



An
Bord
Pleanála

Inspector's Report

ABP-314322-22

Development	Demolition of the existing 2 storey cancer support drop-in centre, construct new 3 storey cancer support drop-in centre. The site is in an ACA.
Location	29 Friars Street, Youghal, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	217337
Applicant(s)	Youghal Cancer Support Company
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Anne McAuliffe & Darren Murray, Jim O'Connell & Ester Revins
Observer(s)	None
Date of Site Inspection	13 th of April 2023
Inspector	Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The site is located in the main town built up area of Youghal in County Cork on Friar St. It includes a two storey, pitched roof building that appears to currently operate as a cancer support building. The submitted existing floor plans show the building is laid out as typical residential property with a large number of bedrooms.
- 1.2. There is an existing c. 3.5m wide vehicular entrance along the north west (NW) boundary of the site, with hardstanding and car parking available to the rear. The building is recessed from the road edge with a small front garden space, a low wall with railing bounding the public path and a central pedestrian site access to the building. A single storey side annex adjoins the building and its boundary to the south east (SE) and is recessed c. 4.m from the front elevation.
- 1.3. To the NW of the site there is an existing three storey end of terrace building (No. 28) with its ground floor elevation displaying a shopfront feature but does not appear to be in existing commercial use. There are three large existing windows on the side elevation of this building facing south east (SE) into the application site. To the SE of the site No. 30 is a building identified as Protected Structure RPS ref 2892- Semi-detached three-bay two-storey former cinema, built c. 1930. The site is located within the Youghal Architectural Conservation Area (ACA)
- 1.4. The rear of the site is largely enclosed by the building, a single storey rear return, a high rear boundary wall and No. 28 to the NE.
- 1.5. To the North East (NE) of the site there are two backland style single storey terraced houses with front elevations facing NE and the side gable of one facing directly towards the application site. I have confirmed these addresses as Lavender Cottage and Rose Cottage with Eircode's P36 827 and P36TP46 respectively¹. These houses are accessed of Strand St which generally runs parallel c. 65m west of Friar Street. During my inspection I attempted to access both these properties but there was no one present to facilitate access.
- 1.6. While these houses appear single storey, there is a large first floor window on the south west elevation of Lavender Cottage. This is visible from the rear yard of the application site. A part of Lavender Cottage extends northwards and bounds the NE

¹ <https://finder.eircode.ie/#/map> accessed 16-06-23

boundary of the application site. There appears to be an area of rear private amenity space to Lavender Cottage that is enclosed by the house, the application site and No. 30 Friar Street and this building extends significantly deeper than the application site.

1.7. The road to the front of the site serves one way traffic travelling north east. The road benefits from existing pay and display/permit on street parking.

1.8. The application site has a stated area of 0.0391 ha.

2.0 Proposed Development

2.1. The application comprises off-

- Demolition of the existing 2 storey building- 243.14 sq.m, standard pitch roof 7.68m high
- Construction of a new 3 storey building- 568 sq.m, Recessed second floor from front and side elevation, 10.75m high at second floor roof level, 7.75m high main parapet level of first floor
- The existing and proposed uses are for cancer support drop-in centre.
- The site is within an Architectural Conservation Area.

2.2. The Planning Authority sought Further Information (FI) on the 15/02/22 in relation to the following-

- Revised design and impact on ACA
- Design Statement
- Cycle Parking
- Landscaping
- Details of roof garden
- Construction and Demolition Waste Management Plan
- Environmental Management Plan
- Wastewater management facilities during works

2.3. The Applicants responded to the FI request (RFI) on the 23/06/2022. The proposal was redesigned and retains a second floor above, first and ground floor. The roof levels are shown at 10.475m, 9.755m and 7.665m. The floor plan drawings indicate a floor area of 523.8 sq.m. The RFI submission was accompanied by a

- Design Statement
- Conservation Statement and
- Construction and Environmental Management Plan

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission on the 19/07/22, subject to 16 conditions generally of a standard nature. The following are noted-

- C2- Final details of certain finishes to be agreed.
- C5- Revised plan for cycling area to be submitted for agreement.

