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<b>Development</b>	Demolition of warehouse and construction of independent residential units for the elderly, & ancillary works.
<b>Location</b>	Site of Value Centre Cash and Carry, Castle Road, Dundalk, Co. Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	20661
<b>Applicants</b>	Independent Trustee Company Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeals</b>	Third Party and First Party
<b>Appellants</b>	Co Louth Archaeological and Historical Society Lorraine Scully and local residents Independent Trustee Company Limited
<b>Observers</b>	Cllr John Reilly Ruairí Ó Murchú TD
<b>Date of Site Inspection</b>	2 <sup>nd</sup> November 2021
<b>Inspector</b>	Dolores McCague

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## 1.0 Site Location and Description

- 1.1.1. The site is located in Dundalk Co Louth, in a residential area close to the commercial centre occupied by a warehouse building, surface car parking and vacant land. The block of which the site forms part, is bounded to the north by the St Mary's Road / Saint Helena spine road (R177), to the east by the Eastern by-Pass road which runs along Dundalk Harbour, to the south by the Seatown / Mill Street spine, and to the west by Castle Road. The site is to the east / rear, of Castle Road and is accessed via a short, narrow laneway which runs between the blocks of terraces which form the eastern side of the street. It is bounded to the north by vacant land, to the east by Scoil Náisiúnta Réalt na Mára, to the south by the rear of houses at Mill Street and to the west by the rear of houses at Castle Road.
- 1.1.2. In the application originally lodged, the site is given as 0.6897ha. That area included the laneway between the terraces and a laneway which runs behind the dwellings, serving as a right of way to these and other lands, but which is not within the ownership of the applicant. In response to the further information request a revised site map was submitted and the site is given in the response (per design statement) as 0.6149ha.

## 2.0 Proposed Development

- 2.1.1. The proposed development is the demolition of the existing cash and carry warehouse building and construction of 80 independent residential units for the elderly. Significant further information resulted in the number being revised to 78 units. The proposed development includes a community room, visitor room, an office, a reception, ancillary / operational rooms, car parking, cycle parking, an ESB substation, bin collection compound, public lighting, access upgrades and ancillary site works.
- 2.1.2. The ancillary site works include raising the ground level by approx. 1m to 1.5m to achieve an appropriate finished floor level, having regard to the location of the site within a flood risk (flood risk A) location.
- ~~2.1.3.~~ As originally proposed the development was to comprise a part 4 and part 5 storey, 80 unit residential property (62 no. 1 bed and 18 no. 2 bed) (7570.19 sq m) with private open space (terraces, balconies and winter gardens) visible on all elevations,

landscaped communal roof garden and courtyard. A narrow rectangular courtyard within the block provided the apartments with light and natural ventilation on secondary elevations.

2.1.4. The design statement includes – The urban form is to be located towards the south of the site where the site broadens out and gives us more room to work with. This gives room to incorporate a central courtyard within the urban form along with external open space to the west and east, which in turn provides more spatial separation from the existing surrounding residential premises. The site is in a 1 in 200 year coastal flood plain. This means that ground floor level for any development onsite must be +4.7m, roughly 1.5m above the existing level. Along the residential boundaries a retaining wall and steel railing will be installed. Where the boundary meets the rear of residential premises along Castle Road and Mill Street a footpath and brick wall will help make the change in level blend into the new and existing fabric. The courtyard sunlight study shows the area of the internal courtyard which can receive at least 2 hours of sunlight on March 21<sup>st</sup>. All apartments comply with the principles of universal design. The planning report submitted includes – splitting the public open space into 2 primary areas, east and west of the building ensures that residents and visitors alike can enjoy the spaces at all times of the day. This is vital, as it enhances the attractiveness and usability of the proposal's public open space areas and encourages activity and social integration throughout the day. Communal amenity space, per apt guidelines – 427 sq m required: 5sq m per 1 bed (62 units) 6 per 2 bed 3 person (9 units) and 7 per 2 bed 4 person (9 units). The building, as originally proposed, is towards the south of surface car park (51 car parking spaces, 26 bicycle parking spaces) to the north, and external open space to the west and east.

2.1.5. The proposed development will be connected to the public sewer and public water supply. Any flooding will have no adverse environmental impact due to impacting on the operation of any on-site wastewater treatment plant or contamination of drinking water supply well. Foul water is 2.5l/sec.

2.1.6. The application was accompanied by:

Drawings

Design Statement

Planning Report

Appropriate Assessment Screening

Archaeological Impact Assessment

Mobility Management Plan

Engineering Report

Flood Risk Assessment (FRA)

Parking Strategy

Photomontages & Visualisations.

2.1.7. The proposed development was completely re-designed in response to the request for further information. In the submission of significant further information, the revised design provides for 78 units and includes a community room, a visitor room, office, reception, and ancillary rooms, 45 car parking spaces and 26 bicycle spaces. The revised design incorporates a building of 8,231 sq m in one block located at the southern and eastern site boundaries. The building's main axis runs north south, sited near the eastern boundary and extending to six floors. At the northern end the block has a westward arm, where the upward extent is limited to four floors. The main entrance is at the north western corner, with ancillary entrances at the south western corner and also at the meeting point of the four storey and six storey portions, where the opening is to the communal space, located south and west of the block. The internal circulation space varies in width, being in parts quite wide. Two voids through floors in the circulation area extend from the ground floor to extensive roof lights above, allowing light to penetrate. As well as providing access to individual apartments, windows, mainly to kitchen areas, open onto this internal circulation space.

2.1.8. The response to the further information request was accompanied by:

Drawings

Summary Response Report

Design Statement

Universal Design Compliance Report

Housing Quality Assessment Report

Construction Environmental & Demolition Waste Management Plan

Architectural Heritage Impact Assessment

Construction Management Plan

Preliminary Flood Evacuation Plan  
Traffic & Transport Assessment  
Townscape & Visual Impact Assessment  
Building Lifecycle Report  
Appropriate Assessment Screening  
Bat Fauna Survey  
Archaeological Impact Assessment  
Photomontages & Visualisations.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. The planning authority decided (6/8/2021) to grant permission, subject to 23 conditions, including:

2 Restricting use to independent living residential accommodation for the elderly and the development to 59 apartments.

3 Requiring the submission of revised plans omitting the fifth floor (sixth storey), and omitting apartments 4 F03, 4 F04, 4 F05, 4 F06, 4 F07, 4 F08 and 4 F12 on the fourth floor (fifth storey). Requiring all balconies to be fitted with obscure glazed enclosures.

4 Details of a covenant confirming that the development shall remain owned and operated by an institutional entity for a minimum of 15 years and no individual unit sold separately for that period. Prior to the expiry of that period the developer shall submit ownership details and management structures for the continued operation of the entire development as an Independent Living Unit. Any deviation shall be subject to permission.

5 A management company to manage and maintain the building and to provide adequate measures for future maintenance.

8 Site development and building works limited to between 0800 and 1800 Monday to Friday and 0800 and 1400 on Saturdays, not at all on Sundays and public holidays.

Deviation in exceptional circumstances to have prior approval of the planning authority.

9 Development contribution.

10 Security (cash deposit) for completion.

11 Naming and numbering.

12 Section 96 agreement.

13 Re. landscaping, including root barrier system to prevent root damage to footpaths and roads; number and location of the play equipment, to be erected on Council lands at St Helena's Park, or contribution in lieu.

14 Public lighting.

15 (a) Bicycle parking provision and covered accessible storage shall be in accordance with the Sustainable Urban Housing: Design Standards for New Apartment Guidelines for Planning Authorities prior to occupation of the apartment units.

(b) The applicant shall provide a sufficient number of cycle stands in the open space area in the vicinity of the sports pitch and play area. Details to be submitted to the Planning Authority prior to commencement of any work on site.

20 Prior to commencement, design calculations re. required capacity of the attenuation storage structure to be submitted for agreement.

21 Surface water from the site shall be disposed of within the boundaries of the site and shall not discharge onto the road or adjoining properties. Surface water attenuation and disposal must be carried out in accordance with the surface water details received 12<sup>th</sup> July and as indicated on the 'existing and proposed foul sewer & surface water drainage' drawing C02-4400 rev B, which includes the provision of petrol interceptor.

22 Prior to commencement final design details for the construction of a footpath from Castle Road to the development entrance shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

23 re. archaeology.

3.1.2. The decision was in accordance with the planning recommendation.



## 3.2. Planning Authority (PA) Reports

### 3.2.1. Planning Reports

3.2.2. There are two planning reports on the file. The first which recommended seeking further information (FI) on 18 points, which request issued, includes:

- Dundalk and Environs Plan 2009-2015 applies:
- Zoned R1.
- Chapter 8 – conservation and heritage – Appendix 7 – located within St Mary’s Road ACA.
- Pre-planning consultation – concerns were raised re. - design; car parking; public realm; relationship with St Mary’s ACA; development management standards; shadow projections; flooding; number of 1 bedroom apartments.
- Assessment:
  - In principle not in conflict with policies; principles of higher density development to be considered.
  - Core strategy – density acceptable.
  - Design scale & form – proposal is 4/5 storey height and extends from 17.6m to 21.47m. Development plan policy notes a typical height of 2.5-4 storeys in the Seatown Character area however the plan predates the 2018 urban development guidelines. The site lends itself to more height than that suggested in the development plan. The principles of increased height are well established under the national planning framework. Plot ratio is an indication of scale. The 7,570.18 sq m floor area on a site extending to 0.69ha gives a plot ratio of 1:1, which is within the parameters of the development plan.
  - Impact on adjoining properties – the site is surrounded by 2 storey properties. On Castle Road they have the benefit of views of the mountains. There are bungalows on Mill Street. The distance from Castle Road properties is 40m. Concerns regarding overlooking need to be addressed re. Castle Road, Mill Street and the school yard. No assessment of loss of daylight and sunlight. The study submitted was

compiled to show sunlight passing through the internal courtyard on 21<sup>st</sup> March. Photomontages and visual impact does not show that the highest element of the proposal is directly behind the bungalows. The PA has concern that the photomontages do not reflect the wider spatial views from the approach roads to the site. Further justification for the height to five storeys is necessary. Specific Policy 3 of the Urban Development and Building Height Guidelines, requires a proposal, where additional height is proposed, to show how it complies with the various development management guidelines. Serious concern about the scale of the development and the impact on the character and residential amenity of the surrounding areas. Character of the area: narrow plots and small plot widths; there may be justification for a large development block but the applicant has to provide justification in line with 2018 guidelines. Revised contextual montages required from: eastern side of Mill Street to illustrate scale on Mill Street bungalows; Réalt na Mara School; St Brigid's Terrace, and the junction of the N52 and St Helena Park.

