

- 5.3.1. The proposed development is of a type that constitutes an EIA project (involving construction works and demolition). However, it is not of a scale likely to give rise to significant environmental effects to warrant environmental impact assessment (Class 10, Part 2, Schedule 5, P&D Regulations, 2001 (as amended), construction of dwelling units/urban development).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Overlooking – From raised ground floor windows and corner windows off the landing.
- Overshadowing and Overbearing – The development will overbear the appellant's property and may cause overshadowing. No shadow projections provided. Side elevations show a hipped end to the rear annex. Rear

elevation shows a gable end. The gable end would be more overbearing than hipped.

- Flooding – The development will exacerbate the risk of flooding on adjoining lands. There are no mitigation measures in respect to run off to adjoining properties.
- Sewers – Storm water is shown connected to an existing combined stormwater sewer. All storm water to new houses should be treated/dealt with on site via soakpits/infiltration etc.
- Architectural Heritage Impact Assessment – Has not been prepared by a registered RIAO Conservation Architect as requested by the planning authority. The statement fails to note the impact the works would have on adjoining properties within the conservation area and the poor standard of practice for use of materials in the proposed houses (aluminium windows). There are no planning conditions that require the works be carried out in accordance with Good Conservation Guidelines.

## 6.2. Applicant Response

- 6.2.1. The applicant responds to the appeal and in the interest of brevity I refer to these matters in my assessment below.

## 6.3. Planning Authority Response

- 6.3.1. The planning authority make the following response to the appeal:

- Overlooking – Due to orientation of development relative to no. 18 there will be no unacceptable level of overlooking. Development backs onto rear garden of No. 18. No windows in the development will directly face windows in No. 18. The height of the development is consistent with the characteristics of the area.
- Overshadowing – Given the set back of the development from the rear garden of no. 18 and rear wall of no. 18, potential overshadowing would be minimal and be confined to the rear garden area for a limited period during the morning.



- Flooding – Refers to Flood Risk Assessment Report which concludes that development of the site in accordance with mitigation measures will have no impact on the flood risk associated with neighbouring development and that the vacant is currently paved and required runoff is for a greenfield site, so runoff will be considerably less.
- Sewers – Condition connecting to the combined sewer is subject to Irish Water approval.
- Architectural Heritage Impact Assessment – Report completed by author with over 40years experience in conservation and SCS Accredited Conservation Surveyor, Grade 3. Design is appropriate for the area. Dwellings are similar in appearance to existing. Materials in keeping with those surrounding the site. Location within an Architectural Conservation Area does not preclude the use of modern materials.

#### 6.4. **Observations/Further Responses**

- None.

### 7.0 **Assessment**

7.1. Having regard to the submissions on file and my inspection of the appeal site, I consider that key issues for the appeal relate to, and can be confined to, the following:

- Overlooking and overshadowing.
- Flooding and sewers.
- Architectural Heritage Impact Assessment.

#### 7.2. **Overlooking and overshadowing**

7.2.1. The proposed dwellings are orientated on the appeal site to back onto the adjoining lands to the west of the site. These comprise the rear gardens of properties facing St. Mary's Road (including the appellant's property) and Castle Street. The proposed rear gardens have a depth of c.7m and will be separated from the

adjoining properties by the existing boundary wall of c.2.5m. This configuration will prevent direct views of the gardens to the west of the site from the ground floor windows which are elevated in order to meet potential flood risks (see below).

Overlooking will also be prevented by the mature trees on the land to the west of the site. At first floor, the window directly facing the appellant's property would serve a proposed bathroom and is opaque. The window in the first floor rear bedroom face a recess, away from the adjoining property and the corner window is set back from the boundary wall by c.10.5m and serves circulation space. I do not consider therefore that the development would give rise to significant overlooking.

- 7.2.2. There is no shadow analysis submitted with the planning application. However, the site is situated to the east of the appellant's property therefore potentially affecting only morning sunlight in the rear garden. As stated by the applicant in response to the appeal, morning sunshine is already affected by existing urban development in the area of the site, including the c.2.5m boundary wall which separates the appeal site from property to the west of it. The applicant has also clarified that a hipped roof is proposed over the rear annex. This will also reduce overshadowing from the development. Having regard to the foregoing, I do not consider, therefore, that there is a serious risk of overshadowing arising from the development.

### **7.3. Flooding and Sewers**

- 7.3.1. The appeal site lies in an area that is at risk of coastal flooding from a 1 in 200 year flood with a predicted level of 3.71mOD. It is not at risk of fluvial flooding and there is no history of flooding in the immediate vicinity of the site. As a consequence the risk of coastal flooding, the development has been designed to take account of a flood event to 3.71mOD, with a freeboard of 1m above the predicted flood level.
- 7.3.2. As stated in the applicant's Flood Risk Assessment, because the risk of flooding arises from coastal inundation, and as the development occupies a very small area of the flood extent, the development will have little impact on flooding of neighbouring development.
- 7.3.3. With regard to sewerage, the application drawings show that the development will be connected to the existing combined sewer with surface water arising on the site attenuated to green field levels (2l/s). The applicant explains in response to the

appeal that (a) a preferred arrangement for discharge to ground via soakaways and infiltration is not possible based on an assessment of ground conditions (see Figure 01 in applicant's response to appeal), and (b) much of the site is paved arising from its previous use (see Figure 02 of response). Attenuation of water is proposed via a throttling device and storage of water in oversized pipes to the rear of the development. I also note that the application makes provision for a future connection to a surface water sewer.

