



An
Bord
Pleanála

Inspector's Report ABP-311941-21.

Development

Permission for alterations to an existing two storey dwelling house to include the addition of an attic storage area (dormer style to Main Street), two and a half storeys in total, extensions to the front, side and rear with associated elevational changes, alterations to an existing rear store, provision of private patio/garden area to the rear, revised boundary treatments and all associated site development works.

Location

Main Street, Blackrock, Co. Louth.

Planning Authority

Louth County Council.

Planning Authority Reg. Ref.

211101.

Applicant(s)

Margaret Burke.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

Third Party.

Appellant(s)	1. Paul White, Colm White and Pat Breen.
Observer(s)	None.
Date of Site Inspection	23 rd day of March, 2022.
Inspector	Patricia-Marie Young.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	7
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations	9
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Applicant Response	10
6.3. Planning Authority Response	12
6.4. Observations	13
7.0 Assessment.....	13
8.0 Recommendation.....	21
9.0 Reasons and Considerations.....	21
10.0 Conditions	22

1.0 Site Location and Description

- 1.1. The appeal site has a stated 0.00698ha area and its eastern boundary fronts onto the public domain of Main Street, c175.7m to the south of Sandy Lane and c223m to the north of the entrance to 'The Ferns' in the heart of the settlement of Blackrock, in County Louth.
- 1.2. The site contains a modest two storey vacant and unkempt in appearance period dwelling of simple appearance and built form. This dwelling's principal façade addresses and opens immediately onto the public domain of Main Street at a point where there is a pedestrian footpath and a pedestrian signalised road crossing. To the north and south there is on-street public car parking on either side of Main Street. Directly opposite the site is Main Street's coastal Promenade, the 'Millennium Sundial' and the Irish Sea coastline. To the immediate north the site is bound by a two-storey building that contains a takeaway at ground floor level (Roma). To the south there is a private access lane that runs in an east-west direction which provides connection to the properties to the rear. The properties served by the aforementioned lane appear to be in residential use.
- 1.3. To the rear there is a restricted in size yard area and a single storey outbuilding. The latter is positioned at the rear of the site and adjoins a vehicle entrance serving a dormer property which is positioned to be west and setback from it by a garden area.
- 1.4. The immediate setting has a village centre character with a wide variety of land uses present. The streetscape scene the site forms part of is characterised by mainly two and three storey commercial and residential properties addressing the western side of Main Street. To the west of Main Street residential land uses predominates with the built form consisting mainly of single, dormer and two storey properties.

2.0 Proposed Development

- 2.1. Planning permission is sought for alterations to an existing two storey dwelling house (Note: Gross Internal Floor Area of 64.4m²) to include the addition of an attic storage area (dormer style to Main Street), two and a half storeys in total, extensions to the front, side and rear with associated elevational changes (Note: Gross Floor Area of

19.3m²), alterations to an existing rear store, provision of private patio/garden area to the rear, revised boundary treatments and all associated site development works.

2.2. This planning application is accompanied by the following documents:

- SuDS Design Report.
- Flood Risk Assessment Report.
- Preliminary Demolition & Waste Management Plan.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 21st day of October, 2021, the Planning Authority decided to **grant** planning permission for the proposed development subject to 4 no. conditions. Of note are the requirements of the following conditions:

Condition No. 2: Restricts the use of the second-floor level.

Condition No. 3(i): Requires the Flood Risk Assessments mitigation measures to be adhered to.

Condition No. 3(v): Requires the right of way via the existing driveway to be kept clear at all times.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Authority's Planning Officers report is the basis of the Planning Authority's decision. It is dated the 14th day of October, 2021, and it includes the following comments:

- No Appropriate Assessment issues arise.
- The proposed development is consistent with the land use zoning of the site.
- The design, scale and form of the proposed development is deemed acceptable and considered an improvement to the previous proposal for this site which was refused.

- The ridge height is respective of its setting.
- The use of the attic space can be dealt with by way of condition.
- No undue residential amenities arise.
- Car parking is not considered to be an issue.
- A condition ensuring that the adjoining right of way is kept clear of construction is advised.
- The Flood Risk Assessment has satisfactorily addressed flood risk concerns.
- The use of existing connections to public water and public mains is acceptable.
- The SuDS Design Report addresses surface water disposal satisfactorily.
- No Section 48 Development Contributions are applicable.
- This report concludes with a recommendation to grant permission.

