



An
Bord
Pleanála

Inspector's Report ABP-310087-21

Development	Demolition of single storey building to provide pedestrian access, construction of 2 storey office development.
Location	Defenders Row, Dundalk, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	21133
Applicant(s)	Catherine Allison
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Catherine Allison
Observer(s)	Brendan Coburn & Others
Date of Site Inspection	20 th of July 2021
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The application site (stated area 0.0264Ha) is located on the western side of Defenders Row, off Roden Place, within an area of mixed development close to Dundalk Town Centre. The site contains a small vacant flat roofed structure which was a former commercial property located in the north-eastern corner of the site. The remainder of the site is derelict and overgrown.
- 1.2. The site is currently vacant, landlocked and appears inaccessible. Pedestrian entrance is via the building fronting Defender's Row. It is a narrow rectangular shape which is bounded to the south and south west by 3 storey office/commercial buildings that front onto Roden Place. The car parking area for these buildings is to the west of the site. The site's eastern and western boundaries are defined by high stone walls, that appear to be historic in form. The eastern boundary is in close proximity to the rear of the two storey residential properties Nos. 7 & 8 Defenders Row. The site's northern boundary is adjacent to the curtilage of the town centre's former fire station (c. 1933). The southern boundary abuts the rear service yard of a Restaurant and Bar, which has frontage to Crowe Street.
- 1.3. Nos.7 & 8 Defender's Row are a semi-detached pair of two storey red brick houses. They are sited c.1m from the high stone wall along their western boundary. Their main windows are in the front and side elevations. First Floor bathroom windows face the site. They have limited side garden/yard areas and there are concerns about impact of overshadowing and loss of outlook for these properties. It was also noted on site, that the subject site is very overgrown, the presence of Japanese knotwood was noted, and was pointed out by the Observer that this had spread into the garden of no.8 Defender's Row.
- 1.4. Defenders Row comprises of a mix of more recent single and two storey dwellings. There is some pay and display on-street parking in Defender's Row and in the vicinity including in front of the Church on the opposite side of Roden Place to the south of the site. There is no parking defined for the subject site.

2.0 Proposed Development

2.1. This is for the Demolition of the existing single storey building to provide pedestrian office development and associated works at Defenders Row, Dundalk.

2.2. Documents submitted with the application include:

- Planning Statement by EHP Services
- Infrastructure Design Details by Catherine Allison
- Drawings including Site Layout Plan, Floor Plans, Sections and Elevations.

3.0 Planning Authority Decision

3.1. Decision

Louth County Council refused permission for the proposed development on the 1st of April 2021, for the following reasons:

- 1. Due to the scale of the proposed development and its close proximity to the site boundaries, the proposed development will have an unacceptable impact upon the amenity of Nos. 7 & 8 Barrack Street through overbearing and therefore impact upon the usability and enjoyment of the private amenity space of these two residential properties.*
- 2. The proposed development fails to provide adequate parking spaces for the proposed development as per Policy TC 16 of the Louth County Development Plan 2015-2021 and is therefore contrary to the orderly development of this area.*

It is noted that Condition no.1 should refer to Nos. 7 & 8 Defender's Row as Barrack Street is not the correct address.

3.2. Planning Authority Reports

3.2.1. The Planner had regard to the locational context of the site, planning history and policy and to the interdepartmental reports and submissions made. Their Assessment included the following:

- The proposal is considered acceptable in principle in the town centre zoning.
- Although the site is located outside an ACA consideration must be given so that it does not detract from the appearance of its surroundings which includes several protected structures to the immediate south on Crowe Street.
- They have regard to the constraints of the site and to issues with the proposal relative to the impact on residential amenity of nos.7 & 8 Defender's Row.
- The construction of the proposed development is considered to have an overbearing impact upon the private space of these properties.
- They refer to the Urban Design Manual which states that each home should have access to a useable private open space area.
- They note that no parking is to be provided for the proposed development. The proposal would require 6no. parking spaces and a financial contribution may be acceptable.
- In this respect they refer to the Board's decision ABP-304122-19, immediately adjacent to the site. However, that proposal was for a change of use and this proposal is for an entirely new development. Therefore, they consider the parking standards should be applied.
- They provide that in view of the location of the site and distance from designated sites that a (Stage 2 AA) is not required.
- The site falls outside any known flood zones on OPW flood mapping at floodinfo.ie.
- They note the submissions concerning Japanese Knotweed and consider this to be a civil issue between concerned parties and not a planning issue.
- Issues raised concerning vermin on site are considered to be an Environmental Health issue.
- They provide details relative to development contributions.
- They conclude that while the principle of the development is acceptable within the town centre zoning, that the proposal would have an unacceptable impact on proximate residential (nos. 7 & 8 Defender's Row) due to the height and

close proximity to these properties and the overshadowing of their limited private amenity open space. Also, that this proposal fails to provide parking in accordance with DP standards. They recommend that the proposal be refused.