4.0 Planning Authority Reports

4.1. Planning Reports

4.1.1. The planning reports generally reflect the decision of the Planning Authority. It details that EIA is not required. It also details the site is a brownfield redevelopment within the town connected to existing water and waste water services. A preliminary AA Screening was carried out concludes that Stage 2 AA is not required.

4.2. Other Technical Reports

- Water Services
 - 18/01/22- No objection subject to new Irish Water connection agreement
- Environment Report

- 27/01/22- FI required, C&D Waste Management Plan etc.
- 28/06/22- No objection subject to condition
- Conservation Officer-
 - 10/02/22- FI required- revised design required and impacts on ACA,
 - 30/06/22- No objection subject to condition
- Engineering Report
 - 10/07/22- No objections

4.3. **Prescribed Bodies**

- None

4.4. **Third Party Observations**

- 4.4.1. Three submissions were received. I have reviewed these and consider the relevant concerns raised are generally those as indicated in the third-party appeals as set out in section 7 below.

5.0 **Planning History**

- 15/5808- Permission granted for alterations to building and change of use from residential to cancer support centre.

6.0 **Policy Context**

6.1. **Cork County Development Plan 2022-2028 (CDP)**

- The Plan came into effect on 6th of June 2022 and replaced the previously operative Development Plan, Local Area Plans and the nine Town Development Plans of the former Town Council Towns which included Youghal.

6.1.1. **Volume 1**

- Section 1.7 identifies Youghal within the Greater Cork Ring Strategic Planning Area
- Table 2.9 outlines the Core Strategy where Youghal is identified as a Self-Sustaining Growth: Medium Towns [>5,000].
- Chapter 6 deals with 'Social and Community'. The following CDP Objective is relevant

- SC 6-7: Healthcare Facilities

Support the Health Service Executive and other statutory and voluntary agencies and private healthcare providers in the provision of healthcare facilities to all sections of the community, at appropriate locations within settlement boundaries (subject to exceptions), with good public transport links and parking facilities for both motor vehicles as well as bicycles.

- Chapter 12 deals with 'Transport and Mobility'. Sections 12.12.7 -12.12.15 deal with 'Car Parking' in which reducing availability of car parking to promote modal shift is clearly encouraged. CDO Objective TM 12.9 is relevant and states-

- Secure the appropriate delivery of car parking and bicycle spaces and facilities in line with the Standards set out in Section 12.24 of this document:

a) All non-residential development proposals will be subject to maximum parking standards as a limitation to restrict parking provision to achieve greater modal shift.....

i) The provision of multimodal facilities including carpooling spaces, secure bicycle lockers, public bicycle sharing, etc. are to be considered in the provision of parking for all non-residential developments or multi-unit residential developments where appropriate.

- Section 12.24 Parking Standards and Table 12.6 details maximum car parking requirements as follows-

Clinics & group medical practices (public health clinics)	3 per consulting room + 1 space per doctor/ Consultant
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	+1 space per 3 nursing and ancillary staff
Cultural, community & recreational buildings	1 space per 25 sqm

Footnotes to Table 6 detail-

- 1.- In the case of any development type not specified above, the planning authority will determine the parking requirement having regard to the traffic and movement generation associated with the development and the other objectives of this plan.
- 3.- These requirements do not apply to development located in Town Centres as identified in this plan where the development involves the re-use/refurbishment of an existing occupied or vacant building, any change of use or where small scale infill developments (including residential) are proposed.
- Chapter 16 deals with 'Built and Cultural Heritage'.
 - Section 16.2.9 identifies Youghal as an 'Historic Town'. The site is not located within a Zone of Archaeological Potential
 - Relevant CDP objectives include-
 - HE 16-14: Record of Protected Structures
 - HE 16-18: Architectural Conservation Areas which seeks to-
 - “Conserve and enhance the special character of the Architectural Conservation Areas included in this Plan. The special character of an area includes its traditional building stock, material finishes, spaces, streetscape, shopfronts, landscape and setting. This will be achieved by;*
 -
 - b) Promoting appropriate and sensitive reuse and rehabilitation of buildings and sites within the ACA and securing appropriate infill development.*

(c) Ensure new development within or adjacent to an ACA respects the established character of the area and contributes positively in terms of design, scale, setting and material finishes to the ACA.....

e) Promoting high quality architectural design within ACAs.....