3.2.2. **Other Technical Reports**

- **Infrastructure:** No objection is raised subject to the following matters being addressed by way of condition:
 - Finished floor level to be increased to 4.04m as per FRA.
 - Utilise appropriate flood resilience measures throughout the development.
 - Road Opening Licence requirements.
 - Applicant shall be responsible for the full costs of repair in respect of any damage to public roads and the like.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. During the course of the Planning Authority's determination of this application they received three third party observations objecting to the proposed development. The substantive planning concerns raised correlate with those raised in their grounds of appeal. However, it is noted that these submissions raise more detailed concerns in

relation to the public notices, the accuracy of the drawings, the potential for adverse residential amenity impacts to arise through to depreciation of property value than is set out in their appeal submission to the Board.

4.0 Planning History

4.1. Recent & Relevant

P.A. Ref. No. 21210: Planning permission was refused for the demolition of an existing two storey vacant dwelling/single storey detached outhouse and the construction in its place of a three storey building consisting of home office/study and private amenity space at ground floor level ancillary to proposed apartment; provision of a raised ground floor level of 600mm above footpath level; proposed 1 no. 3-bedroom apartment at 1st and 2nd floor level together with rooftop terrace and all associated site works and services for the following stated reasons:

- “1. Having regard to the design and overall height of the development and features of the development including first and second floor bay window projections and cantilevered front entrance location of the site on the Main Street, Blackrock, it is considered that the proposed development would represent inadequate design quality within the urban street and is out of keeping with adjoining properties. Having regard to the design, width and height the development would seriously injure the visual amenity of the established streetscape and set an undesirable precedent for similar type development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and would look out of context within the overall streetscape of Blackrock.*
- 2. Policy WS 10 stipulates that the incorporation of Sustainable Urban Drainage Systems (SuDS) measures in all developments is mandatory. As the applicant has failed to demonstrate that the post development run off does not exceed proposed development levels and that all surface water discharges to the public sewer it is considered that this proposed development is contrary to Policy WS 10 and thus contrary to the proper planning and sustainable development of the area.*

3. *The applicant has failed to adequately demonstrate that they have sufficient legal interests to carry out works to the existing Right of Way to the south of the property and in the absence of legal consents the proposed development works would be contrary to the proper planning and sustainable development of the area.”*

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Louth County Development Plan, 2021 to 2027, is applicable.
- 5.1.2. Under Map No. 1.2 ‘Dundalk Composite Map’ the site forms part of a parcel of land zoned ‘Town or Village Centre’ (B1).
- 5.1.3. Under Section 13.21.8 of the Development Plan, it sets out that the objective for ‘B1’ zoned land is: *“to support the development, improvement and expansion of town or village centre activities”*. It also provides guidance for such zoned land. In this regard it states that: *“the purpose of this zoning is to protect and enhance the character and vibrancy of existing town and village centres and to provide for and strengthen retailing, residential, commercial, cultural, entertainment and other appropriate uses”*.
- 5.1.4. In addition, it states: *“it will promote the consolidation of development on town and village centre lands”* ... *“regeneration of buildings, backlands, vacant, derelict and underutilised lands for uses suitable to the location will be encouraged. Such uses may include residential development”*.
- 5.1.5. Chapter 2 of the Development Plan sets out the Core and Settlement Strategy. It states that: *“the core strategy facilitates and promotes a more consolidated compact urban form and ensures that future growth is based on the principles of sustainable development, delivering a high-quality living and working environment meeting the needs of all residents”*.
- 5.1.6. Section 2.14.5 of the Development Plan indicates that residential development will focus on high quality designed buildings and spaces as well as will seek to achieve compact growth on centrally located lands and lands that are well connected to town centres.

- 5.1.7. Section 3.16.2 of the Development Plan deals with the matter of extensions to dwellings and indicates that: “*extensions of appropriate scale will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area.*”
- 5.1.8. Policy Objective HOU 34 of the Development Plan is relevant. It states: “*to encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and are climate resilient*”.
- 5.1.9. Chapter 13 of the Development Plan sets out the Development Management Guidelines.