- Apartment Design and Layout – the site is in a central or accessible urban location per New Apartment Guidelines, 2018. The breakdown of units (22.5% 2 bed, 77.5% 1 bed) introduces a high percentage of one bedroom units which are not widely available in the vicinity. The high percentage is of concern taking account of their use for independent living. A housing quality assessment has not been submitted. Apartments range in size – 53- 55 sq m one bed, 86-89 sq m two bed; with floor areas exceeding design standards targets. The apartments have been designed with dual aspect with the internal courtyard as part of the design. Private amenity space complies with standards. A building lifecycle report has not been submitted. Bicycle parking is significantly short of the required standard. Car parking falls short of the development plan standard. The open space is of concern – it is equivalent to 12% rather than a minimum of 14%. Policy HC 20. Concerns about the open space which runs to the east and west of the building; no connectivity around the southern boundary where the building is tight to the boundary. The planning report refers to the public open space as an area with potential outdoor gym area and pathway to encourage residents to be active. Further information in

relation to open space is required to respond to 10 listed points as it does not currently address the design considerations of an independent living environment. Part V to be addressed. A letter from an independent assessor to be provided, stating that the scheme has been designed to an appropriate standard for independent living. Ecology – bat survey required. AA – cannot be completed. EIA preliminary screening – sub-threshold, there is no real likelihood of significant effects on the environment. Flooding – further information. Roads and parking – there are instances where justification can be made to reduce car parking standards – per paragraphs 4.19 and 4.21 of the Design Standards for New Apartments March 2018; further information required. Traffic observations – TTA (Traffic and Transport Assessment) is required.

- Legal title – further information.

### 3.2.3. Other Technical Reports

### 3.2.4. Infrastructure Directorate – listed concerns:

Number of parking spaces,  
Maintenance of access,  
Mobility impaired spaces,  
Volume, size and type of all traffic, and turning areas,  
TTA,  
Exit during flood event, consider raising road level,  
SUDS,  
Surface water runoff,  
How new roadway and footpath comply with standards,  
Demonstrate visibility requirements,  
DMURS compliance,  
Bin storage and access and turning for lorries,  
Demonstrate traffic calming,  
Public lighting design,

Secure weather proof cycle parking. Weather proof is required if parking is for over 3 hours,

CMP (Construction Management Plan).

### 3.3. Further Information

3.3.1. The further information request, issued 19/10/2020, includes:

1 Concern about integration into the urban environment having regard to the single storey properties along Mill Street and St Mary's Architectural Conservation Area. Details which demonstrate that the development would not have undue negative impact on existing residential amenity; how the design achieves the optimal solution for the site, vis a vis the parking and communal open space and how communal open space will achieve adequate sunlight/daylight to ensure its use as qualitative amenity areas for future residents; how the development will not prejudice the re-development of adjoining lands.

2 Overshadowing – no study provided; show how the development will limit the potential for overlooking and overshadowing. Include levels and cross sections showing the relationship between the development and adjacent residential development.

3 Photomontages and visual impact – concern that those provided do not reflect impact; a list of revised contextual elevations to be provided from 4 locations.

4 Housing mix – 78% are 1 bedroom; provide justification. The PA are particularly concerned that the end users proposed are elderly and there is a concern that such a high level of one bedroom units does not allow adaptability in design for future residents or afford the opportunity to bring a carer into the unit.

5 Management – described as an apartment scheme and a residential institution, the PA will be assessing it as an apartment scheme. Provide details of management.

6 Detailed design – the nature of the occupants does not permit a deviation in standards as provided for under the 2018 Apartment Guidelines. Submit a housing quality assessment report, a building lifecycle report, address materials and external finishes; demonstrate compliance with requirement for open space (14%); give further consideration to the quality of the communal space taking account of the extent of overshadowing; provide details of landscaping; there are shortcomings in

car parking and bicycle parking; submit independent verification that the scheme has been designed to an acceptable standard for independent living.

7 Heritage – submit an Architectural Heritage Impact Assessment, a Visual Impact Assessment, and clarify the status of Seatown Castle.

8 Legal Ownership – ownership of the access is disputed – comment; the access to Iona Yard – comment; the right of way to JPC Holdings Limited Lands and the location of car parking spaces 1-8, in addition to landscaping on the right of way - address; the use of the access road as an overspill car park for Castle Road - comment.

9 Car parking – the applicant has based the car parking demand by classifying the scheme as a residential institution with a demand for 1 space per 3 units. The application will be assessed on the basis of the required parking (apartments) under the Dundalk and Environs Development Plan and the Apartment Guidelines; 10% for impaired mobility; 10% electric charging.

10 Traffic – provide details of how to ensure access / rights of way, to pedestrian entrances along the boundary side of the site and on the access road; details of volume, size and type of traffic; arrangements including turning; Traffic and Transport Assessment to show impact on surrounding road network; show sightlines; show compliance with Design Manual of Urban Roads and Streets; show adequate access and turning for bin lorries; show traffic calming to achieve 30km/h.

11 Public lighting – by Public Lighting Engineer. Lanterns to comply with SEAI 'LED Lantern Specification for Public Sector Exterior Lighting'. Lighting columns shall be of tapered octagonal construction with a minimum wall thickness of 3mm and shall comply with the requirements of BS 5649 or EN40. Octagonal Columns shall be a minimum of 6 metres above ground with a 1 metre long root (7m total length), of folded steel, gradually tapered at a constant rate from the base, and terminating with a dimension of 68mm across flats at the top. Any lantern that cannot be accessed using a lorry mounted hoist must be mid hinged to facilitate future maintenance.

12 Cycle parking – details of secure weather protected cycle parking locations, at a rate of one third of the number of car parking spaces; weather protected and located where supervised.

13 Construction management – submit a construction management plan.

14 Flooding and attenuation – located within flood risk A. The greenfield part of the site is 200mm lower than the entrance level. Section 6.6.3.2 of the submitted FRA suggests that the proposed car park will remain at the existing level. In a 0.5% AEP (Annual Exceedance Probability), flood event, pedestrians would have to exit by wading through flood water of over 0.5m depth. Applicant to consider raising finished road levels along a section of the proposed access road to a minimum 4.22m (extreme water level of 3.72m and 500mm climate change allowance) to provide a safe evacuation point. Submit revised SUDS. Show revised proposals as to how surface water runoff from existing access entering the site is to be managed. Show any existing gully's services and pipe networks. The surface water generated shall not be permitted to enter the existing public road – Castle Road.

15 Water services – pre connection enquiry form and Irish Water response; and connection agreement.

16 Part V – submit details of compliance.

17 Ecology – bat survey.

18 Appropriate Assessment – cannot be assessed as there are outstanding matters relating to surface water and gullies.

### **3.4. Prescribed Bodies**

DAU – archaeology – pre development testing condition.

### **3.5. Third Party Observations**

- 3.5.1. Third party observations on the file have been read and noted. They include: validity of the application / ownership of site, design / height / roof garden, health – shared laundry, traffic impact and safety, drainage, the company, residential amenity, environmental and ecological concerns, heritage and archaeology, construction compound, parking, standards, CMP, future ownership, the number of 1 bedroom units for elderly, surface water, impact on the Franciscan Friary, flood risk, archaeology, child welfare / impacts on Réalt na Mara National School.

### 3.6. Reports Following Response to Further Information Request

3.7. Infrastructure Directorate – responding to its earlier listed concerns, finds the response acceptable.

3.8. The second planning report includes:

3.8.1. Noting further observations.

3.8.2. The site boundary has been amended, resulting in the omission of 8 parking spaces and some landscaping.

3.8.3. In response to item 1 (i) the proposed development has undergone significant redesign.

- It is now part 3 storey - 10m height, and part 6 storey - 19.3m height with 78 units – 30 x 1 bed, 24 x 1.5 bed and 24 x 2 bed.
- Vis a vis Castle Road - the 3 storey element is c 7.4m from the site boundary and provides c34.8m distance between opposing elevations and c14m to the rear boundary.
- Vis a vis Castle Road - the 6 storey element is c 33.1m from the site boundary and c40m to the rear boundary, and provides c60m between opposing first floor windows
- Vis a vis Mill St - the 6 storey element provides c 43.3m between opposing first floor windows and c10m to the rear boundary.
- Vis a vis Réalt na Mara – 4.3m from the site boundary.
- The redesign includes omission of the rooftop garden. It has increased the separation distances between existing properties on Castle Road and the windows and balconies serving the proposed units has reduced the impact on surrounding properties. Given the scale, the perception of being overlooked will remain for the residents along Mill St and Castle Road. The reconfiguration will result in an increase in overlooking into the school yard. Plot ratio – 1.3, site coverage 0.25, density 127 units/ha, site area 0.61ha. concerns regarding the scale, the sixth floor should be omitted. The fifth storey needs to be set back from Mill St. to reduce the bulk and mass and to provide visual relief. This will result in an overall scheme of 59 apartments, density 96.7 units/ha; still high density.

- 3.8.4. In response to item 1 (ii) – PA remains concerned about excessive height. The height of the building has increased, which will result in it becoming an even greater dominant feature in the local streetscape and have greater impact on the Mill Street properties and the interface with Réalt na Mara school. To address these concerns removal of sixth floor and some fifth floor apartments is required. The photomontages and visual assessment indicate the relationship of the proposed building with existing properties from various vantage points in the vicinity; these and the contextual elevations are considered to demonstrate the dominance of the proposed building; and give justification to the removal of the sixth storey.
- 3.8.5. In response to item 2 – overshadowing – sunlight and daylight access analysis study: satisfied that the revised proposals will ensure the development will not have a significant adverse impact on the residential amenities by way of overshadowing.
- 3.8.6. In response to item 3 – photomontages & visual impact - does not agree that the photomontages demonstrate a progressive transition towards increase heights; considers the photomontages indicate the contrasting scale and bulk of the proposed building in comparison to existing buildings in the immediate vicinity and in particular the existing buildings along Castle Road and Mill Street. A high building is appropriate, however the building height increase from 16.2m previously proposed to 19.3m is not. Rather than addressing the concerns raised, the response has added an additional storey.
- 3.8.7. In response to item 4 – housing mix - 1 bed 38%, 1.5 bed 31%, 2 bed 31%. The additional supporting information sets out the rationale for the high level of 1 bedroom apartments. Taking account of the fact that the approved housing body Clúid/Clann has submitted a letter of interest to acquire and manage the proposed development and has indicated that they have engaged with the design team, the PA is satisfied with the mix. A condition stating that the development be retained in single ownership is required.
- 3.8.8. In response to item 5 – management of the development – condition.
- 3.8.9. In response to item 6 – detailed design – 6 (1) to 6 (4) noted.
- 6(5) open space – applicant is proposing to provide communal open space which equates to 23.9% of the site area. This would be a functional area located in an area that is passively overlooked and has direct access from a community room and is



generally acceptable. The proposal to provide a contribution in lieu of public open space is welcomed.

6(6) – the courtyard has been omitted,

6(7) – the design accords with the principles of universal design; open space is functional and meets the needs of residents.

6(8) – parking – it meets the needs of independent living accommodation.

6(9) noted.

3.8.10. In response to item 7 heritage – Architectural Heritage Impact Statement – height, scale and its location on lands immediately adjacent to St Mary’s Road ACE mean this building will be read in conjunction with existing buildings in the ACA. While the building to be demolished is of no architectural value, its scale is such that it does not dominate or interfere with the setting of the ACA. In contrast, the proposed building will be a much more prominent feature in the streetscape. The site is in an urban location and the typology of the building is supported by national policy. The buildings within St Mary’s Road ACA are bounded by 21<sup>st</sup> century buildings of modern materials and height, reflective of the policy context in which they emerge.