3.3. **Other Technical Reports**

Infrastructure Section

They noted that the applicant has not provided details on car and cycle parking. They had no objections subject to conditions.

Water Services

The Planner's Report notes that they had no objections.

3.4. **Prescribed Bodies**

Irish Water

They had no objections subject to recommendations.

3.5. **Third Party Observations**

The Council had regard to the concerns raised in the Submissions from nos.7 & 8 Defender's Row. These are considered further in the context of the Observations made and in this Assessment below.

4.0 **Planning History**

The Planner's Report provides details of the Planning History of the site and in the vicinity and this includes the following:

Subject Site:

- Reg.Ref.20/329 – Permission refused by the Council for the demolition of single storey building to provide pedestrian access, construction of 1no. three storey apartment block comprising of 3no. two bedroom units, 2no. one bed units and associated site development works including partial demolition and rebuilding of boundary walls.

- This was refused for 3no. reasons including in summary: overdevelopment of the site and adverse impact on neighbouring properties to the east in Defender's Row; sub-standard development with lack of amenity space for future residents and being contrary to the provisions of the Apartment Guidelines for Planning Authorities 2018; deficient in technical information submitted to properly assess surface water disposal on site.

A copy of this decision is included in the History Appendix.

- Reg.Ref.08/20158 - Permission granted subject to conditions to Catherine Allison for the Demolition of Existing Commercial Property for proposed 2 storey office development and associated site works.
- The building of 326sq.m was granted subject to conditions. This was on lands to the rear and north of nos. 7 & 8 Defender's Row. This was never constructed. A copy of this permission is included in the Appendices to the Appeal.
- Reg.Ref.55523526 – Permission granted subject to conditions for Offices for Dundalk Friendly Benefit Society in August 1981.

Proximate sites

- Reg.Ref. 1940 – Permission granted subject to conditions by the Council for in summary a Change of use of 1st floor to bar, restaurant and function room with ancillary toilet and kitchen facilities together with all associated site works. All at McGeoughs Bar & Restaurant, 'Condil House' Roden Place, Dundalk.

Condition no.8 – was the subject of a First Party Appeal against financial contribution to the Board (Ref. ABP-304122-19 refers). The Board decided to remove this special development condition (section 48(2)(c)). This was intended to be applied in summary: *in lieu of the shortfall in the provision of 11 car parking spaces required be such development.*

5.0 Policy Context

5.1. National Policy and Guidelines

- Project Ireland 2040 National Planning Framework (2018)
- Regional Spatial and Economic Strategy 2019-2031
- Design Manual for Urban Roads and Streets 2019
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) 2009
- The Planning System and Flood Risk Management 2009 (including the associated Technical Appendices)
- Architectural Heritage Guidelines 2011

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 this provides the most recent zoning framework for the area.

5.3. Dundalk & Environs Development Plan 2009-2015

This remains the operative plan for the area.

Land Use Zoning

Table 2.3 provides the Land Use Zoning Objectives. Map 4.2 provides the Town Centre Zoning. The site is within TCMU – Town Centre Mixed use: *To provide for mixed use development.*

It is to the south of the TCR – Town Centre Retail: *To protect and enhance the vitality and viability of the town centre as the primary retail core of the town.*

Town Centre Zoning

Chapter 4 includes several TC policies, the following are of note:

Policy TC1 – *Implement the policies and objectives contained within the Dundalk Urban Design Framework Plan and ensure that development is consistent with the objectives for the character area in which it is located.*

Policy TC3 – *Require the provision of mixed use development in accordance with the permitted uses within this zone and to ensure that the residential component is not less than 20% or more than 80% of the total floor area of the proposed development.*

Policy TC7 – *Encourage a high quality built environment within the town centre and ensure compliance with the Urban Design Guidance outlined in Appendix 2.*

Policy TC11 – *Promote the development of backland and infill sites and the refurbishment and regeneration of brownfield and grey field sites within the town centre.*

Core Strategy Variation No.1 Dundalk & Environs DP (Adopted 19th of August 2011). The site is located within the area where it is a strategic objective: *to consolidate the existing role of the town centres and provide for town centre enterprise.*

Car Parking

Chapter 5 refers to Transportation and includes reference to car parking.

Table 5.4 provides the Car Parking Requirements.