5.2. Natural Heritage Designations

- 5.2.1. The site is located c18.9m to the west of Dundalk Bay SAC (Site Code: 000455) and SPA (004020) at its nearest point.

5.3. Environmental Impact Assessment - Preliminary Examination

- 5.3.1. Having regard to the brownfield nature of the site, the modest scale and extent of the development proposed, the serviced nature of the site and its setting, and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal are summarised as follows:
- Two of the reasons for refusal for the applicants previously refused proposal for this site are considered to be unaddressed by this current application (Note: P.A. Ref. No. 21210).
 - Concerns are raised in relation to the height of the proposed development and its impact on the appellant as well as other nearby properties. Although the design is

different to the previous proposal that was refused the height remains essentially the same. This additional floor level should not have been permitted. The building opposite which is three storeys and has a dormer window was built in a different era and was for commercial use.

- Commercial properties on Main Street are predominantly three storeys whereas residential buildings are predominantly two storeys. Allowing a third-floor level on the subject building will open up the possibility of the entire streetscape being irreversibly changed.
- It is contended that the appellant and his brother are legal owners of the laneway and that this includes the pier, gate, hedge and grassed surface. No works can be carried out on this laneway without their permission.
- There is an issue also of access to the western facing wall of the utility of the building as there is no provision in the current plan that shows how the applicant is to gain access to it.
- Concern is raised that the attic space would be used for habitable purposes and calling it a storage space is simply an excuse to gain another storey on top of the current building.
- Any flooding of the soak pit could damage nearby properties.
- Site access will be very difficult as the right-of-way will have to be kept clear at all times. The right-of-way is used by four vehicles and is also used for parking.
- This proposal includes no parking and parking on the street is limited.
- Concerns are raised with the Councils handling of this proposal.

6.2. Applicant Response

6.2.1. The First Party response is summarised as follows:

- The proposed development is entirely acceptable and appropriate form of development for the appeal site.
- They purchased the site in 2020 with the intention of renovating and extending the property thereon. On foot of this an application was made under P.A. Ref. No.

211101 which was refused. This current application puts forward a redesign of the previous proposal.

- An overview of the local through to national planning provisions are provided and it is contended that this proposal is consistent with.
- The appellants sold the property to the applicant under the knowledge that it was to be renovated and extended.
- This proposal significantly reduced the buildings depth, massing, and bulk, of the previous development sought.
- The design resolution is comparable and compatible with the diversity of building heights, scales, massing that comprise Main Street. The design is also compatible with Main Street Architectural Study and would make a positive contribution to the architectural character and aesthetic of the village.
- The appellants arguments are without substance and merit.
- The attic space is essential to providing a minimum standard of accommodation due to the small room spaces. This attic will only be accessible by a hatch.
- Condition No. 2 restricts the use of the attic for storage purposes and any use for habitable purposes would require planning permission.
- The appellants have not substantiated that this development would give rise to overshadowing as they contend in their submission to the Planning Authority.
- No undue residential amenity impacts would arise.
- The appellant in their submissions have indicated that this proposal would have a financial impact upon the future sale of the appellants adjoining properties. This impact has not been substantiated by them.
- The construction period would be of temporary duration estimated at c6 to 7months and the grant of permission under Conditions No.s 3(iv) and 4 requires the prevention, cleaning up of any spillage or deposit of materials onto the adjoining public road or footpath as well as the hours of construction. The applicant is also amenable to a condition requiring a more detailed demolition and construction waste management plan.

- The soak pit put forward under this application is a response to the previous application and the appellant fails to set out how it is unsuitable to accommodate the drainage requirements of the proposed development.
- This proposal has been designed to accord with the findings of a Flood Risk Assessment.
- The proposed development would not displace any surface or flood waters onto adjoining properties or increase their vulnerability to any potential flooding event.
- A detailed SuDS Design Report is also submitted with the planning application and includes measures for the worst-case scenario. With the soak pits storage capacity in excess of the potential worst-case scenario.
- The Main Street provides a number of free parking spaces for visitors, shops, and existing residences. It is also possible that future residents may not require parking for a vehicle.
- Once the building has been completed no element of the proposal will physically impinge or interfere with the laneway.
- Civil matters fall outside of the remit of planning codes.
- No alterations are proposed to the northern boundary of the site.
- The drawings submitted clearly illustrate what is proposed and they are fully compliant with the requirements of the Planning & Development Regulations, 2001, as amended.
- It is sought that the Bord uphold the Planning Authority's decision.