- Chapter 18 deals with 'Zoning and Land use'. The site is zoned 'Existing Residential/Mixed Residential and Other Uses (ER)'. The following Sections are relevant-
- Section 18.3.3-
 - *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.²*
- 18.3.5-
 - *..... These areas generally have a primary or strong residential component but which also provide for non-residential uses which protect and improve the primary use of these areas. Other uses within this category include small scale retail, small scale commercial, community facilities, places of worship, offices, doctors' surgeries, beauty and healthcare facilities. These uses and the extension to existing facilities within this zoning are acceptable subject to proper planning and development criteria and protecting the residential amenity of the area.³*
- 18.3.9-

² Underlined emphasis added.

³ Underlined emphasis added.

- County Development Plan Objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses

.....

Other uses/non-residential uses should protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other uses areas will not be encouraged.

- The Plan then lists ‘Appropriate Uses in Existing Residential/Mixed Residential and Other Uses Area’ including the following which are considered relevant- local centres/neighbourhood centres, community facilities, civic uses, small scale offices, local medical /healthcare services,

6.1.2. Volume 4

- Youghal is located in the East Cork Municipal District to which Volume 4 of the CDP (South Cork) relates. Chapter 3 section 3.4 deals with Youghal
- The site is located within the Youghal Development Boundary and is zoned ‘Existing Residential/Mixed Residential and Other Uses’ as per the Map on Page 268.

6.2. Ministerial Guidelines and Other Guidance

6.2.1. Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG 2018).

- Section 3 deals with ‘Building Height and the Development Management process’. Section 3.1 states-

‘In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. Planning authorities must apply the following broad

principles in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines’.

- Section 3.2 sets out ‘Development Management Criteria’ that requires the applicant to demonstrate to the satisfaction of ABP that the proposed development satisfies a number of criteria. The Board are referred to the criteria titled ‘At the scale of the site/building’ which requires-
 - *“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.*

6.2.2. Architectural Heritage Protection – Guidelines for Planning Authorities (2004, 2011)

- Section 3.7 is titled- ‘Development Control in Architectural Conservation Areas’
- Section 3.10 is titled-‘ Criteria for Assessing Proposals within an Architectural Conservation Area’
- Section 13.8 is titled- ‘Other Development affecting the Setting of a Protected Structure or an Architectural Conservation Area.’

6.2.3. Other Guidance-

- Quantitative methods for daylight assessment are detailed in the following documents:
 - BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' 2022 edition
 - BS EN 17037:2018 Daylight in Buildings.

6.3. **Natural Heritage Designations**

The site is-

- c. 90m west of the Blackwater River (Cork/Waterford) SAC (002170)
- c. 700m south west of the Blackwater Estuary SPA (004028)

6.4. **EIA Screening**

- 6.4.1. It is proposed to demolish a cancer support building previously in residential use and replace it with a new cancer support building on a stated site area of 0.0391 ha of zoned land in the development boundary of Youghal.
- 6.4.2. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) details 'Infrastructure Projects' for the purpose of Part 10 of the Act i.e. EIA. Class 10 (b) sets size thresholds for 'urban development' sites. Having considered the sites zoning and current use I do not consider it to be located within a 'business district'. The site is identified in schedule 6 of the Local Government Act of 2001 as a 'Town' i.e. Chapter 2 Former Urban Districts. However the site has a stated area of 0.0391 ha and is well below the applicable threshold of 10 ha for 'urban development sites in the case of other parts of a built-up area'.
- 6.4.3. The nature of works proposed in this application will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is located in the existing settlement boundary, is generally built up and any ecological impacts were not likely to significant in this context. The site is not designated for the protection of the landscape, of natural heritage and the development is not likely to

have had a significant effect on any European Site (as discussed in section 8.8) and there is no specific hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other).