Section 5.6.5, states that: *the provision of car parking facilities in accordance with the appropriate standards is a requirement for all development taking place within the plan area. However, the councils recognise that there can be a conflict between the provision of car parking and urban design considerations and therefore the plan makes provision for the application of variable parking standards within areas including town centres.*

Section 5.6.6 on the matter of change of use/redevelopment states that: *additional parking may not be required where evidence indicates that the car parking*

requirement is less than the existing. Where additional car parking is required, an allowance may be made in respect of the existing use of the site or building.

Development Contributions

Section 11.3.1 states that: all development proposals are required by conditions attached to planning permissions to make a financial contribution towards the costs incurred by the councils, or likely to be incurred, in the provision of public infrastructure and that special contributions may also be imposed under Section 48(2) where specific public works not covered under the general scheme and which facilitate development, have been carried out or will be carried out.

Conservation and Heritage

Chapter 8 refers and includes:

Policy CH7: Safeguard the archaeological heritage of Dundalk and its environs by protecting designated archaeological sites, Local Archaeological Heritage Site, and Special Archaeological Interest areas and requiring that applicants for planning permission for development in areas known to contain archaeological features, carry out an archaeological assessment of the site.

Policy CH9 – Protect and safeguard structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest which are included in the Record of Protected Structures.

Policy CH10 – Protect designated ACAs 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.

Appendix 7 of the Plan shows that the site is to the north of and proximate to ACA No.2 – Roden Place. *The primary purpose in the designation of this ACA is to protect the integrity of the streetscape and the setting of the buildings of National Importance.*

5.4. 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.

5.5. EIA Screening

Having regard to the nature and scale of the development sought, the lack of any direct hydrological connectivity from the site to any nearby sensitive receptors, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. Therefore, the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

EHP Services have submitted a First Party Appeal on behalf of the Applicant. This includes regard to the appeal site and its surroundings, strategic and local planning frameworks, and to the case for appeal. The grounds of appeal include the following:

- The decision to refuse permission was unjustified within the context of national, regional and local policy objectives and contrary to the proper planning and sustainable development of this backland/infill/brownfield town centre site.
- The alleged overbearing impact within this built up, town centre location is neither substantial nor injurious to the residential amenities of neighbouring properties as contested.
- The Planning Statement submitted highlights how the proposal complies with planning policy and local policy frameworks that support the principle of development. The statement also satisfactorily demonstrates how the proposed development complies with key planning and design requirements.
- They strongly recommend that the Board review the Planning Statement and the application as furnished to the Council.
- The principle of the proposed development is acceptable within the town centre zoning.

- The appeal site abuts the rear of the ACA No.2. The proposed development is smaller in length and height than the previously proposed residential scheme.
- The proposed development has been carefully designed to incorporate a high quality design, and external finishes to make a positive contribution to Defender's Row and the streetscape and be respectful to the adjoining ACA.
- The proposal is compliant with advice set out in the Architectural Heritage Protection Guidelines (2011) and the requirements of Policies CH9 and CH10 of the Dundalk & Environs DP.
- The proposed site coverage and plot ratio are compliant with the standards set out in the Dundalk & Environs DP.
- Details have been submitted relative to Infrastructure Provision and Flooding. They note that the Council's Infrastructure and Water Services Teams expressed no objection to the proposed development.
- There are no pathways or conduits linking to Dundalk Bay's SPA or SAC.

Reason no. 1 for Refusal

- The Urban Design Manual, which accompanies the Sustainable Residential Development in Urban Areas Guidelines 2009 are primarily aimed at residential not commercial development.
- Overbearing is not mentioned anywhere within either Guidelines or Design Manual.
- The proposed office development is not of significant height and is less than that of Nos. 7 & 8 Defender's Row or than the 3.5 storey properties along Crowe Street.
- They provide details of proposed repairs to the boundary walls and reference drawings showing these works.
- The proposed development's design, in particular its overall height, massing and bulk, was cognisant of the approval of the previous office building approved under planning ref. 08520158.
- It will result in an unimposing and subdued structure as illustrated in the 3D images submitted with this appeal.

- They submit for the Board's consideration a series of shadow projection diagrams illustrating the extent of overshadowing of existing buildings. They provide details relative to sunlight/daylighting impacts.
- Visually it will not adversely impact on Nos. 7 & 8 Defenders Row and their side yard areas. The amenity value of each yard is primarily derived from the east and south-east.
- The proposed development is not of sufficient height, mass or orientated to materially impact this setting and streetscape of adjoining 3.5 storey properties and their rear extension to result in an overpowering or domineering structure.
- The Appellant is satisfied that the proposed development will integrate well into the area and will not have an adverse impact on the residential amenity of Nos. 7 & 8 Defender's Row.