6.3. Planning Authority Response

6.3.1. The Planning Authority response is summarised as follows:

- The subject site is zoned 'Village Centre' under the Louth County Development Plan 2021-2027. It is considered that the proposed development is compliant with the zoning objective for these lands.
- No new issues are raised by the appellant in their appeal submission to the Board.
- The Planning Authority has no other comments to make.

6.4. Observations

6.4.1. None.

7.0 Assessment

7.1. Overview

7.1.1. I consider that the key issues in determining this appeal case relate to the appellants grounds of appeal submission. I therefore propose to deal with this appeal case under the following broad headings:

- Civil Matters
- Principle of the Proposed Development
- Amenity Impact – Visual & Residential
- Flooding & Drainage
- Car Parking
- Other Matters Arising

7.1.2. In addition, the matter of 'Appropriate Assessment' also requires examination.

7.1.3. I also note that the appellant raises concerns with regards to the Planning Authority's procedural handling of this planning application. On this particular concern I note that the Board does not have an ombudsman role in such matters and the Board by way of this 3rd Party appeal assesses the proposed development on an entirely *de novo* basis and on its individual merits.

7.1.4. Further, I also consider it appropriate to note that the First Party in their response to the grounds of this 3rd Party appeal consider that this appeal is without foundation and they question its veracity. In relation to this concern, I consider that the 3rd Party appeal does raise a number of valid planning concerns which correspond with the broad headings I have set out above. I would therefore recommend, to the Board, that it dismiss the 3rd Party appeal on these grounds.

7.2. Civil Matters

7.2.1. In relation to the concerns raised by the appellants in relation to encroachment, damage to through to interference with their adjoining private laneway that runs

alongside the southern boundary of the site I note that the appellants set out they have provided no consent for the same.

7.2.2. In relation to this concern, I consider that this concern is essentially be a civil matter for resolution between the parties concerned.

7.2.3. Therefore, the Board has no statutory power to adjudicate upon the matters relating to rights of way, title and ownership of the adjoining private laneway running along the southern boundary of the site as raised in the grounds of appeal. These matters constitute civil matters that can only be resolved by agreement between the parties or in the civil courts. The Development Management Guidelines make this clear under Section 5.13 of the Guidelines which state *“the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution by the courts”*.

7.2.4. I also refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that: *“a person shall not be entitled solely by reason of a permission under this section to carry out any development”*. As such any grant of permission for the subject proposal would not in itself confer any right over private property.

7.2.5. Based on the above considerations I recommend that the Board should it be minded to grant planning permission that it includes an Advisory Note setting out Section 34(13) and that it consider including a similar requirement as Condition No. 3(v) of the Planning Authority’s notification to grant planning permission which essentially sets out that the right of way shall be kept clear at all times including during the period of construction, unless otherwise agreed with the relevant property owners as a precaution.

7.3. **Principle of the Proposed Development**

7.3.1. The proposed development sought under this application relates to the vacant two storey building that occupies a modest site on the western side of Main Street, Blackrock, Co. Louth.

7.3.2. At this location the site and the building thereon are a visible part of the principal streetscape scene of the urbanscape of Blackrock with its visibility being added to by the presence of a laneway separating it from the nearest property to its south and also by the generous width of Main Street and its associated public domain at this location.

- 7.3.3. In its vacant and unkempt state, it adds little to the vibrancy as well as vitality of its central location within the middle of this coastal settlement. Under the provisions of Louth County Development Plan, 2021-2027, the site and its setting to the immediate north and south are zoned Objective 'B1'. The land use zoning objective for such land seeks to support the development, improvement and expansion of town or village centre activities.
- 7.3.4. In addition to this the said Development Plan in its guidance seeks to enhance the character and vibrancy of such land as well as seeks to strengthen such land by way of including providing for residential development through to encourages regeneration of vacant buildings. Moreover, in a manner consistent with the said Development Plans core strategy the consolidation of development at such locations, including by way of residential development, is encouraged.
- 7.3.5. Based on the above considerations, I concur with the Planning Authority that the proposed reversal of this former residential buildings vacant state and the principle of its extension is generally acceptable, subject to safeguards.