- 7.3.4. Having regard to the foregoing, the absence of concerns raised by the planning authority or Irish Water I am of the opinion that the arrangements for the disposal of surface water are acceptable.

#### **7.4. Architectural Heritage Impact Assessment**

- 7.4.1. The planning authority's request for further information required the applicant to submit an Architectural Heritage Impact Statement prepared by a suitably qualified competent conservation architect accredited by RIAI or RIBA or other suitably qualified professional with proven conservation skills. I note that the applicant's Architectural Heritage Impact Assessment has been a Grad 3 Conservation Surveyor, with over 35 years in conservation, accredited by the Society of Chartered Surveyors, with the conservation accreditation established to provide recognition for Chartered Surveyors specialising in conservation of protected structures and other historic buildings and sites. I would consider, therefore, that the applicant's Architectural Heritage Impact Statement has been prepared by a suitably qualified professional.
- 7.4.2. The Report considers the effect of the proposed development on nos. 19 and 20 Faughart Terrace, St. Mary's Road (the applicant's property) and the Architectural Conservation Area in which it is located. The report concludes that the development will have no adverse effect on either of these properties or the ACA for the following reasons:
- The development will be built outside the current limit of the rear garden of the protected structures will have no effect on them.

- Boundary walls to the east and west of the site will be retained and repaired, for example, with repair work including careful removal of vegetation, cleaning and repair of joints with lime mortar and repair of capping stones.
- Services to be located parallel to the western boundary wall will be offset from the base of the wall (Cross section, page 19 or Report) and a method statement to be provided by the main contractor will detail precautionary measures to safeguard the integrity of the wall.
- Works to be carried out in accordance with the Conservation Method Statement (page 26 of report).
- Development has been designed with a narrow vertical emphasis, relating to the scale and width of adjacent houses and residential stock in the area.
- The development will be subservient to the protected structures (to the north) and adjacent row of terraced houses on Castle Road to the south.
- The development will fill the infill space but sit into the background and ensure that it does not impact on the visual and historical character of the ACA.
- Materials have been chosen to match existing.

7.4.3. Having regard to the foregoing, notably the scale, form and detailed design of the proposed development, as set out above, and reflected in the proposed streetscape montage (submitted with FI), I consider that the proposed development would not encroach on or detract from the character of the protected structures to the north of the site along Faughart Terrace or to the east of the site on Castle Road or therefore, St. Mary's ACA.

7.4.4. The applicant's Architectural Heritage Impact Assessment Report, states that good quality timber sliding sash windows and timber external doors will be used, to match the character of the area. This conflicts with the aluminium windows indicated in the Plans, Elevations and Sections drawing (no. 5571-19-2.01). Use of aluminium windows is not unusual or inappropriate for a contemporary development in an historic environment. In this instance, the development has sought to reflect the structural and material components of properties in the area of the site and ACA. To be consistent with this approach I would therefore recommend the use of timber windows and doors.

## 8.0 Appropriate Assessment

- 8.1. Having regard to location of the proposed development, within an established urban area, and the modest nature of the proposed development which comprises a development of 4 dwellings on a brown field site, that will be connected to existing services, 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.

## 9.0 Recommendation

- 9.1. Having regard to the foregoing, I recommend that permission be granted for the development subject to conditions.

## 10.0 Reasons and Considerations

Having regard to the location of the proposed development on a brownfield infill site in an urban area and the detailed design, scale and form of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenity of properties in the vicinity or adversely affect the character or setting of any Protected Structure and would not give rise to an increased risk of flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 19th December 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
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	<p>development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Prior to the commencement of development, plans and elevations shall be submitted to the planning authority for written agreement showing a hipped roof over the rear extension to the properties.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
3.	<p>Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These shall include timber sliding sash windows and timber external doors.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, maintenance of the public road and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
5.	<p>The development shall be constructed in accordance with the conservation method statement detailed in the Architectural Heritage Impact Assessment Report submitted to the planning authority on the 19<sup>th</sup> December 2019.</p> <p><b>Reason:</b> In order to facilitate the conservation and protection of the architectural heritage of the site.</p>
6.	<p>The development shall be constructed in accordance with the recommendations set out in the Flood Risk Assessment Report submitted to the planning authority on the 19<sup>th</sup> December 2019. Finished floor levels shall be a minimum of 4.71mAOD.</p>

	<b>Reason:</b> In the interest of orderly development and to flood prevention.
7.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
8.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Deirdre MacGabhann

Planning Inspector

9<sup>th</sup> June 2020