Reason No.2 for Refusal

- They note the Planner's concerns that carparking will not be provided. They note that the Council's Infrastructure Team had no objections and recommended a number of conditions.
- If the Board were mindful to grant the Appellant would be amenable to a planning condition requiring the provision of a parking contribution.
- However, they argue in support of more sustainable transport, considering the town centre location and ample on street parking provision in the area.
- They consider that the use of existing paid parking within the area surrounding the appeal site will provide separate and additional revenue to the Council.
- They contend that the Council's second reason for refusal is weak and seems an afterthought to the first refusal.

Precedent

- The current proposal is identical to that approved by the PA in terms of size, dimension, design and external finishes etc (Reg.Ref.08520158 refers). Copies of the approved plans are included in Appendix 1 of this appeal.

- They consider that there has been no material change in planning circumstances since this application was approved under the 2003-2009 Dundalk & Environs DP. The Town Centre Zoning was also in place.
- Overbearing was not invented with the publication of the 2009 Design Manual or the 2009-2015 Dundalk & Environs DP. It was a core consideration of applications determined under the 2003-2009 DP and the 1999 Guidelines for Planning Authorities on Residential Densities which preceded the 2009 Design Guidelines and accompanying Design Manual.
- Overbearing was not a material concern when assessing planning ref. 0820158. The include a copy of the relevant Planner's Report in Appendix 2 of this appeal.
- They consider that the Council were too dismissive of the previous approval of permission on site and suggest that some parity of consideration is appropriate and applicable within the context of the current proposal.

Other Matters

- They note the submissions from nos. 7 & 8 Defenders Row about the derelict nature of the site, the deteriorating condition and stability of the shared stone boundary wall, the presence of substantial stands of knotweed and the regular sight of rats.
- Whereas the Council dismissed these concerns as civil and /or environmental health matters the proposed development and gentrification of the appeal site would comprehensively address all these ongoing concerns.
- The proposed development on this centrally located, brownfield, backland and infill site would be a better neighbour than Nos. 7 & 8 Defenders Row than allowing the appeal site as is.

Conclusion

- The proposed development is compliant with the Town Centre Mixed Use zoning for the area.
- It is identical in scale, mass, design, materials and impact upon the receiving environs as the office building approved under Reg.Ref. 08520158.

- It promotes consolidated development within a town centre location and will introduce a high quality and contrasting new architectural form into a somewhat weak townscape.
- It will facilitate the rehabilitation of a derelict brownfield/infill site in accordance with national guidance and DP policies.
- The structure's overall scale, massing and height and bulk is compatible with the scale and massing of neighbouring residential buildings and will positively contribute to the general and mixed vernacular of the surrounding urban form.
- The structure has been designed so as to protect existing residential amenities from substantial and detrimental overlooking, overbearing and overshadowing. It will not have an adverse affect on the existing amenity value, usability and enjoyment of Nos. 7 & 8 amenity space.
- They ask the Board to consider that the proposal is in keeping with the proper planning and sustainable development of the area and the justification for refusing permission was insufficient and in error.

6.2. Planning Authority Response

They had regard to the Council's reasons for refusal and to the Appellant's Grounds of Appeal and their response includes the following:

Reason no. 1

- The construction of this proposed development is considered to have an overbearing impact upon the usability of the private space of Nos. 7 & 8 due to the significant height of the building in close proximity to the rear of these two dwellings.
- These dwellings do not have a rear garden and it is considered necessary to protect the limited area of private amenity space that each dwelling currently has.
- The issue of overbearing will impact upon the usability of the amenity area of the residential property so the Urban Design Manual is considered relevant and applicable in this instance.

Reason no.2

- No parking is proposed with the development. As per the DP parking standards this development would require 6no. spaces. In lieu of the provision of the required number of parking spaces, a financial contribution may be acceptable.
- They have regard to the development on the adjoining site (McGeoughs Bar Ref. ABP-304122-19) where it was considered that the works did not qualify as works to which Section 48(2)(c) of the Planning and Development Act 2000 (as amended). In that instance a financial contribution was sought in lieu of additional parking spaces.
- They note that the statement also states that the proposal would not benefit from the provision of additional parking and that alternative modes of transport such as walking and cycling should be considered before applying the levy.
- This proposal is considered to be materially different to the McGeoughs Bar application in that it is for a new development rather than a change of use on a site that already has parking. They consider the parking standards should be applied to this proposal.
- They note that the appeal statement provides that the redevelopment of the site will potentially remove the Japanese knotweed and vermin on the site, however these issues are primarily considered to be either environmental health and/or legal issues.
- While they note the proposal would use a vacant brownfield site, they are concerned that it would cause an adverse residential impact for the two neighbouring properties at 7 & 8 Defenders Row due to the height and proximity.
- At present these properties have limited private amenity space and a large level of overshadowing upon their rear elevations. They consider that this development would further reduce the level of amenity at these sites and reduce the usability of their external amenity areas.
- This proposal fails to provide parking in accordance with DP standards.