7.4. Amenity Impact - Visual & Residential Amenity

- 7.4.1. The appellants in their grounds of appeal consider that the proposed development, if permitted, would not be a positive insertion in its streetscape scene and that the proposed increase in height to 8.226m (Note: existing building has an indicated ridge height of 6.209m) would be visually overbearing as well as would give rise to adverse residential amenities.
- 7.4.2. In relation to the visual amenity impact, as previously discussed in my assessment the subject building to which this appeal case relates is vacant and has an unkempt appearance. It occupies a prominent position along the main promenade of Main Street in the popular coastal settlement of Blackrock, Co. Louth. According to the information on file it has been in a vacant state for the last decade and was purchased by the applicant in 2020 with the intention of its renovation and extension.
- 7.4.3. While I acknowledge that the subject building has a simple traditional character with it consisting of a two-storey built form with a double A-framed roof structure over, a simple palette of traditional building materials, i.e., mainly plaster render, timber openings, brick chimney and slate roof over, which is altogether not unattractive in a period dominated streetscape scene. Notwithstanding, it is visually in a poor state of

condition, it has an unkempt and in a vacant appearance. As such this diminishes its potential to more positively contribute to the vitality and vibrancy of Main Street.

7.4.4. The principle of bringing back vacant buildings on 'B1' zoned land, including for residential use, is as previously discussed above deemed to be acceptable under the land use zoning objective and guidance for town and village centre zoned lands.

7.4.5. The proposed alterations and extension include an increased height of the structure so that a dormer attic level for storage purposes is proposed with this including a dormer window in the roof slope addressing Main Street. Dash plaster render, sash windows and raised band detailing are also proposed for the principal façade. These external improvements are not dissimilar to the appearance, palette of materials through to the graduated building heights along Main Street. They also ensure that the building maintains a traditional appearance which also is in keeping with the host dwelling and the predominant character of buildings on Main Street. With the streetscape character of Main Street being part informed by the graduation in its building heights of mainly two storey built forms which are also punctuated by three storey buildings.

7.4.6. Against this varied in built form mainly period in character buildings, the graduation of roof heights through to the use of materials that reflect the traditional palette of materials that predominant Main Street's streetscape scene I consider that the proposed development sought under this application would not be out of character.

7.4.7. I also consider it is a much improved and less visually overbearing design resolution when compared to the previous development refused for this site by the Planning Authority under P.A. Ref. No. 21210. In addition, the similarity of height of the proposed attic extension arguably compliments the height of the existing building on the southern side of the private laneway.

7.4.8. In terms of residential amenity impact I consider that the proposed increase in height of the subject building on site by way of a dormer attic to increase storage within an otherwise modest in floor area dwelling of 83.7m² would not give rise to any undue and materially significant adverse amenity impact on properties in its vicinity due to the lateral separation between it and the nearest dwellings. Whilst a level of additional overshadowing would arise from the increased height (Note: 2.017m) and built form of the building proposed. With this impact being limited to morning time given the site

orientation relative to other properties in its vicinity. I am of the view that given the modest nature of the site, the limited nature of the proposed development, the urban location of the site and the lateral separation distance between the property and private amenity spaces of residential properties in its vicinity that the impact that would arise could not be considered to be significant and material in this context. The appellants in their grounds of appeal have not substantiate that this would not be the case by way of a professional examination of sunlight, daylight and overshadowing impact.

- 7.4.9. I acknowledge that the provision of a habitable use for this building would give rise to a changed circumstance for the appellants given that their properties not only appear to bound the site but that two of the appellants appear to be the legal owners of the private laneway that runs along the southern elevation of the property. With the applicant appearing to have the benefit of a fettered right-of-way over this private laneway. With the subject property also appearing to not have benefitted from the use of this right of way by vehicles to access the rear of its site or otherwise.
- 7.4.10. The design proposal includes additional high level window openings on the southern elevation of the subject property as part of the proposed alterations. This elevation is currently staggered and contains two existing window openings present at first floor level. The proposal seeks to amend the southern elevation to remove its staggered nature. The redline area of the site appears to include the modest additional area to do this. However, it would appear that the redline area is contested by the appellants in terms of their legal interest over the adjoining laneway. As said this is a civil matter.
- 7.4.11. The provision of additional window openings on the southern elevation not only would provide additional light and potentially ventilation for the subject building. They would also provide further visual lightness to the amended built form of the subject building whilst giving rise to the perception of greater passive surveillance of this private laneway.
- 7.4.12. As previously set out the issues raised by the appellants in relation to interference, oversailing, use and other issues arising to the private laneway through to any common boundaries are not related to the subject application and fall outside the scope of the Board in its determination of this case.