7(2) – whilst the contents of the Visual Impact Assessment are noted, the PA disagrees with the conclusions, that the proposed development would have a negligible visual impact or can be absorbed into the townscape without detriment to its character. The scale of the proposed building, which is proposed at 6 storeys high (19.3m), will result in the building being a dominant feature in the local streetscape, which is characterised by low rise buildings, particularly along Mill Street and Castle Road. The proposed building will not be absorbed into the local townscape but rather it will be a prominent, obtrusive and overbearing feature due to its excessive height and scale. The addition of a building of this height will add a character of building which is not currently present within the urban landscape of this area; concerns about the overall height, as previously stated.

7(3) – Seatown Castle is a Franciscan feature.

3.8.11. In response to item 8 – ownership – revised site boundary.

3.8.12. In response to item 9 – the response states - car parking is provided for 45 cars, equating to a ratio of 0.58 spaces per unit, in keeping with SHD application adjacent to Tesco at Hill St (306244). It is the PA’s assessment is that such a facility would

not generate the same parking demand as a normal block of apartments and a reduction may be acceptable also, regarding its proximity to local services and amenities.

9(2) – 10% accessible bays shown and 10% electric vehicle charging (9(3)).

- 3.8.13. In response to item 10 traffic – 10(1) proposed car parking will not obstruct the existing ROW; 10 (2) – re. that the number of daily movements to the residences would be greater than that set out, which will introduce significant additional traffic movements onto Castle Road. In this central location, the surrounding road network has the capacity to accommodate the additional traffic. 10 (3) re.traffic on Castle Road, TRICS data is used to show traffic movements to a Cash 'N Carry and the high percentage of HGVs and Vans. The impact will not be significant. Report from Infrastructure Section raised no objection. Road network in the vicinity has the capacity to accommodate the additional traffic. 10(4) – re. proposed roadway and existing laneway - report from Infrastructure Section raised no objection regarding design. Final design and timeframe for completing the footpath could be agreed by way of condition. 10(5) – this road was previously used by a Cash 'N Carry. It is proposed to provide a footpath and crossings with tactile paving. The width of the roadway is 5.5m. Consideration has been given to existing pedestrians. The road level is not to be adjusted; considered acceptable. 10(6) – bin locations and access – satisfactory. 10(7) – maximum isle length of 44m will ensure no excessive speed.
- 3.8.14. In response to item 11 – public lighting – outdoor lighting report - acceptable.
- 3.8.15. In response to item 12 – cycle parking – the 26 spaces is in excess of 1/3 the number of car spaces, located proximate to the main entrance and covered; acceptable.
- 3.8.16. In response to item 13 – construction management – a Construction Management Plan and a Construction Environmental & Demolition Waste Management Plan have been provided.
- 3.8.17. In response to item 14 – flooding and attenuation – 14(1) raising the existing road is not feasible. The proposed development is to be a managed facility. The level of the proposed car park is to be constructed at a level of c3.75mOD which is above the water level identified in the CFRAM Flood Maps. This is the same level as the car park granted under the permission for Réalt na Mara school (ref 16/433). Peak flood will be at high tide and therefore a short time span event. In the event of an

emergency that coincides with a flood event, an emergency response procedure will be put in place by management; acceptable.

14(2) SUDS – significant existing hardstanding – proposed development will not exceed existing hardstanding; noted, and to be conditioned.

14(3) surface water runoff discharge – response noted and to be conditioned.

3.8.18. In response to item 15 – water services – 15(1) pre connection enquiry, copy provided; 15(2) a connection agreement will be signed prior to commencement; noted.

3.8.19. In response to item 16 – Part V – proposals made – to be conditioned.

3.8.20. In response to item 17 – bat survey carried out – none roosting – acceptable.

3.8.21. In response to item 18 AA screening - an updated AA screening report submitted; it is considered that no AA issues arise and AA stage 2 is not required.

3.8.22. Revised notices were submitted.

3.8.23. Further issues – noise – it is not considered that excessive noise will arise, taking account of the end user. Local engagement – the applicant has complied with statutory obligations. Fire safety – Part B of the second schedule of the building regulations sets out the legal requirements regarding fire safety. A fire safety certificate is required and is a separate consent process.

3.8.24. Development contributions are calculated based on 59 units.

3.8.25. Recommending permission, in accordance with conditions, which decision issued.

## **4.0 Planning History**

The history details supplied relates to use of the site as a cash and carry.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1. Louth County Development Plan 2021-2027, adopted 11<sup>th</sup> November 2021, is the operative plan and supercedes the Dundalk and Environs Plan 2009-2015, referred to in the planner's report.

### 5.1.2. Relevant provisions include:

The core strategy includes an objective to achieve compact growth, to support proposals to develop buildings of height on suitably located sites and to deliver high quality residential development; and that at a minimum 30% of new homes will be provided within the built up footprint of the urban area. Chapter 3, housing, includes provisions specifically for housing for older persons, including supporting the government policy statement Housing Options for Our Ageing Population, policy objective HOU 12. In relation to higher densities the plan states that when identifying the potential density of a site, consideration must be given to the surrounding context and how the development would relate to the existing built form and character of its location. One of the key elements of making a high density development an attractive place to live, is in the quality of the internal design such as the amount of daylight the accommodation receives and the external space on which the building(s) is located i.e. the quality of the public realm. The quality of the open space is also a critical aspect. Whilst it is an objective of the Plan to support higher densities, this will take account of the capacity of the lands to accommodate this type of development, the location of the lands and public transport accessibility. The primary considerations will be the quality of the residential environment that will be created. Recommended minimum density in the Regional Growth Centres, Dundalk and Drogheda, 50 units per ha.

#### Buildings of Height:

**Location:** Higher buildings will normally be located in central areas of towns close to public transport, in strategic locations at the entrance to towns or on strategic lands on the approach road to the town centre. The local area shall have the social and physical infrastructure to accommodate the increased levels of activity.

**Strengthened Legibility:** Higher buildings shall be a positive landmark in the streetscape and shall respect and respond to the character of the area.

**Strengthen the Sense of Place:** Higher buildings have an important role in shaping the perceptions of an area. If they are poorly designed or located in the wrong area they can create a negative image for an area.

**Promote Quality Design:** Higher buildings must make a positive and lasting contribution to their location.

Protect and Enhance the Existing Streetscape and Heritage: It is important that higher buildings do not disrupt or negatively impact on the historic areas of towns or intrude on important views. They should only be located in places that would enhance the character of an area.

Relevant objectives include:

HOU 12 To support the implementation of the Policy Statement 'Housing Options for Our Ageing Population' and the provision of independent and/or assisted living for older people such as purpose built accommodation, the adaptation of existing properties, and opportunities for older people to avail of 'rightsizing' within their community at locations that are proximate to existing services and amenities including pedestrian paths, local shops, parks and public transport.

HOU 15 To promote development that facilitates a higher, sustainable density that supports compact growth and the consolidation of urban areas, which will be appropriate to the local context and enhance the local environment in which it is located.

HOU 16 To support increased building heights in appropriate locations in the Regional Growth Centres of Drogheda and Dundalk.

HOU 17 To promote and facilitate the sustainable development of a high quality built environment where there is a distinctive sense of place in attractive streets, spaces, and neighbourhoods that are accessible and safe places for all members of the community to meet and socialise.

HOU 22 To require residential developments to prioritise and facilitate walking, cycling, and public transport and to include provision for links and connections to existing facilities and public transport nodes in the wider neighbourhood.

HOU 24 To require the provision of high quality areas of public open space in new residential developments that are functional spaces, centrally located, and passively overlooked.

HOU 25 All new residential and single house developments shall be designed and constructed in accordance with the Development Management Guidelines set out in Chapter 13 of the Plan.

HOU 26 To require the provision of an appropriate mix of house types and sizes in residential developments throughout the County that would meet the needs of the population and support the creation of balanced and inclusive communities.

HOU 28 To encourage innovation in design that delivers buildings of a high quality that positively contribute to the built environment and local streetscape.

HOU 29 To seek that all new residential developments in excess of 20 residential units provide for a minimum of 30% universally designed units in accordance with the requirements of 'Building for Everyone: A Universal Design Approach' published by the Centre for Excellence in Universal Design.

HOU 30 To encourage building design and layout that maximises daylight and natural ventilation and incorporates energy efficiency and conservation measures that will improve the environmental performance of buildings in line with best practice.

HOU 32 To encourage and promote the development of underutilised infill, corner and backland sites in existing urban areas subject to the character of the area and environment being protected.

HOU 33 To promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area

BHC 6 To ensure any development, either above or below ground, adjacent to or in the immediate vicinity of a recorded monument or a Zone of Archaeological Potential (including formerly walled towns) shall not be detrimental to or detract from the character of the archaeological site or its setting and be sited and designed to protect the monument and its setting. Where upstanding remains exist, a visual impact assessment may be required.

TOU 12 To work with the relevant stakeholders including the OPW, the Heritage Council, Fáilte Ireland, the Arts Council, local communities and businesses to support the development of heritage and cultural tourism in Louth.

Chapter 13 contains development standards and includes (at 13.8.10) under the heading Daylight and Sunlight that care shall be taken in the design of residential developments to ensure adequate levels of natural light can be achieved in new dwellings and unacceptable impacts on light to nearby properties are avoided.

Referring to the Building Research Establishment (BRE) guidelines 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011) and BS 8206-2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' - provide useful guidance, it also states that per section 6.7 of the 'Apartment Guidelines' where a proposal may not be able to fully meet all the requirements of the daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solution must be set out, in respect of which the planning authority should apply their discretion, having regard to local factors including site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives.

Under the heading 'Residential Amenity' (13.8.9.1) Privacy - Residential developments shall be designed to take account of the amenities of existing residents in the locality of a development area, in addition to the amenities of future residents of the subject development. Whilst some degree of overlooking between properties is likely to occur in urban areas, efforts shall be made to minimise the extent of this overlooking where this is possible. A minimum of 22 metres separation between directly opposing first floor habitable rooms in residential properties shall generally be observed. This separation distance is not required for windows in non-habitable rooms such as bathrooms, stairwells or landings. There may be instances where a reduction in separation distances may be acceptable. This is dependent on the orientation, location, and internal layout of the development and its relationship with any surrounding buildings. Any applications for such developments will be assessed on a case-by-case basis. Where the front elevation of new properties in urban locations are close to or abut the public footpath, consideration shall be given to providing some form of buffer such as a planting strip between the property and the footpath where this is feasible.

Schemes in excess of 25 units shall endeavour to provide an appropriate mix of residential accommodation. Greater consideration shall be given to providing suitable accommodation for older persons and people with a disability. This includes adaptable homes that can be altered to meet the needs of residents through the different stages of life.

Public open space within a development shall normally equate to 15% of the total site area. In developments where the standard of the open space is of a high quality due to its location, functionality, and any additional detailing proposed e.g. paving,

landscaping, or surfaced play areas and equipment, a reduced rate of open space may be acceptable. Such a reduction will be assessed on a case-by-case basis.

A secure and conveniently located cycle parking area shall be provided in apartment developments. This cycle parking area shall be covered.