6.3. Observations

An Observation has been received from Brendan Coburn of 8 Defenders Row, Dundalk. This provides that all arguments are outlined in the submissions. That they the residents of Nos. 7 & 8 Defenders Row have submitted further photographic evidence. They provide that their Submission has also been sent to Environment Section and includes the following:

- They are requesting the derelict site to the rear of their houses to be cleaned up. On several occasions the owner has done nothing about it. They are concerned that in light of the Council's decision to refuse, things will get even worse than they are.
- They note the site is very overgrown and attracts swarms of flies and is giving coverage to an already existing rodent problem. Residents in both houses have suffered sever allergic reaction to midget bites.
- They cannot consider drying their clothes outside.
- The amount of light they get is severely impact by weeds.
- The weeds have damaged the old stone wall and appear to have made it unstable. The wall at no.7 is very dangerous and large chunks have fallen off the top. They are worried about its stability.
- The knotweed has invaded the whole place and its even pushing the oil tank at no.8. They have appealed many times for something to be done but nothing was done.
- They are requesting the help of the Council to deal with this environmental hazard.
- They have included photographs to show the situation relative to the wall and the adjoining overgrown site.

They refer the Board to Submissions made by Brendan Coburn (no. 8 Defender's Row) and Emma Enright (no. 7) and in addition to the above, these in summary include the following:

- The derelict nature of the site is a problem. However, the construction of offices proximate to the existing residential is not a solution.

- The town does not need more office spaces.
- They are concerned about the additional parking and note that this is already a busy street close to the town centre. That there is a lack of car parking availability in the area. They are concerned about congestion and safety issues.
- The offices will lead to noise generation during constructional and operational phases in close proximity at the back of their houses.
- The proposed design will detract from and is not in keeping with the character of the area.
- The height and scale of the proposed office building will appear overbearing from the rear of their properties.
- Overall, any form of residential or commercial building will not be suitable for the site in question.
- The rights of the residents must take precedence over any thing else. The residents will be severely and detrimentally impacted if this proposal is allowed to go ahead.

7.0 Assessment

7.1. Planning Policy

- 7.1.1. As shown on the Land Use Zoning Map in the Dundalk and Environs Development Plan 2009-2015 as extended the site is within the 'Town Centre Mixed Use' zoning where it is an objective: *To provide for mixed use development.* Offices would be acceptable in principle in this land use zoning. Policy TC11 is also of note relative to the promotion of backland/infill sites and the refurbishment and regeneration of brownfield and grey field sites within the town centre.
- 7.1.2. However, this is a sensitive site of limited size within an enclosed area of historic stone walls, and proximate to residential development to the east at nos. 7 & 8 Defenders Row. The site while not within is to the north of and proximate to Roden Place Architectural Conservation Area no.2. It is also proximate to a number of Protected Structures to the south facing Crowe Street and Roden Place. In addition,

it is within an area of Special Archaeological Interest. It is also important that it not detract from the streetscape and that the residential amenities of local residents be taken into account.

- 7.1.3. Regard is had to the issues raised, the Council's reasons for refusal including relative to impact on residential amenity, access and parking, the documentation submitted, including in the First Party Appeal and the Observations made in this Assessment below.

7.2. Regard to Planning History

- 7.2.1. The First Party provide that with the exception of minor internal and external differences the proposed office building is similar to the development approved in 2009 under Reg.Ref. 085200158. As noted in the Planning History Section above the office building then approved was never constructed, and that permission can no longer be enacted, hence the need for a new application.
- 7.2.2. The First Party note that that permission was approved under the 2003-2009 Dundalk & Environs DP. They consider that the Council's dismissal in that it was approved under an earlier plan and before publication of the 2009 Urban Design Manual was in error. They submit has been no material change in circumstances or planning policies between the previous and current proposals. The Town Centre zoning was also in place. The appeal site and the surrounding buildings have remained unchanged.
- 7.2.3. The Planning Authority response provides that the structure previously approved in this location was under a different development plan and prior to the publication of the Urban Design Manual a Best Practice Guide 2009 which states that each house should have a usable private outdoor open space. This is a companion document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas. It lists 12 Criteria for sustainable residential development in both new locations and within existing urban areas (Site, Neighbourhood and Home) and aims include enhancing an area and providing compact urban development. Criteria 10 refers to 'Privacy and Amenity' and includes: *Each home has access to an area of usable private outdoor space.*