- 7.4.13. In addition, I consider that the level of overlooking that would arise from the additional window on the western rear elevation would not be uncommon within this type of urbanscape context and according to the information provided there would be in excess of 22m between it and any opposing first floor level window of residential properties in its vicinity.
- 7.4.14. In relation to use of the attic level, the appellants raise concern that it would be used for habitable purposes and not for the storage use indicated in the drawings submitted.
- 7.4.15. On this matter, I note that the drawings show that there are no stairs serving this attic space and that access would be via an attic hatch. In addition, the applicants contend that given the limited floor area of the dwelling unit that such a storage space is needed for its residential function and that they are amenable to the restriction of its use as set out by Condition No. 2 in the Planning Authority's notification to grant planning permission. Moreover, their response to the grounds of appeal also acknowledge that they are aware that any habitable use would require planning permission alongside would require compliance with other codes.
- 7.4.16. In addition, I consider that the provision of a modest in height and width dormer window on the roof slope facing onto Main Street breaks the visual overbearance of the revised roof structure proposed. I also observed that such a feature is not uncommon within the streetscape scene of Main Street, including is a feature of the neighbouring building on the southern side of the adjoining private lane.
- 7.4.17. On the basis of the foregoing, I concur with the Planning Authority that the proposed development would not give rise to any undue visual or residential amenity issues for the area.

7.5. Car Parking

- 7.5.1. The appellants in their grounds of appeal contend that together with the absence of the provision of car parking on site as part of the proposed development and that there is inadequate car parking in this area to meet the high demands placed upon it that the car parking needs of the proposed development can not be meet. The proposed development consists of alterations and extension to an existing dwelling within a town centre location on a modest site area of 0.00698ha that historically does not appear to have been served by an off-street within curtilage car parking provision or vehicle use of the adjoining private lane. At the time of my site inspection, I observed that on

both sides of Main Street that there was ample on-street free car parking with spaces available within easy reach of the site along the roadside edge and the sea front edge.

- 7.5.2. The proposed alterations and additions to the subject property would result in a modest two-bedroom dwelling unit. I consider that such a unit would not generate a significant car parking requirement, nor would it be any significant difference to its previous function as a two up and two down dwelling prior to becoming vacant.
- 7.5.3. On the basis of the foregoing, I am satisfied that there is adequate car parking in the immediate location to accommodate the car parking needs of future occupants.
- 7.5.4. I am also satisfied that the town centre location of the site would be synergistic to future occupants to not be heavily reliant upon private vehicle use due to this settlement being well served with a wide variety of land uses, services, amenities through to is served by public transportation along its Main Street.
- 7.5.5. Moreover, issues in relation to obstruction of the private laneway which is contended to be in the appellants legal interest and to which the applicant contends they have a right-of-way over are not related to the subject application and fall outside the scope of the Board in its determination of this case.
- 7.5.6. I consider given the absence of consent provided by the applicant to use the adjoining private laneway during the construction period or for any other purposes beyond that permitted under the current right-of-way that is in place with the owners of this lane that as a precaution the Board, should it be minded to grant permission for the proposed development, include the requirements of Condition No. 3(v) of the Planning Authority's notification as a precaution. Alongside include Section 34(13) of the Planning and Development Act, 2000, as amended.

7.6. Flooding and Drainage

- 7.6.1. On the basis of the information on file; the report from the Planning Authority's Infrastructure Department; the availability of public water and foul drainage services in this urban area, I am satisfied that adequate arrangements can be made for a connection to public water and foul drainage provisions and that there is adequate capacity in this public infrastructure to accommodate this two-bedroom property, subject to standard safeguards.