- 6.4.4. While the site is located within a designated ACA and next to a designated Protected Structure, I am satisfied the site is generally developed, the existing structure does not contribute positively to the ACA and the extent of works proposed would not significantly impact upon the cultural heritage of the area to any significant extent warranting EIA.
- 6.4.5. The proposal would not give rise to waste, pollution or nuisances that differ significantly from the existing permitted use on site or from other developments of this nature located in similar town setting. It would not give rise to a risk of major accidents or risks to human health. The development would use the public water and drainage services of Irish Water and Cork County Council, upon which its effects would be marginal.
- 6.4.6. Having regard to the above I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report is not necessary in this instance (See Preliminary Examination EIAR Screening Form).

7.0 The Appeal

7.1. Grounds of Appeal

Three third party appeals have been received from the following-

- Anne McAuliffe and Darren Murray
- Jim O'Connell
- Ester Revins on behalf of Strand Street and The Mall Residents Committee

The grounds of the appeals can generally be summarised as follows-

- Parking- Provision of on street parking is extremely challenging and will not be able to cope with any further congestion, parking, or increased volumes of traffic. The proposal removes 4 existing on-site parking spaces and provides 5 bicycle spaces. There is no provision for cancer patients. Reference is then made to provisions of the Development Plan.
- Impacts upon Residential Amenities. The proposal is c. 10.47m high and located on eastern boundary and c. 1.5m from the northern boundary. An Appellants property to the east will experience significant overbearing and overshadowing with little or no sunlight into either the rear or front yard and a loss of natural light when daylight is at its minimum. A shadow analysis has not been conducted.
- There will be overlooking from the panoramic window at the stairs and the proposed roof terrace impacting upon privacy affecting neighbouring property as well as several properties on Strand Street. Adequate separation distance should be provided.
- The proposed structure is not in keeping with the current architecture of the town. The scale mass and insensitive design would have a detrimental impact on the character of the ACA. It would be visually obtrusive.
- Health and safety concerns in relation to structural integrity of existing properties impacted from the works. Concerns include impacts to the neighbouring Protected Structure and location within the ACA.
- Impacts from noise, air, dust and dirt pollution.
- The submitted drawings are poorly prepared and presented with a second floor window, separation distances to boundaries and other omissions.

7.2. Applicant Response

The Applicant response can be summarised as follows-

- In terms of parking a number of references from the 2014-2022 Development Plan show a policy of not requiring parking to be provided in town centre locations which is consistent with promoting non private vehicle movements in town centre and urban environments.

- Youghal Cancer Support are in talks with the Council to establish another on street disabled space to cater to the centre.
- The application is not a residential development. Its intention is to avoid incidents of overlooking. No windows exist on the rear of the building.
- In terms of Residential Amenities- Layouts at first and second floor were amended and reduced in size at FI stage Only the ground floor continues to c. 3m from rear wall which is the existing situation.
- The panoramic window in the stair core is designed making it impossible to look down.
- The roof terrace has a planter box and screen allowing views parallel to the sea. The available visible field to occupants of the terrace does not extend to any public or private spaces including windows of dwellings.
- In terms of the applications drawings- There are minor drafting errors in the application documents as detailed.
- Consultation was undertaken with The Council's Conservation staff resulting in the proposed scheme and is considered in compliance with the Council's objectives in relation to street scape with the ACA.
- The concerns raised do not preclude the proposed modernisation of the facility and its essential services provided.

7.3. Planning Authority Response

The Planning Authority response can be summarised as follows-

- All relevant issues have been covered in the technical reports.