Table 13.11 car parking required - 1 space per apartment in Area 1 (Lands Located within town and settlement centres)

A reduction in the car parking requirement may be acceptable where the Planning Authority is satisfied that:

- There is sufficient parking available in the vicinity of the development to cater for any shortfall;
- The nature of the development is such that existing parking spaces in the vicinity could facilitate the dual use of parking spaces, particularly if the development operated at off-peak times. Supporting documentation will be required demonstrating how the dual use will work;
- The public transport links available would reduce the demand for car parking;
- The central location of the development is such that the customers/residents/users of the development would be likely to walk or cycle; and
- There was no off street car parking provided with the existing/previous use of the property and the redevelopment of the property would not result in a significant increase in the car parking requirement.

A Transport Mobility Management Plan supporting any reduction in car parking shall be included with any application where the quantum of parking is significantly below that set out in the Car Parking Standards (Table 13.11).

Cycle parking Table 13.12 - Apartment, Flat , Sheltered Housing - Minimum of 1 cycle space per bedroom, for Studio units at least 1 cycle space; and 1 space per 2 units visitor parking.

The site is within the zoning 'A1 -- Existing Residential' Objective: To protect and enhance the amenity and character of existing residential communities. Guidance: The objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where



they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties. The strengthening of community facilities and local services will be facilitated subject to the design, scale, and use of the building or development being appropriate for its location.

## **5.2. Sustainable Residential Development in Urban Area, May 2009**

- 5.2.1. Particular sensitivity is required in relation to the design and location of apartment blocks which are higher than existing adjacent residential development. As a general rule, where taller buildings are acceptable in principle, building heights should generally taper down towards the boundaries of a site within an established residential area. Planning authorities in cities and larger towns should also consider whether a building heights strategy, involving public consultation as part of a statutory plan process, would provide clearer guidance for potential developers on where, and in what circumstances, taller residential buildings would be appropriate within their areas.

## **5.3. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas**

- 5.3.1. The objective is to produce high quality – and crucially – sustainable developments:
- quality homes and neighbourhoods,
  - places where people actually want to live, to work and to raise families, and
  - places that work – and will continue to work - and not just for us, but for our children and for our children's children.

A thorough appreciation and assessment of the overall site context is the starting point in designing a distinct place.

## **5.4. Urban Development and Building Height Guidelines (UD) (BHG) (2018)**

- 5.4.1. This is directed at planning for upwards, rather than ever outwards in the growth and development of our cities and towns while meeting the highest architectural and planning standards. Development Management Criteria - at city town scale development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the

character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views.

5.4.2. At the scale of neighbourhood / street the proposal should respond to its overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape. The proposal should not be monolithic and avoid long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.

5.4.3. SPPR 3 sets out the requirement that an applicant for planning permission must demonstrate how a development proposal complies with the criteria.

## **5.5. Natural Heritage Designations**

5.5.1. The nearest protected sites are:

Special Area of Conservation: Dundalk Bay SAC (site code 000455) and Special Protection Area: Dundalk Bay SPA (site code 004026) located just over 200m straight line distance (north-east) of the subject site.

## **5.6. EIA Screening**

5.6.1. Having regard to nature and scale of the development comprising an infill residential development and the urban location of the site 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**

6.1.1. There are two third party appeals against the decision to grant permission and a first party appeal against conditions.

Third Party Appeals

6.2. An appeal on behalf of Co Louth Archaeological and Historical Society has been submitted by Seamus Bellew (Joint Secretary), which includes:

- The site is directly adjacent to the site of the medieval Franciscan Friary established c1245. The only visible remnant is an intact and well-preserved medieval belfry, known as Seatown Castle. This is a national monument in the care of a local authority and has huge potential for development as a cultural and tourist attraction.
- It is 25.4m high and the proposed development will be 21.47m at 100m to the north east, and built on a raised level approx 1m above existing ground level. The height will have a major impact on the skyline of this part of Dundalk, interrupting skylines to and from the tower and compromising its context.
- It has potential as a viewpoint.
- The proposed development would contravene the spirit of objective 6 of the county development plan.

6.3. An appeal on behalf of Lorraine Scully and local residents has been submitted by Downey Planning, which includes:

- They reside directly adjacent to the site and share a right of way at the entrance to Castle Road with the former cash & carry building.
- They question the suitability of a 6 storey building designated as flood zone 'A' to cater for the housing needs of elderly residents. Issues such as how elderly people get down from the upper levels in the case of emergencies including fire or flood, particularly in a situation where the lifts would not be working and where the residents may be mobility impaired or have other health issues restricting their movements.
- Administrative errors with the application including the legal right to make the application.
- Flood risk.
- Height, scale, mass and design of the proposed development.
- Traffic impact and safety.
- Material contravention of development plan.
- Lack of compliance with apartment guidelines.
- Loss of residential amenity.

- Architecture, archaeological and heritage impacts.
- Impacts on Réalt na Mara National School.
- Impact on Historic Buildings.
- Environmental and Ecological concerns.
- Future Management Concerns.
- Documents and assessments provided are not in accordance with relevant guidelines or standards.

#### 6.3.1. Land ownership

- Application should have been deemed invalid. The site is landlocked. The red line boundary was amended during the course of the application to include the right of way, but development is still proposed outside the red line, where no consent to works has been given.
- The drawings did not indicate any subterranean structures and the distance to site boundaries (Balscadden Road SAA Residents Association Ltd v An Bord Pleanála [(2020) IEHC 586], and should have been considered invalid.
- Flood risk justification test is incomplete. The FI response does not show regard for the future occupants. The S 28 Guidelines should be taken into account, [Heather Hill Management Company CLG v An Bord Pleanála (Burkeway Homes Limited as Notice Party [(2019) IEHC 450)]. The floor levels and rear gardens of 21-23 Castle Road are approx. 2-3 feet below the ground level of the site and are even more at risk.
- Drainage - insufficient evidence is provided that the existing sewers can accommodate the proposed development. The development requires pumping into a combined sewer. This does not address previous refusal reasons. No SuDS treatment provided.
- Traffic impact and safety – low volumes of traffic have used the entrance. Safety concerns regarding conflict with pedestrians / cyclists, particularly given the proximity to schools. The traffic survey was carried out during Covid-19 restrictions, the results should be discounted. The sightlines, shown on the ‘existing and proposed road and floor levels’ drawing, are inaccurate. It

cuts through the road verge; the entire length of Castle Road has on-street residential car parking.

- The footpaths, cycle path and stop signs cannot be provided, being outside the applicant's control. In addition there is no existing cycle lane into which the proposed development could connect. The parking reduction proposed (at FI) is in the context of additional bedspaces. No permeability or connectivity is shown. The proposed footpaths are only 1.7m and 1.8m wide and should be 2m in width.

#### 6.3.2. Height, Scale and Density:

- The contextual elevations show that the development is out of character and inappropriate in this location. The changes at Further Information stage made the impact worse: moving it closer to the school and increasing the height. The photomontages, when trees were in full leaf, and the use of close up views, are misleading.
- The condition, reducing the height, does not correlate with the original concerns of the planning authority. There was no material evidence to show how that would work; permission should have been refused (309907-21).
- It would remain of excessive scale.
- SPPR 3 and Section 3 of the Urban Development and Building Height Guidelines have not been complied with; justification has not been provided.

#### 6.3.3. Impact on residential amenities:

- 244215 refusal reasons are pertinent.
- 6 storey building with balconies will provide uninterrupted views over adjoining properties, residential and school.
- Sunlight daylight assessment is partial, but confirms impact. No assessment of the levels of daylight/sunlight in the apartments themselves is provided; or of the impact on other third party lands so as to assess impact on future development potential (Higgins and ORS v An Bord Pleanála [(2020) IEHC 388]).

- Non – compliance with apartment guidelines 2020 – 78% 1 bedroom units is significantly above the 50% maximum standard in the guidelines. The 1.5 bedroom units are 1 bedroom units. The mix does not afford the appropriate quality of residential amenity or adaptability in design for future residents. The design of the 1 bedroom units does not afford the opportunity of isolating or quarantining.
- The contribution to a club 3.5km away, in lieu of open space provision, is not considered appropriate. If a contribution in lieu is to be paid it should be to the planning authority.

#### 6.3.4. Non – compliance with Urban Development and Building Height guidelines 2018

- section 3 sets out development management principles and the criteria that proposed higher buildings are to be assessed against. The development fails to meet these criteria, (*Rita O’Neill v An Bord Pleanála [(2020) IEHC 356]*).
- Section 3.2 SPPRA3(a):
  - The site should be well served by public transport with high capacity, frequent service and good links to other modes of public transport.
  - Development proposals incorporating increased building height, should successfully integrate into/enhance the character and public realm of the area – the proposed development is a backland site with no aspect of it directly addressing the public street. No improvement is being made to the public realm and it fails to integrate into or enhance in any way the character or public realm of the area.
  - The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight and views and minimise overshadowing and loss of light.
  - The daylight shadow assessment is wholly inappropriate and provides sample information only; and no assessment of internal daylighting or sunlight. There is insufficient information to determine if carefully modulated.

- An assessment that the proposal allows for the retention of important telecommunication channels, (*Spenser Place Development Co. Ltd v Dublin City Council (2020) IECA 268*).
- In contrast to ministerial guidelines generally to which planning bodies must have regard but which do not impose binding obligations, planning authorities etc, are statutorily required to comply with SPPRs in the performance of their functions.
  - Part, if not all, of the Castle Road area suffers from poor telecommunications coverage. The large and tall apartment building may give rise to further worsening and evidence to confirm otherwise has not been provided.
- The supporting documentation contains such flaws that it cannot be relied upon as forming evidence to address section 3 of the guidelines.

**6.3.5.** Architecture, and cultural heritage - this is the oldest part of the town; the site would have been part of the Franciscan monastery. The applicant's report recommended further test trenching; not carried out. The visual assessment of impact is not adequate.

**6.3.6.** Environmental considerations – no evidence of screening for EIA by the PA; (*Waltham Abbey Residents Association v An Bord Pleanála & Ors (2021) IEHC 312*); refusal mandatory.

**6.3.7.** Depreciation of property values – alteration of character, overlooking, additional traffic, overshadowing – mean significant depreciation of property values.

**6.3.8.** Construction management – pile driving would generate significant vibrations. The houses are 120 years old, are not built on proper foundations and would be liable to structural damage. How any work would be carried out to the laneway where houses have direct access, and houses use rear right of way access.

**6.3.9.** Management and development contributions – there is no guarantee that Clúid will manage the scheme, so it must be assessed as a normal apartment scheme. Correct development contributions should be levied and bonds and securities secured.

**6.3.10.** Attached to the appeal are a copy of their letter of observation to the planning authority, a copy of the land registry folio for the subject property, a letter from the Principal of Réalt na Mara School and a letter from Senator John McGahon.

#### 6.4. First Party Appeal

6.4.1. The appeal against conditions, is submitted on behalf of the first party by KPMG Future Analytics, it includes:

The appeal is against conditions 2 and 3.

2 The permitted use is confined to independent living residential accommodation for the elderly and for 59 number apartments.

Reason: In the interests of the proper planning and sustainable development of the area and in the interests of clarity.