7.6.2. In relation to the potential for flooding, I concur with the Planning Authority that subject to the mitigation measures including in the Flood Risk Assessment together with the improved on-site storage of surface water that the proposed development despite its location in an area that has in the past been prone to flooding events but where development is permitted under Section 5.28 of the Planning System and Flood Risk Management Guidelines that the alterations and extension to this existing building would give rise to no adverse flooding or flood risk impacts to the site, properties in its setting or otherwise.

7.6.3. I therefore recommend the Board should it be minded to grant permission for the proposed development that it includes the requirements set out under Condition No. 3 (i) and (ii) of the Planning Authority's notification to grant planning permission.

7.7. **Other Matters Arising**

7.7.1. ***Adequacy of the Drawings***

I consider that the drawings together with having carried out an inspection of the site and its setting are adequate for the Board to make a determination on this appeal case.

7.7.2. ***Building Regulations and Fire Safety:***

On matters relating to Building Regulations and Fire Safety, it is my opinion that such issues are matters which are subject to other regulatory control / legislative provisions and thus are not pertinent to the consideration of the subject appeal. I also concur with the Planning Authority that given that attic space does not meet the standards for a habitable space at third floor level that it was appropriate that this matter was dealt with by way of condition. Therefore, should the Board be minded to grant permission for the development sought under this application I recommend that it includes a similar worded condition to Condition No. 2 of the Planning Authority's notification to grant planning permission.

7.7.3. ***Depreciation of Property Values:***

The documentation provided with this appeal do not substantiate by way of any robust evidence how the proposed development, if permitted, would give rise to any significant and/or material depreciation of property values. As such I cannot assess whether or not there is a potential for this to arise.

7.7.4. **Section 48 Development Contributions**

Not applicable to the proposed development sought due to the increased in floor area being below threshold for the payment of such contributions.

7.7.5. **Construction Nuisances**

The appellants concerns in relation to construction nuisances can be appropriately dealt with by way of standard conditions and such nuisances would be temporary in their duration.

7.8. **Appropriate Assessment (AA) Screening**

- 7.8.1. The appeal site is located c18.9 metres to the west of the designated areas of the Dundalk Bay SAC (Site Code: 000455) and Dundalk Bay SPA (Site Code: 004026). Having regard to the brownfield character of the site; the modest nature, scale and extent of development sought and the site's location in a fully serviced built-up urban area, it is considered 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.

8.0 **Recommendation**

- 8.1. I recommend that permission should be **granted**.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the location of the appeal site within the centre of Blackrock, the pattern of existing development in the area, the existing vacant state of the building thereon, and to the nature, scale and design of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or residential amenities of properties in its vicinity and it would not conflict with the objectives of the Louth County Development Plan, 2021 to 2027. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 6th day of September, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The domestic storage area at second floor level shall be used for storage purposes only and shall not be used as habitable accommodation.

Reason: In the interest of orderly development and to ensure compliance with minimum standards of accommodation.

3. Demolition shall be limited to that indicated on the plans lodged with this application.

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

4. The external finishes of the proposed works shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interests of architectural harmony and visual amenity.

5. The development shall be carried out in accordance with the following:

- (i) The finished floor level of the property is to be increased by 140mm to 4.04m O.D. as per the flood risk assessment report.

- (ii) The applicant shall utilise appropriate flood resilience measures throughout the development e.g., all electrical works including wiring, sockets, switches, and the like to be located at least 1m above Extreme Water Level of 3.74m. The applicant shall implement all mitigation measures as outlined within the flood risk assessment report.
- (iii) The right-of-way via the existing private laneway running along the southern boundary of the site shall be kept clear at all times including during construction, unless otherwise agreed with the relevant property owners.

Reason: In the interest of traffic safety and orderly development.

- 6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 7. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 8. The site development works, and construction works shall be carried out in such a manner as to ensure that the public roads are kept clear of debris, soil, and other materials and if the need arises for cleaning works or repair to be carried out to the same, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining lane and roads are kept in a clean and safe condition during construction works in the interests of orderly development.

9. The construction of the development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

Advisory Note: Section 34(13) of the Planning and Development Act, 2000 as amended, indicates that: *“a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”*.

Patricia-Marie Young

Planning Inspector

24th day of March, 2022.