- 7.2.4. Normally private open space is to the rear, in this case it is to the side of nos.7 & 8 Defender's Row. The rear wall of these properties are c.1m from the high stone wall that forms the eastern boundary of the subject site. The private open space for these residential properties is limited to a small yard area to the side and there is concern that the proposal would be overbearing and lead to loss of light and overshadowing. These issues are discussed further in this Assessment below.
- 7.2.5. It must be noted however, that the previous permission for an office development on this site as referred to, was granted over 12 years ago, under a former development plan and prior to Guidelines in the Urban Design Manual 2009. Thus, while this permission is noted I would not consider that it sets a precedent for the future development of the site. In any event, it was not subsequently enacted and has lapsed for some time, therefore this application is being considered afresh, on its merits *de novo*.

7.3. Design and Layout

- 7.3.1. The Planning Statement submitted with the application provides details relative to the locational context, planning history and policy. Mapping, diagrams and illustrative photographs of the appeal site, neighbouring residences and surrounding town centre environs are provided. Regard is also had to the Site Layout Plan, Floor Plans, Sections and Elevations submitted.
- 7.3.2. Planning permission is sought for the demolition of the existing single storey building to create a new entrance and the construction of a two-storey flat roofed office building. The Planning Statement provides that the structure is to measure 7.7m wide x 26.4m long x 5.595m high and provide 161sqm of office space per floor (total 322sqm). The proposed structure is designed so as to fit into the gap created by the site's existing eastern and western boundary stone walls. The main entrance is to be off a courtyard at the frontage (where the existing building to be demolished is now located). Landscaping and bin storage area are to be included within the site frontage. As shown on the floor plans the ground floor will include a reception and waiting room, meeting rooms, office space, toilets, closet storage, tea station, lift and staircase. Three open side light wells /unpaved landscaping areas are to be positioned between the proposed structure and the existing western boundary wall.

The first floor is to incorporate additional office space, storerooms, toilet and a terrace over the central light well.

- 7.3.3. Externally the structure is to incorporate a parapeted flat roof finished in a single ply uPC trocal membrane. The walls are to be clad in a rubble stone finish to a height of 3.67m above ground level with the remainder (at first floor level) comprising vertical cedar timber cladding. Doors and windows are to use a late grey double glazed P.P.C aluminium system. Rainwater goods are to be uPVC.
- 7.3.4. The Site Layout Plan shows the enclosed nature of the site, it is noted that the eastern elevation is to adjoin the stone wall. Fig.3 of the Planning Statement shows the proposed western elevation and the existing stone wall. The western elevation includes some side windows at ground and first floor levels and has some areas set back from the stone wall. The set back of the building from the road frontage in Defender's Row will be provided by the removal of the existing single storey structure.
- 7.3.5. If the Board decides to permit, I would recommend, that conditions be included relative to external finishes, and to relocate the proposed bin storage area from the foyer/street frontage area of the site.

7.4. Impact on Residential Amenity

- 7.5. The Council's First Reason for Refusal is concerned that the close proximity of the proposed development will have an unacceptable impact upon nos. 7 & 8 Defender's Row. That it will be overbearing and impact upon the usability and enjoyment of the private amenity space of these two residential properties.
- 7.6. The Planning Statement submitted with the application, includes Figure 8 which shows the difference in the height of the building between that recently refused by the Council for 3 storey apartment development (Reg.Ref. 20/329 refers) and the improvement offered by the 2 storey office building now proposed.
- 7.6.1. As shown on the Site Layout Plan submitted the proposed 2 storey office building will be sited on the other side of the stone wall c. 1.5m from the rear of these properties. The proposed east elevation relates. This shows the extent of the existing stone wall to be removed. The Defender's Row Elevations show the existing and proposed, included in the drawings submitted with the First Party Appeal.