3 a) prior to commencement of the development the applicant shall submit a revised plans and elevations omitting the fifth floor (sixth storey) of the proposed development and apartment numbers: Apt 4 F03, Apt 4 F04, Apt 4 F05, Apt 4 F06, Apt 4 F07, Apt 4 F08 and Apt 4 F12 on the fourth floor (fifth storey).

b) All balconies shall be fitted with obscure glazed enclosures.

Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide a development of appropriate scale and finishes for this location in accordance with Development Plan and National Policy in the interest of the residential amenities of both existing and future residents and the proper planning and sustainable development of the area.

- The subject site is one of the last remaining large backland/infill sites within Dundalk. The effect of the Council's decision if unamended will reduce the sites overall potential to provide much needed housing for an increasing demographic cohort within the area. The mix of the 78 units is laid out in table 3-1 as: 30 x 1 bed (38%), 24 x 1.5 bed (31%) and 24 x 2 bed (31%). The communal open space extends to 1,469m<sup>2</sup> or 23.9% of the site area.
- The proposed development does not give rise to overshadowing on nearby residential properties and the school situated to the east of the site. Citing the



Sunlight and Daylight Access Analysis, the grounds states that the potential impact would likely be unnoticeable to residents. Additionally the shadow study illustrates that the proposed development has minimal overshadowing of the school courtyard during school hours and refers to Figures 4-1, 4-2, 4-3 and 4-4 which illustrate overshadowing in March and June during school hours at 12.00 and 15.00.

- The design of the proposed development is appropriate, respectful and innovative and will not result in overbearance and obtrusion or injure the character and visual amenity of the area. The design proposes a high density: 127 units per ha, to make efficient use of the site. There are 2 principal elements: a north south 6 storey feature that runs parallel and beside the eastern boundary and an east-west 3 storey feature that connects to the 6 storey element at its northern extent. This has resulted in a respectful design. The scaled back 3 storey element gives a plot ratio of 1.3 which is well within standards. The location and orientation of the balconies is carefully considered with respect to concerns of overlooking. No balconies feature on the western elevation of the 3 storey element. The balconies on the 6 storey element are 33m from the western site boundary and 60m from the closest rear elevation at Castle Road. Balconies feature on the southern elevation of the 3 storey element and on the 6 storey element but in the south-eastern corner only, 80m and greater than 40m from the Mill St residences with ample planted screening between. They disagree that the images and contextual elevations demonstrate the dominance of the proposed building, and copies of the viewpoints are included in the statement of grounds.

- The surrounding architectural heritage will not be negatively impacted by the proposed development. Due to the orientation of the proposal and its set back nature on the site, it does not create any overbearing views along the streets within the St Mary's Road ACA. It therefore doesn't take anything away from the historical streetscape of the locality.

The proposed development complies with key national and regional policies and strives to make efficient use of underutilised brownfield backlands. The National Planning Framework, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) the Urban Development and Building Height Guidelines for Planning Authorities and the

Regional Spatial and Economic Strategy (RSES) Eastern & Midland Regional Assembly, are cited in this regard.

- The applicant is the legal title holder of the subject lands and has demonstrated their sufficient interest in the lands for the purposes of the planning application and appeal.
- Demographic and Market Justification for the Proposed Independent Living Residential Development for the Elderly is given. Analysis reveals an ageing population but there is understood to be limited bespoke, purpose-built housing options to accommodate this segment of the community. They identify on figure 4-39 the location of several nursing homes in the surrounding area, only two of which are located within the Dundalk settlement boundary. There is a large list of candidates in the immediate area for the type of housing proposed.

## **6.5. Applicant Response**

6.5.1. The applicant has responded to the third party grounds of appeal, which includes:

- The applicant has responded to the Co Louth Archaeological and Historical Society appeal under the headings: concerns regarding that the height of the proposed development will interrupt sightlines to and from Seatown Castle compromising the context of the medieval monument; and concerns that the proposed development contravenes the Louth County Development Plan 2015-2021 Strategic Objective no. 6.
- The applicant has responded to the Lorraine Scully and local residents appeal under the headings: concerns relating to the legal ownership and ability to implement development, general flood risk concerns, general drainage concerns, traffic impact and safety concerns, concerns regarding height, scale and density of proposed development, concerns regarding adverse impact on residential amenity, especially looking at overlooking and overshadowing, concerns regarding non-compliance with apartment guidelines 2020 specifically regarding unit mix and public open space, concerns regarding non-compliance with urban development and building height guidelines 2018, general archaeological and cultural heritage concerns, environmental concerns, depreciation of property values concerns, construction

management concerns, management of scheme and development contribution concerns.

- The height of the proposed development will not negatively impact Seatown Castle and skyline. Viewpoints illustrate that the proposed height will not have a dominant and overbearing presence. Copies of photomontages are included. The proposed development provides surveillance over the school courtyard which increases safety for the children.
- The proposed development does not contravene Strategic Objective no. 6 of the Louth County Development Plan 2015-2021. The Archaeological Impact Assessment is referred to in this regard.
- Legal ownership – the applicant is the legal title holder of the subject lands and Louth Co. Co. (LCC) has confirmed they are satisfied that the applicant has addressed the ownership queries. The applicant has a full legal wayleave across the western boundary to an established entrance and indeed an entrance gate at the end of the boundary. Residents have erected a gate across this wayleave with no notification provided to Independent Trustee Company (ITC) and have placed a lock on the gate without any notification to ITC or permission to block their right of way. ITC representatives have checked with the freeholder of the road and wayleave area and no permission for the erection of the gate was sought from them. The resolution of this matter will be addressed when the planning process is complete.
- A full flood risk assessment has been undertaken and the proposal incorporates sustainable urban drainage systems into the design and does not give rise to flooding. The original third party objection made reference to flooding on the subject site, this is inaccurate as the FRA notes that the building currently on the site has never been affected by flooding. The more recent third party appeal makes no reference to flooding on site. The proposed development incorporates sustainable urban drainage systems (SUDS) including landscaped open spaces and significant increase in permeable block paving.
- The existing drainage infrastructure can cope with the demand generated by the proposed development. An engineering report was prepared by DCE, addressing surface water drainage, foul sewer, and water supply. The

appellant statement that the applicant has failed to provide sufficient evidence or comfort that the existing sewers can accommodate the proposed development is inaccurate as Irish Water has issued a letter outlining that the proposed connection to the IW network(s) can be facilitated without infrastructure upgrade; and they provide a copy of the letter. An increase in permeable surfaces will allow surface water to be managed on site. Due to the increase in surface permeability, attenuation on site is not proposed. Surface water will be discharged into the existing 150mm diameter combined sewer. Foul water is proposed to be drained by way of gravity network to existing 150mm diameter combined sewer at the western side of the site draining into the wider network at Castle Road. The appellant statement that the proposed development does not incorporate SUDS, is inaccurate, full details are provided in the materials prepared by DCE, as illustrated in figure 4-15 of the response.

- Traffic matters raised have been carefully analysed and agreed in great detail with Louth County Council (LCC) Engineers. That the traffic survey carried out on 25<sup>th</sup> March 2021 and included in the traffic and transport assessment prepared by DCE is not invalid due to the COVID restrictions: people working from home and secondary schools not fully open; this is likely to remain the case. The intention to provide a footpath on either side of the road is challenged by the appellant, however under compliance condition no. 22, LCC insist on the construction of a footpath from Castle Road to the development entrance, in the interests of public safety and orderly development. The access point into the site on its western edge along Castle Road is the property of the Roden Estate and they are fully aware of the scheme and have raised no objection to the development. The applicant has a full legal wayleave across the roads and has agreed to contribute to any upgrade works required as set out in the permission.
- The design of the proposed development is appropriate, respectful and innovative and will not result in overbearance and obtrusion or injure the character and visual amenity of the area. The L shaped block has allowed room to incorporate a south western facing open space which provides more spatial separation from the existing surrounding residential premises. The design proposes a high density of 127 units per ha to make efficient use of the

site. The meaningful transition in scale is illustrated in figure 4-17, a copy of which is provided in the response.

- The proposal does not adversely impact on residential amenity. The location and orientation of the balconies is carefully considered with respect to concerns of overlooking. No balconies feature on the western elevation of the 3 storey element closest to the rear gardens of houses at Castle Road, whilst those balconies on the 6 storey element are 33m from the western site boundary and 60m from the closest rear elevations at Castle Road. On the southern elevation balconies feature in the 3 storey element and the 6 storey element, but only in the south-eastern corner, the former are 80m from the rear of residences at Mill St, the latter are greater than 40m from these residences, with ample planted screening between. A detailed Sunlight and Daylight Access Analysis study was undertaken by ARC Architectural Consultants Ltd, based on the newly reconfigured development. All 15 samples would have imperceptible impacts. The potential impact would likely be unnoticeable to residents. The proposed development has minimal overshadowing of the school courtyard during school hours. Figures 4-18, 4-19, 4-20, 4-21, 4-22, 4-23, 4-24, 4-25, 4-26, 4-27, 4-28, and 4-29 are included in the response, which illustrate overshadowing in March, June and December: 10am, 12 pm, 3 pm and 5pm in March, 9am, 12pm, 3pm, 5pm and 7pm in June and 10.30am, 12pm and 3.30pm in December.
- The scheme proposes a high standard of living, the appellant has concerns regarding non-compliance with apartment guidelines 2020 regarding unit mix. Permission is not being sought for a standard residential apartment. Per statutory notice, it is to develop a managed independent-living, residential development for the elderly. This is supported by Clúid. Strict application of the mix standards of the Apartment Design Guidelines was not considered relevant or appropriate. The various units will be principally occupied by elderly individuals and couples. As a base level, there is primarily only a need for 1 bedroom per unit with occasional second bedrooms should one member of an elderly couple require additional space, a carer need to stay in the residence, or a family member come to visit overnight. A significant alteration to the unit mix, resulting in a loss of 1 bed units in favour of 2 bed and 3 bed units would be detrimental to the feasibility, viability and practicalities of the

proposed development use. It would result in an under-occupation of the units, with the 2 bed and 3 bed units not being fully inhabited and utilised. Given Clúid/Clann (Approved Housing Body) AHB's intention to acquire the property, it is worth noting that Clann's schemes are comprised of 1 bed and 2 bed units, intentionally designed to accommodate elderly individuals and couples, rather than families. Regarding concerns that the applicant has failed to provide sufficient public open space, due to the context (access via a right of way) and backland nature of the site and the housing type, intended for occupation by elderly persons, it was deemed to be neither feasible nor appropriate to provide formal public open space. A contribution in lieu has been agreed.

- The building fully complies with the urban development and building height guidelines. The concern expressed, that no improvement is being made to the character of the public realm, is unjustified. The current site is an eyesore. Regarding the claim that the development will interfere with telecommunications coverage, no evidence has been advanced. Improving telecommunications coverage is not at the discretion of the applicant.
- Regarding not demonstrating justification for height, per development management criteria, the building height is entirely justified. Local policy permits up to 6 storey buildings.
- The proposed development does not give rise to archaeological and cultural heritage concerns, Archer Heritage has recommended that archaeological testing be undertaken in the remaining suitable areas; condition no. 23 refers.
- The proposed development does not give rise to environmental concerns. Concerns raised regarding bats have been addressed in a bat survey. Appropriate Assessment screening has been carried out and sections are quoted in the response.
- Property values will not be adversely affected by the proposed development. Minimal overshadowing will occur and the stepped back design has reduced overlooking. The proposed development will redevelop this unattractive brownfield site, include attractive landscaped open space and result in a positive contribution to the townscape character and urban fabric.