- 7.6.2. I note that Section 6.6.7 of the Dundalk & Environs DP 2009-2015 (as extended) refers to Infill/Backland development. This includes: *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.*
- 7.6.3. Section 6.7.5 of the said Plan refers to Privacy and Spacing between Buildings. While arguably this relates more to Housing and Community Facilities it is of note in that this includes: *Where new dwellings are located very close to adjoining dwellings, the planning authority may require that daylight and shadow projection diagrams are submitted. The recommendations of 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (B.R.E.1991) or B.S. 8206 'Lighting for Buildings, Part 2 1992: Code of Practice for Day lighting' should be followed.*
- 7.6.4. Also of note is Section 9.4 of the said Plan which refers to Guidelines for Sustainable Design and Energy Efficiency in Buildings. Section 1 refers to Passive Solar Design and this includes: *Avoidance of overshadowing – where feasible, buildings should be carefully spaced to minimise the loss of solar gain due to overshadowing.*
- 7.6.5. The First Party have submitted Shadow Projection Diagrams illustrating the extent of existing shading created by adjoining buildings, walls etc and the likely shading generated by the proposed development. They note that as existent the extent of direct sunlight and ambient daylight received within Nos.7 & 8 Defender's side yard areas is substantially affected by the height, proximity and position of the row of 3.5 storey Crowe Street premises and their extensions to the south. They submit that the proposed development being lower than these premises would not substantially add to or impact upon existing levels of light and does therefore not adversely affect the continued usability of Nos. 7 & 8 amenity spaces in this regard.
- 7.6.6. Having regard to the Shadow Projection Diagrams these show that sunlight to their side yard areas will mainly be impacted as shown on the 21st March, 21st of June and 21st of September at 16.00. Sunlight to their private amenity space is also currently restricted by the height of the existing stone wall. As shown on the scaled drawings the current proposal would add a further 2m to that height, so that the height of the continuous elevation of the building along the eastern boundary would be c.6m.

- 7.6.7. On site I visited no.8 Defender's Row in the mid-afternoon and noted that these houses are to the east of the subject site and that sunlight into their side yard areas at that time areas was from the west. I would be concerned that if this two-storey building were constructed that it would further restrict sunlight from the west to their already limited private amenity space. Also, that the proximity and height of the proposed building along the full length of the side gardens of nos. 7 & 8 would be of significant mass and scale and would be overbearing for these properties. This is especially when seen from their side yard areas, which form their private amenity open space and the narrow passage with the stone wall to the rear of these dwellings. It would serve to worsen the existing situation, which is already restricted and further restrict sunlight for these properties.
- 7.6.8. The Board may decide to refuse on this basis. While there maybe, some scope for a single storey office building on this infill site, I would not consider that a two-storey office building would be appropriate in view of the nature and constraints of the site and the proximity and impact on nos.7 & 8 Defender's Row.

7.7. Access and Parking

- 7.7.1. The Council's second reason for refusal concerns the failure to provide for adequate car parking spaces for the development as per Policy TC 16 of the Louth County Development Plan 2015-2021. This policy seeks: *To require compliance with the parking standards in Table 7.6 unless otherwise provided for in any local area plan.*
- 7.7.2. This Table provides 1 space per 50sq.m. Similarly, Table 5.4 of the Dundalk & Environs DP 2009-2015 (as extended) set out the car parking requirement within its administrative area. The appeal site is located within Area 1 Town Centre as identified in Map 5.3 of the Development Plan. As such the restaurant uses require a car parking provision of 1 space per 50m² of office spaces.
- 7.7.3. Based on the total floor area for the proposed 2 storey building (322sq.m) this would require 6no. spaces. No onsite parking is available, there is some on-street carparking in the area, but it is noted that there is limited availability. The Planner's concerns and are noted relative to this issue. Also, the Observers are concerned about this lack of carparking leading to congestion in the area. While the Council's Infrastructure Section did not object to the proposal, it is noted that they recommend

a condition to include that details of appropriate solution to this matter be agreed with the planning authority prior to the commencement of any works on the site.

7.8. Development Contributions

- 7.8.1. Reference has also been made to a recent Board decision Ref. ABP-304122-19 refers. This refers to the commercial development on the adjoining site (Ref.ABP-304122-19 refers), where the Board considered that a special contribution (Section 48(2)(c) of the Planning and Development Act 2000 (as amended)) sought by the Council in lieu of a shortfall of 11no. parking spaces did not apply. The Council considers that the current situation is materially different in that that application was for a change of use and not a new development as is the current case. They consider that the parking standards should be applied to this proposal and their second reason for refusal is based on the lack of parking provision.
- 7.8.2. The First Party provides that they are prepared to accept a financial condition in lieu of carparking, however they query the reasonableness of this, as they provide that there is on-street pay and display parking available in the area. They also have regard to sustainable transport and note the accessibility of the town centre location and refer to the availability of public transport in the area.
- 7.8.3. The Louth County Council Development Contributions Scheme 2016-2021 is the relevant scheme. It is noted in Article 6(10) that change of use applications are exempt, subject to certain criteria. Article 10 refers to (Special Development Contributions). This includes that: *A Special Contribution will apply for provision of car parking spaces in lieu of shortfall.* Regard is also had Appendix II (Project Lists) of the Development Contribution Scheme which includes the “construction of new car parks” and the “improvement/upgrade of car parks” under the indicative list of infrastructures.

7.9. Drainage

- 7.9.1. A Report relative to Infrastructure Design Details, Roads, Water Supply, Foul Sewage, Surface Water Drainage and Flood Risk Assessment was submitted with this application. Details of surface water drainage proposals have been given and these include compliance with SuDS principles. Relevant drawings showing the

proposed layout of services have been submitted. Irish Water and the Council's Water Services and Infrastructure Sections do not object to the proposals subject to conditions. If the Board decides to permit it is recommended that appropriate drainage conditions be included.

- 7.9.2. The Flood Risk Assessment Section has regard to 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' 2009. They refer to flood risk mapping and provide that the site can be classified as lying within Zone C. The office block building is therefore deemed to be an appropriate development from a flood risk perspective.

7.10. **Archaeology**

- 7.10.1. Chapter 8 of the of the Dundalk & Environs DP 2009-2015 (as extended) has regard to Conservation and Heritage. As shown on Map 8.3 the site is within an area of Special Archaeological Interest. Policy CH7 applies and is noted in the Policy Section above.

- 7.10.2. Regard is had to the historic stone walls around this site, which form a distinct feature in the area. It is noted that the Observers have concerns about subsidence and damage to this wall and subsequently to their properties in Defender's Row, caused by the proposed development. As part of the current proposal, it is proposed to lower and do repairs to this wall. While not consulted in the current application, in the previous application (Reg.Ref. 20/329 refers) the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht were consulted. They noted that the development is situated within the zone of constraint for Recorded Monument LH007-119 – Town which is subject to statutory protection in the Record of Monuments and Places, established under section 12 of the National Monuments (Amendment) Act. They then recommended that an Archaeological Impact Assessment should be prepared to assess the potential impact if any on archaeological remains where the development is proposed to take place. Also, that this be included in any granting of permission. They recommended a condition relative to this issue. As that proposal was refused for other reasons an Archaeological Impact Assessment was not submitted, nor has one been submitted with the current application.

7.10.3. I would be concerned that such an Assessment has not been submitted with the current application and that the impact of the proposed development on this historic walled site has not been investigated. Therefore, I would be concerned that adequate account has not been taken of the proposed new build relative to the impact on the stone walls and possible archaeology on the site.

7.11. Construction issues

7.11.1. Having regard to the enclosed nature of this site, and the existence of the historic stone walls this site presents its own construction issues. In view of the excavation and demolition elements involved and the concerns of the neighbouring property, I would recommend if the Board decide to permit that a Construction and Demolition Waste Management Plan be submitted. This would also provide details of construction traffic, hours of operation etc.

7.12. Other issues

7.12.1. The issue of the condition of the derelict site has been raised by the Observers. Their concerns relative to vermin, flies, the presence of Japanese Knotweed etc are noted. The Council points out that these are issues for Environmental Health/ or legal issues. The First Party points out that the proposed development by clearing the site, will improve the existing overgrown situation.

7.12.2. If the Board decides to permit, I would recommend, that a condition be included, relative to the submission of an invasive species management plan to be agreed with the Council prior to the commencement of development.

7.13. Screening for Appropriate Assessment

7.13.1. Having regard to nature and scale of the development proposed in a fully serviced and zoned 'Town Centre' 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 this proposal be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the constraints of the subject site and to the nature, height, scale and massing of the proposed development, it is considered that it would give rise to an overdevelopment of the site, that would be overbearing and lead to an increase in overshadowing of the adjoining limited private amenity areas of the residential properties to the east, nos. 7 and 8 Defender's Row, Dundalk. As such it would be contrary to Sections 6.6.7 (relative to design and scale of infill/backland development) and 9.4 (relative to avoidance of overshadowing in Passive Solar Design) of the Dundalk and Environs Development Plan 2009-2015 (as extended). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the site.
2. Having regard to the proposed two storey office use and the lack of the availability/provision of on onsite parking and to the car parking requirements, the proposal will lead to a deficiency of six number parking spaces, in an area where on street parking is restricted. Therefore, the proposal would be contrary to Policy TC 16 of the Louth County Development Plan 2015-2021.
3. In view of the location of the site within the confines of a historic walled site, the constraints of a Recorded National Monument and within an area of Special Archaeological Interest, and the absence of an Archaeological Impact Assessment relative to the impact of the proposed development, the Board is not satisfied that sufficient information has been submitted relative to the impact on archaeology on site and to proximity to this Monument. As such the proposal would be contrary to Policy CH7, of the Dundalk and Environs Development Plan 2009-2015 (as extended) and to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

13th of August 2021