- Construction management – re. the concerns raised regarding construction management, a construction management plan and a construction & demolition waste management plan have been prepared. They detail a coherent, safe and environmental approach to the demolition of the existing structure and the proposed independent living residence. The construction management plan includes a list of mitigation measures regarding noise and vibration. Regarding concerns about the construction of the footpath, the applicant has a full legal wayleave across the roads and has agreed to contribute to any upgrade works required, as set out in the permission. The report by DCE states that the construction of this development will not have any adverse impact. Any minor impact that may occur will be mitigated by the implementation of the consultant’s recommendations.
- Future management concerns, the scheme is designed to be in single ownership and operation. Clann, Clúids affiliated age-friendly AHB, plans to acquire the entire development. A formal agreement will be reached, should planning permission be granted.

## 6.6. Planning Authority Response

6.6.1. The planning authority has responded to the appeals. The response includes:

Responding to the first party appeal:

- The planning authority set out their concerns in relation to size and scale in the further information request. Further to the response the planning authority are satisfied that the impact on residences has been reduced, shadow impact will not be significant to residences and will have minimal impact on the school during school hours. However the perception of residences being overlooked will remain. Overlooking of the school yard will be greater in the re-configuration, with the 6 storey element constructed on the boundary. The PA considered that this would not be acceptable and that the building would be dominant and excessive when viewed from the yard of Réalt na Mara. It is appropriate to omit the 19 apartments.

Responding to the third party appeal:

- Administrative errors and the legal right of way – the red line boundary was corrected at further information stage. The applicant has sufficient legal interest to submit a planning application.
- Flood risk – the management of flood risk is now a key element of any development proposal in an area of potential flood risk. A detailed flood risk assessment has been carried out for the site. The applicant had been requested to raise the existing access route to 4.22m, but this was not considered feasible as it would result in dampness in the adjoining houses and require the existing external walls to act as retaining walls. The car park will be constructed at a level of 3.75m, this is the same as the car park granted permission at Réalt na Mara. It is likely that the flood event will be due to tidal inundation and the peak flood will be at high tide and therefore of short duration, and the residents will not need to leave. In the event of an emergency, an emergency response procedure will be put in place by the management of the facility with the emergency services. This was considered reasonable. The post development hard standing areas will not exceed the pre-development hard standing areas.
- Height, mass and scale – the site is situated in a low rise area of primarily single and two storey height. The area is largely residential with a mix of other uses including the school. The heights are permissible having regard to SPPR 3(a) of the Building Heights guidelines; the location in Dundalk, proximity to public transport and amenities.
- Material contravention of the development plan due to deficient public open space – open space is provided by means of communal open space and balconies. Taking account of the reduction of 19 apartments and provision of 1,469m<sup>2</sup> open space or 23.9% of the total area, it is considered that sufficient open space is provided. The detailed landscaping, with provision for seating, picnic benches, a grassed lawn and a bowls lawn, is considered acceptable by the PA.
- Compliance with apartment guidelines – it is considered that the layouts, floor areas, floor to ceiling heights, lift and stair core provision, private amenity space, storage areas and the extent of dual aspect units would be acceptable. The PA had been concerned about the provision of 1 bedroom units. The applicant has referred to 1.5 bedroom units which are not referenced in the Apartment Guidelines 2020.



The PA accepted the mix, taking account that the proposal is for managed scheme and for a particular age group, and applied condition 4 in recognition of this.

- Loss of residential amenity – while increased overlooking of properties on Castle Road and Mill Street would occur, this would be limited to levels that are typical for urban areas and would be acceptable in the context of policies seeking to increase housing densities in appropriate locations.
- Architectural, archaeological and heritage impacts – condition 23 refers.
- Impact on Réalt na Mara – the layout is largely dictated by the location of the proposed site entrance and the existing housing along Castle Road and Mill Road. As part of the grant of permission, the balconies are to have obscure glazing and the sixth floor and some of the fifth floor apartments are to be omitted. It is considered that the massing and scale, and set back of the fifth floor, will result in the building being read as a four storey building. Taking account of the setting adjacent to the school, this is reasonable given the urban environment. Within the NFP (National Framework Plan) Dundalk is identified as a regional growth centre to the year 2040, to support significant population and employment growth. NPF section 4.5 and NPO 11 support a presumption in favour of development, encouraging more people and generating more jobs and activity within existing towns etc., subject to appropriate planning standards.
- Impact of construction on historic buildings – a detailed townscape and visual impact assessment has been carried out. Regarding concerns that views of Seatown Castle will be compromised, the PA's assessment is based on the reduced overall height, and considered that the proposal submitted for a 6 storey building would be prominent and excessive in height and scale, but that the reduction in scale would be appropriate given the location. The potential to refurbish Seatown Castle is not impacted.
- Environmental and Ecological concerns – a single bat or two individual bats were observed foraging near the tree to the south west of the site and at the tree line to the east of the site. They are not suitable for bat roosting or foraging. Light spill which would impact would not be deemed significant.
- Future management concerns – these concerns are addressed in condition 4.

- Traffic safety and car parking – the site is an urban site in close proximity to public transport. The Cash and Carry operated until recent times. Matters relating to traffic safety have been addressed in the reports on file. The development was considered acceptable and the surrounding road network has the capacity to accommodate the additional traffic movements. The PA is satisfied that independent living units for older people would not generate the same parking demand as a normal block of apartments and that the quantum of car parking is acceptable. Taking the reduction in the number of units the car parking ratio is 45 spaces to 59 units. This is considered adequate.

## 6.7. Observations

- 6.7.1. Observations have been received from Cllr John Reilly and Ruairí Ó Murchú TD.
- The issues raised are similar to those raised in the third party appeals.

## 7.0 Assessment

- 7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows: appropriate assessment, the principal of the proposed development, the impact on the character of the area, structural impact on adjoining properties, sunlight, daylight and ventilation, impact on residential amenities and depreciation of property values, flood risk, traffic and parking, and other issues and the following assessment is dealt with under those headings.

## 7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development, a residential development in a zoned and serviced area, I am satisfied that 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.

### **7.3. The Principal of the Proposed Development**

- 7.3.1. The site is within the central area of Dundalk, a regional growth centre, where it is zoned 'existing residential'. Notwithstanding that it is also within the flood risk zone 'A', the zoning envisages that the site will be developed for residential use. The development plan and the hierarchy of plans from national through regional level support compact growth of settlements, use of brownfield land and increased height and density, subject to appropriate safeguards. The arguments made by the applicant that the segment of society to be served by the residential units is currently underprovided for, can be accepted. The location is suitable for the provision of independent residential units. The proposed development is therefore acceptable in principal.

### **7.4. Impact on the Character of the Area**

- 7.4.1. The site is located immediately adjoining St Mary's Road Architectural Conservation Area, ACA no. 19.

- 7.4.2. Appendix 11 to the plan includes:

The area is a well laid out and ordered example of Victorian/ Edwardian urban housing, close to the main commercial centre of the town. It has a distinctive character of red brick terraces bounded by the wide and leafy St Mary's Road on the north and commercial areas to the west and south. In general the area has retained its integrity and most original front railings survive. It is the intention of the Council by the designation of this Architectural Conservation Area to: protect and enhance the character of this urban housing area and the setting of the protected structures within the area by giving consideration to the suitability of scale, style, construction materials, colour and decoration to be used in any proposals for new development, including alterations and extensions, taking place within or adjacent to this area.

The area is characterised by low rise development and narrow plots. Because of the low heights throughout the area, Seatown Castle, the well-preserved medieval belfry, which is the only visible remnant of the former Franciscan friary (established c1245), stands out as a landmark.

- 7.4.3. Photomontages – figures 1 to 6, and a report titled Photomontages and Visualisations, accompanied the application. As part of the response to the further

information request, an Architectural Heritage Impact Assessment and a Townscape & Visual Impact Assessment, and revised Photomontages and Visualisations, were submitted.

7.4.4. The Architectural Heritage Impact Assessment includes that the proposed building does not create any overbearing views from within the nearby roads and pedestrian connections of the St Marys Road ACA. Small glimpses of the proposal can be seen at the junction of Castle Road and Mill Street and the junction of St Mary's Road and Castle Road. The proposed building only reveals itself when walking directly passed the entrance lane way to the site, but if you step back further along St Brigid's Terrace all views of the proposal are concealed. Overall due to the orientation of the proposal and its set back nature on the site, it does not create any overbearing views along the streets within the St Mary's Road ACA. It therefore doesn't take anything away from the historical street scale of the locality.

7.4.5. The Townscape & Visual Impact Assessment includes: the townscape aside the application site is a mix of poor, ordinary and good townscape including industrialised areas, functional institutional and commercial lands but improved or higher quality townscape associated with the St Mary's ACA, the Franciscan tower and St Helena's Park. The broad and busy N52 Eastern By-Pass to the east gives this area an association with functional transport corridor use that physically and visually severs the townscape but also acts as a barrier to the functional and poor townscape / shoreline areas associated with the Dundalk Port lands further east. In broad terms, a proposal of this nature and scale would be part of the emerging townscape of east Dundalk tying in with the objectives in terms of land-use and zoning as set out in the Development Plan.

There is a potential for a change to the sense of place and character of Castle Road but due to existing terraced housing restricting views from the vast majority of the publicly accessible areas, effects are judged as negligible. A glimpse view is afforded at the site entrance opposite the St Brigid's Street junction but in terms of any appreciation of the townscape in this area (including the St Mary's ACA), this would have no significant bearing on character or context. The proposed development will be obscured from the western end of Mill Street towards the Castle Road junction by intervening buildings. To the east, there are incidental sections where the proposed development will be a notable addition to the backdrop view to the north-west, rising

above the landscape features and intervening buildings on Mill Street into the skyline. There will be intervening buildings and townscape elements in the foreground and the introduction, while noticeable, will not have a significant or detrimental effect on the character and context of Mill Street. While sizeable, this development can be accommodated and absorbed into this part of the Dundalk townscape without detriment to its character. On the N52 eastern by-pass it will be seen in context with the townscape and contribute positively to the legibility of this part of Dundalk and the emerging architectural character of skyline. There are no sensitive historical areas, designated landscapes or buildings where the setting would be significantly affected by this development. Vis a vis the school – while this part of the school is used for sports activities where the focus of the majority of users would not be views or landscape character and thus would have a lower sensitivity, this will constitute a prominent and notable change that would change the overall landscape quality and character at a wider scale having substantial effects on this area.

- 7.4.6. The planner's initial report, on the original proposal, expresses concern re. the photomontages and visual impact, that those provided do not reflect impact and the further information request includes, a list of revised contextual elevations to be provided from 4 locations.
- 7.4.7. The planner's report on the revised proposal remains concerned about excessive height. The height of the building has increased, which will result in it becoming an even greater dominant feature in the local streetscape and have greater impact on the Mill Street properties and the interface with Réalt na Mara school. To address these concerns removal of sixth floor and some fifth floor apartments is required. The photomontages and visual assessment indicate the relationship of the proposed building with existing properties from various vantage points in the vicinity; these and the contextual elevations are considered to demonstrate the dominance of the proposed building; and give justification to the removal of the sixth storey. In their response to the grounds of appeal the PA state that their assessment is based on the reduced overall height, and their consideration that the proposal submitted for a 6 storey building would be prominent and excessive in height and scale, but that the reduction in scale would be appropriate given the location.
- 7.4.8. The third party appeals raise concerns about visual impact, and the impact on the character of the area.

7.4.9. A number of concerns arise, in relation to the information provided, with regard to facilitating assessment of the impact on the character of the area.

A comparison of viewpoint 1 in the Townscape & Visual Impact Assessment, (i.e further information response) with viewpoint 8 in that same report shows that viewpoint 8 in the later submission is somewhat misleading. In the latter viewpoint, the building would be to the right of the gap in the terrace and higher than depicted, where it would be visible above the terrace.

There are many locations, surrounding the development site, where views of the development would be available, due to its height, notwithstanding that a wall or a low building may intervene between the viewer and the subject site.

7.4.10. Two main areas of concern arise regarding impact on the character of the area.

Firstly, because of the uniformity and low rise nature of the architectural character area, a building of scale (height or width) in close proximity, would be incongruous and overbearing. Second, in relation to Seatown Castle, which, at present, due to the low-rise nature of buildings in the area, stands out on the skyline, above the general height, as a landmark feature. The Windmill at Marshes Lower some distance to the south east, similarly stands as a landmark in the wider area, although in a location where less uniformity prevails.

7.4.11. Seatown Castle can be seen from George's Quay, except where modern buildings of height close the view. From here it is a distant view, across lands of mixed character, and the proposed building would not have a significant impact in public views from this direction. From other directions the proposed development, where visible, would challenge the dominance of Seatown Castle in the skyline and reduce its importance as a landmark. There are many locations in which the proposed development would be visible in the context of Seatown Castle, including from Castle Road immediately adjoining the tower to its north; rather than to the south as in the visualisation provided.

7.4.12. Any development of scale on the subject lands has potential to impact on the architectural character area and on Seatown Castle and would require a more detailed and representative presentation of impact, to enable an informed assessment of this issue.

7.4.13. The development proposed would have an adverse impact on the character of the area, when viewed from public areas, which is of particular concern in the context of

its impact on the architectural character area and Seatown Castle, and this is a reason to refuse permission.

## **7.5. Structural Impact on Adjoining Properties**

- 7.5.1. The impact of construction on the structure of adjoining properties has been raised as a concern by third party appellants. It is stated that the houses are 120 years old, are not built on proper foundations, and would be liable to structural damage. There is concern that pile driving could cause vibrations and thereby impact on these properties. I share these concerns, particularly since the details provided of the construction, are limited largely to a description of the external finishes proposed.
- 7.5.2. The area is described in the Townscape & Visual Impact Assessment, from OSI historic mapping (available on the OSI.ie website), as within an embankment and with wooden piles 200m from the application site, suggesting this was a potentially tidal area associated with Dundalk Bay and the Castletown Estuary.
- 7.5.3. A cursory inspection of historic mapping shows that the embankment was about 200 feet east of the site and the wooden piles further east. It seems likely that although filling of the site has since taken place, mud identified closer to the shoreline, would feature within the subject site. No results of any ground surveys, which may have been carried out, have been presented with the application. Neither have any details of the proposed foundations. No inference can be drawn from the section drawings provided, as to the foundation details, as these drawings are largely without notation, where they show the ground floor and a notional section through the ground below.
- 7.5.4. No specific information has been provided as to the vibration or noise which will be experienced, or the periods over which particular site works or construction works will extend (Construction Management Plan – ‘the main contractor will need to refer to BS5228. Noise control on construction and open sites, which offers detailed guidance on the control of noise from demolition and construction activities’). The Construction Management Plan makes no reference to the volume of materials which will be required or the nature or volume of construction traffic.
- 7.5.5. The necessity to raise the level of the site in order to reduce flood risk to the proposed development should be noted. It is stated that the ground level will have to be raised by up to 1.5m. No information has been presented regarding the infilling. No details are provided as to the nature of the fill or the amount of fill which will be

required, or the number or type of vehicle loads which will be involved at any stage of the work (Construction Management Plan – ‘as significant excavation is not required it is considered that the main programme will be dictated by permitted working hours, with material delivery rates and volumes tied in to the method of construction being employed. The proposed routing of haul traffic to/from the site has been developed following a review of the local routes which provide access to the strategic road network, having regard to radii for turning haulage trucks safely and weight restrictions on certain roads’). A considerable quantity of soil would be required to raise ground level by up to 1.5m over the entire area south of the proposed car park, i.e. the footprint of the building and adjoining outdoor areas. It could require the importation of up to 12,000 tonnes of soil to the site. The Construction Management Plan makes no reference to this or indeed any other construction related activity.

- 7.5.6. Development works impact on the amenities of property in the vicinity and inconvenience and disruption must be accepted as part of the renewal and ongoing redevelopment of urban areas. However, having regard to the confined nature of the site and the restricted access, which runs along older buildings of undefined structural condition and with allegedly no foundations, the careful management of construction would include giving a full account of the type of vehicles to be used, particularly their size and laden weight, and the number of visits generated, detailing what, if any, impact would be likely on adjoining properties, based on evidence, including information on the structure of the access road, the ground conditions under the road and an assessment of the structures adjoining. In my opinion the concerns expressed by third parties in this regard are well founded and the level of information provided in this regard is unacceptable.

## 7.6. **Sunlight, Daylight and Ventilation**

- 7.6.1. As previously stated the increase in height and density to achieve compact growth of settlements, is supported in national, regional and local policy, subject to appropriate safeguards. The Urban Development and Building Heights Guidelines for Planning Authorities, December 2018, sets out various requirements in relation to increased height and density, including the need to achieve minimum standards of daylight and sunlight.



7.6.2. The guidelines state that:

In the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies certain criteria including:

- The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.
- Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.
- Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.

7.6.3. In response to item 2 of the further information request regarding overshadowing, a sunlight and daylight access analysis study was submitted to indicate impact on the surrounding area. As stated in the planner's report, this indicates that there will be little impact by shadowing, on the residential properties in the vicinity. There will however be a noticeable impact on the school yard, mainly outside normal school hours.

7.6.4. The grounds of appeal states that no assessment of the levels of daylight/sunlight in the apartments themselves is provided, or of the impact on other third party lands so as to assess impact on future development potential.

7.6.5. In response the applicant states that a detailed Sunlight and Daylight Access Analysis study was undertaken by ARC Architectural Consultants Ltd, based on the newly reconfigured development. The potential impact would likely be unnoticeable to residents. The proposed development has minimal overshadowing of the school

courtyard during school hours. Additional times and dates illustrating overshadowing are included in the response.

- 7.6.6. The response does not address the impact on the land to the north, or the impact on its future development potential. Neither is the access to daylight in the proposed apartments assessed.
- 7.6.7. The revised design relies on windows to internal access corridors. These corridors encircle two voids, which extend to roof level, where there are large panels of glazing in the roofing. It is not clear from the design, and in the absence of supporting information it cannot be determined, that adequate natural light would be available to the windows facing onto these corridors or to the interior areas of the apartments thus served. No details of the ventilation of the circulation space are provided. It is not possible to reach a conclusion that adequate light or ventilation would be available to apartments, and, in light of these inadequacies permission should be refused.

#### **7.7. Impact on residential amenities and depreciation of property values**

- 7.7.1. The third party appellants have raised concerns regarding overlooking, overshadowing, impact on the structure of their properties and depreciation of property values. As stated under a separate heading, the Sunlight and Daylight Access Analysis study undertaken by ARC Architectural Consultants Ltd, indicates that the potential impact on adjoining residential properties would likely be minimal and unnoticeable to residents. In relation to overlooking, the site is located to the rear of residential properties, where currently there is no overlooking from upper floors. The proposed development, although designed to avoid overlooking and to be set at the greatest distance reasonably possible from existing properties, would have windows and balconies at upper levels and therefore would involve an increase in overlooking. The PAs report refers to this as a perception of being overlooked. An increase in overlooking would be involved in any development of more than a single storey on the subject site, such a development would not achieve a reasonable density on this centrally located urban site. The proposed development has endeavoured to minimise the degree of overlooking. In my opinion the design is an adequate response to the sensitivities of this area with regard to overlooking. There is no evidence to suggest that the development would depreciate the value of

properties in the area. Impact on residential amenities and depreciation of property values, should not be reasons to refuse or modify the proposed development.

## 7.8. Flood Risk

7.8.1. The site is at risk of flooding, being located in flood area A.

7.8.2. Flood risk is addressed in the application details.

The flood risk assessment submitted with the application states that the lowest level on site is 2.53mOD; typically the levels are c3.25mOD. The Castletown River is located approx. 245m to the northeast. The Irish Sea is located approx. 5km to the southeast. It is stated that two types of flooding may be experienced: fluvial and coastal. Fluvial - exceptionally heavy and prolonged rainfall – pathway - overflowing water from open channel of the river that runs to the south of the site.

Coastal flooding – high tides – coastal flooding from the sea to the east of the site. The PFRA (Preliminary Flood Risk Assessment) indicates that the site may be at risk of coastal flooding (0.5% AEP/200 year event). Fluvial flood depths of 3.09mOD, 3.10mOD and 3.11mOD, under the 10%, 1% and 0.1% AEP (Annual Exceedance Probability) events. The topographical survey indicates that some levels in the site are lower than the predicted flood levels. Coastal levels are given for 3 different nodes at 10%, (3.29mOD, 3.72mOD and 3.28mOD) 0.5% (3.72mOD, 3.94mOD and 3.71mOD), and 0.1% AEP (3.96mOD, 4.03mOD and 3.96mOD). Flood depths of greater than 2m are predicted. It is general practice for flood prevention design to be based on the 1% AEP flood with an allowance for climate change. The normal precautionary design approach in the case of fluvial flooding is to consider that current 0.1% AEP flood level to represent the 1% AEP level with climate change.

The appropriate node from the Dundalk Fluvial Flood Extents Map, to determine the design flood level, is node no. 0622M00020el. The predicted flood level of 0.1% AEP is 3.11mOD. The appropriate node from the Dundalk Coastal Flood Extents Map, to determine the design flood level, is node no. 0622M00020al. The 0.5% AEP flood level is 3.72mOD.

The flood risk guidelines recommend fixing floor levels with an appropriate freeboard above the tidal flood level eg. 1000mm (500mm freeboard allowance and a 500mm

climate change allowance), which would result in a recommended minimum finished floor level (ffl) of 4.72mOD.

- 7.8.3. Regarding the justification test for Development Management – the site is zoned residential 1. Criterion 1 - the site is zoned residential 1 and therefore supports the continued renewal and development of the compact urban form in accordance with the key planning objectives. Criterion 2 – the surface water run-off from the proposed development will not be increased by the proposed development. The proposed development will therefore not contribute to flooding elsewhere through an increase in the rate of discharge into the existing surface water system. It is proposed to raise the ffl. The building currently on site has never been affected by flooding in the past. The raising of the ground level will not, in their opinion, cause any displacement of flood waters onto other lands due to the fact that the area of land to be raised is negligible in the context of the Dundalk Coastal Flood Extents map as lands potentially subject to coastal flooding in the Dundalk Area for the 1 in 200 year scenario. The level of the car park will remain at existing level. An evacuation plan will be formulated for the property to ensure that all occupants are taken to safety, prior to potential flood waters reaching the car park level. Potential flooding will most likely originate from a northwesterly direction. A clear unobstructed exit route exists from the site via Castle Road to the junction of Castle Road and Jocelyn Street and from here to the town centre affording a number of escape routes from the site to other areas of higher ground.
- 7.8.4. Third party appellant concerns include the issue of flood risk and the vulnerability of the occupant having regard to the nature of the residential use.
- 7.8.5. The planning authority considered this issue and was satisfied that the likely flood event would be due to tidal inundation and the peak flood would be at high tide and therefore of short duration, and the residents would not need to leave. In the event of an emergency, an emergency response procedure will be put in place by the management of the facility with the emergency services, which they considered reasonable. They noted that the post development hard standing areas would not exceed the pre-development hard standing areas; therefore would not contribute to flooding.
- 7.8.6. It is reasonable to accept the details in the flood risk assessment provided with the application. The proposed development will itself be above flood level. The access

roadway, i.e. the escape route from a flood, cannot be raised due to its proximity to existing houses and its current level vis a vis the floor levels of those houses. The reliance on an evacuation plan in the case of an emergency is a reasonable compromise in the context of a centrally located urban site, where the justification test has been satisfied. The proposed development will not cause flooding.

7.8.7. Flood risk should not be a reason to refuse or modify the proposed development.

## 7.9. Traffic and Parking

7.9.1. Traffic and parking have been raised as issues in one of the third party appeals.

7.9.2. Regarding traffic it is stated that low volumes of traffic have used the entrance in the past. They have safety concerns regarding conflict with pedestrians / cyclists, particularly given the proximity to schools. They are not satisfied with the traffic survey, carried out during Covid-19 restrictions, which they say render the results unrepresentative. It is stated that sightlines are inaccurate and proposed improvements in the form of footpaths, cycle path and stop signs cannot be provided, because these areas are outside the applicant's control. They point out that there is no existing cycle lane into which the proposed development could connect.

7.9.3. The Louth County Council Infrastructure Directorate's concerns regarding traffic were reflected in item 10 of the planning authority further information request. In response a Traffic & Transport Assessment prepared by Duffy Chartered Engineers (DCE) was submitted which included the results of traffic surveys and TRICS data at comparison developments. It is stated that based on TRICS data the movements of the proposed development versus the cash and carry traffic use associated with the site will be significantly less. Following receipt of the further information, the Louth County Council Infrastructure Directorate recommended permission subject to fairly standard conditions.

7.9.4. This is a town centre site, where a cash and carry business has previously operated. The issue of construction traffic has been referred to earlier in this report, under the heading structural impact on adjoining properties. The operational traffic associated with independent residential units for the elderly, is likely to be largely private cars, with fewer movements than for standard residential apartments and with fewer light

goods vehicles or heavy goods vehicles than would be expected for a cash and carry outlet. The nature and volume of traffic is likely to be less than that pre-existing.

- 7.9.5. The quantum of parking was referred to as item 9 of the planning authority's further information request. A document titled Parking Strategy prepared by DCE accompanied the planning application and parking is further dealt with in the DCE response to the further information request. It is stated that the number of residents requiring car parking will be significantly lower than in other schemes. Survey data by Clúid Housing dated 30<sup>th</sup> April 2018 is provided in tabular form (figure 8) to show that the spaces actually used per unit, in similar developments, was 0.28. The proposed development is providing 0.58 spaces per unit. The Louth County Council Infrastructure Directorate accepted the further information submission.
- 7.9.6. The planning authority response to the appeal states that the site is an urban site in close proximity to public transport. The Cash and Carry operated until recent times. Matters relating to traffic safety have been addressed in the reports on file. The development was considered acceptable and the surrounding road network has the capacity to accommodate the additional traffic movements. The PA is satisfied that independent living units for older people would not generate the same parking demand as a normal block of apartments and that the quantum of car parking is acceptable. Taking the reduction in the number of units the car parking ratio is 45 spaces to 59 units. This is considered adequate.
- 7.9.7. Issues in relation to operational traffic and parking have been addressed in the application and further information and should not be reasons to refuse or modify the proposed development.

#### 7.10. **Other Issues**

##### 7.11. Legal

- 7.11.1. The application as originally submitted included the existing laneway. This was raised as a concern by observers and referred to in the further information request, resulting in an amendment to the site boundaries.
- 7.11.2. The third party appellant has raised concerns regarding the legality of the application and the applicant's right to carry out any development involving the existing laneway which runs between the terraced properties or the laneway to the rear of properties.

7.11.3. The first party response states that the red line boundary was corrected at further information stage. The applicant has sufficient legal interest to submit a planning application. The access point into the site on its western edge along Castle Road is the property of the Roden Estate and they are fully aware of the scheme and have raised no objection to the development. The applicant has a full legal wayleave across the roads and has agreed to contribute to any upgrade works required as set out in the permission. They point out that the gate the residents have recently erected across this wayleave, blocks their right of way, and this was done without the permission of the freeholder which will require resolution when the planning process is completed.

7.11.4. I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. Ownership and use of the lane is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

#### 7.12. Residential Standards

7.12.1. The standard of the proposed residential units is raised as a concern by third parties. The residential mix and the proportion of 1 bedroom apartments in particular, was addressed by the planning authority, as item 4 of the further information request.

7.12.2. The first party response, which stated that the composition of units is based on the nature of the development as independent residential units for the elderly, which is supported by Clan, the likely operator, was accepted by the planning authority.

7.12.3. The planning authority response to the grounds of appeal reiterates their acceptance of the residential mix, taking account that the proposal is for a managed scheme and for a particular age group and they refer to their imposition of condition 4 in the decision. They also state their assessment that the layouts, floor areas, floor to ceiling heights, lift and stair core provision, private amenity space, storage areas and the extent of dual aspect units would be acceptable.

7.12.4. Having regard to the description of the proposed development as independent residential units for the elderly, the unit mix is acceptable, in my opinion. With the exception of daylight and ventilation, which have been addressed under a separate heading earlier in this assessment, residential standards should not be a reason to refuse or modify the proposed development.

### 7.13. Archaeology

- 7.13.1. The impact on archaeology has been raised as a concern, having regard to the historic nature of the location.
- 7.13.2. The application was accompanied by an Archaeological Impact Assessment. The Development Applications Unit of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media have submitted an observation to the planning authority concurring with the recommendations outlined in the assessment and recommending pre-development testing, which the PA have included in the schedule of conditions. A condition, similar to that recommended would adequately address the issue of archaeology.
- 7.13.3. Open Space
- 7.13.4. The provision of open space is referred to in appeals. The contribution to a club 3.5km away, in lieu of open space provision, is not considered appropriate to third parties, if a contribution in lieu is to be paid it should be to the planning authority.
- 7.13.5. The planning authority response to the appeals is that open space is provided by means of communal open space and balconies. Taking account of the reduction of 19 apartments and provision of 1,469m<sup>2</sup> open space or 23.9% of the total area, it is considered that sufficient open space is provided. The detailed landscaping, with provision for seating, picnic benches, a grassed lawn and a bowls lawn, is considered acceptable by the PA.
- 7.13.6. The applicant response to the third party appeal states that the location is unsuitable for public open space.
- 7.13.7. It is reasonable to accept that, due to the configuration of the site and its backland location, it is not a particularly suitable location for public open space. The communal space proposed makes adequate provision for the needs of future occupants. In my opinion the need to condition a contribution in the form of play equipment or a financial contribution, such as that attached by condition 13 (e) of the decision, is unnecessary and should be omitted.

### 7.14. Child Protection

- 7.14.1. Concerns have been raised regarding overlooking of the school yard which relate to child protection.



7.14.2. The first party response states that the proposed development provides surveillance over the school courtyard which increases safety for the children.

7.14.3. These apartments will not be available for rental on the open market and this provides child protection safeguards. Overlooking of the school yard should not be a reason to refuse or modify the proposed development.

#### 7.15. Telecommunications

7.15.1. It is stated in the third party grounds of appeal that part, if not all, of the Castle Road area suffers from poor telecommunications coverage, and they have concerns that the large and tall apartment building may give rise to further worsening and that evidence to confirm otherwise has not been provided.

7.15.2. The first party response is that no evidence has been advanced in support of the claim that the development will interfere with telecommunications coverage; and further that improving telecommunications coverage is not at the discretion of the applicant.

7.15.3. The Urban Development and Building Heights Guidelines for Planning Authorities, cited by the appellant, states that specific assessments may be required to support proposals, at the discretion of the planning authority, for example specific assessments may include an assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.

7.15.4. Telecommunications connectivity is in flux in any urban setting, with levels of usage, ongoing improvements in provision and urban development, impacting on connectivity from time to time. While it might require assessment in the case of a building of exceptional height, it would be unreasonable for the issue to be a constraint on a development of this scale on this central urban site.

#### 7.16. Management Concerns

7.16.1. The management of the proposed development has been raised in the third party grounds of appeal; that there is no guarantee that Clúid will manage the scheme, so it must be assessed as a normal apartment scheme; correct development contributions should be levied and bonds and securities secured.

7.16.2. The first party response is that the scheme is designed to be in single ownership and operation. Clann, Clúid's affiliated age-friendly AHB plans to acquire the entire

development, and that a formal agreement will be reached, should planning permission be granted.

- 7.16.3. The application is for independent residential units for the elderly and it is designed as managed units. Conditions, such as conditions 4 and 5 of the planning authorities decision, can be used to ensure that the development continues to be used for the purpose described in the application. Future management of the proposed development should not be a reason to refuse or modify the proposed development.

## **8.0 Recommendation**

- 8.1.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1 Having regard to its proximity to St Mary's architectural conservation area and the Seatown Castle landmark, it is considered that the proposed development, by reason of height and scale, would be an overbearing and obtrusive feature which would detract from the character and visual amenities of the area and thereby be contrary to the proper planning and sustainable development of the area.

2 In the absence of sufficient information regarding the methods of construction, the materials to be used, the nature of the ground conditions on site and adjoining and the structural condition of the terraced buildings either side of the access laneway, the Board cannot be satisfied that the proposed construction works would not have a significant adverse impact on the structural stability of adjoining residential properties and thereby be contrary to the proper planning and sustainable development of the area.

3 Having regard to the lack of information provided with the application and appeal, the Board cannot be satisfied that the proposed apartments would have access to sufficient daylight and natural ventilation, such as to be provided with the basic residential amenities required for normal domestic life; the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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Planning Inspector

2<sup>nd</sup> December 2021

## **Appendices**

Appendix 1 Photographs

Appendix 2 Louth County Development Plan 2021-2027, extracts

Appendix 3 Development and Building Height Guidelines 2018, extracts