7.4. Observations

- None

7.5. Further Responses

7.5.1. Three further responses have been received from the Appellants. Relevant matters can generally be summarised as follows-

- Errors highlighted in the Applicants response
- The vicinity surrounding the application site is not well served by public transport. Friar St is one way and school kids use the road.
- References to major retail and employment development are flawed and redundant.
- The additional of an additional on street disabled parking space would render the parking situation extremely challenging. Removing the existing 4 spaces increases this. No provision has been made for cancer patients.
- Concerns in relation to future uses of the building such as residential and impacts upon residential amenities.
- The applicants have failed to address overshadowing and rights to light. Reference is made to ABP decisions in which permission was refused in whole or in part relating to overlooking and overshadowing. Considering no attempt has been made to address overshadowing or loss of sunlight the proposal should not be considered.
- Concerns raised again in relation to health and safety during the build.
- Reference is made to a recent refusal by ABP for matters relating to protected buildings.
- Minor errors should not occur at this level of the planning application. The Appellant's building is not shown and it is not possible to determine impact upon privacy.
- The proposal lends nothing to the current streetscape. It is not supported by the community. Details of a public event are submitted.

7.5.2. The Planning Authority response (10/10/22) can be summarised as follows-

- All relevant issues have been covered in the technical reports.

8.0 Assessment

8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file, including the Appeals and the Responses to the Appeals. I have inspected the site and viewed it from the rear at access gates to existing houses just off Strand St. I have had regard to relevant local/regional/national policies and guidance where relevant.

8.1.2. I am satisfied the substantive issues arising from the grounds of these third-party Appeals relate to the following matters-

- Principle of the Development
- Design and Built Heritage
- Impact on Existing Residential Amenities
 - Daylight, Sunlight and Overshadowing
 - Overlooking
 - Other
- Car Parking and Roads Issues
- Drawings and Specifications
- Other Concerns
- Appropriate Assessment

8.2. Principle of the Development

8.2.1. The application is to replace an existing structure currently in a permitted use as a cancer support centre with a new building for the same use. The site and its immediate surrounds including Friar St and Strand St are zoned 'Existing Residential/Mixed Residential and Other Use'. Objective ZU 18-9 of the CDP 2022-28 details the following as 'Appropriate Uses' in this zoning- local centres/neighbourhood centres, community facilities, civic uses, small scale offices, local medical /healthcare services.

8.2.2. While Objective ZU 18-9 generally relates to traditional residential and mixed residential development it does also provides for 'other uses/non-residential uses'. The objective in this regard requires these use '*to protect and/or improve residential*

amenity'. It also details that uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other uses areas will not be encouraged.

- 8.2.3. I am satisfied that the nature of the proposed use is an acceptable land use for this site and in this residential area where operations would generally be consistent with residential amenity and the permitted use of the site. Overall the proposed use would not threaten the vitality or integrity of the primary use of the existing wider residential area. Consideration of the impact of the proposal development itself on existing residential amenity is set out in section 8.4 below.

8.3. Design and Built Heritage

- 8.3.1. The Appellants raise specific concerns in relation to the design of the development and its context on Friar St. They consider the scale, mass and insensitive design would have a detrimental impact on the character of the ACA and would be visually obtrusive.
- 8.3.2. The Planning Authority raised similar concerns at FI stage. The Applicants submitted a revised design proposal at RFI stage in which they detail was developed with the aid of a Conservation Architect and in conjunction with representatives of the Council. A report on file from the Council's Conservation Officer confirms numerous discussions in relation to the revised proposal and that the RFI submission is a better response to the established built environment and there was no further objection from their perspective. The reports of the Planning Authority generally reach the same conclusion.
- 8.3.3. The RFI submission includes a Design Statement and a Conservation Statement. These detail the existing building was probably added around the 1970's, is of no particular merit and its building line responds poorly to the existing building line of Friar St.
- 8.3.4. The proposal seeks to reinstate the street line with a structure of a scale similar in proportion to adjoining properties and those on the street generally. The intention is to provide a detached structure with separation zones to either side of the new buildings to provide a contemporary contrasting structure, free standing on the existing street building line. The building is angled at ground level from NE to SW to

accentuate the new entrance point. Overhanging first and second floors preserve the building line. The structure is to be finished with simple render and 'Aluminium Louvers' flanking either side to provide continuity of the 'terrace façade' or streetscape.

- 8.3.5. The site is located within an ACA and next to a Protected Structure. The existing building on site while well serving of its time and original function does not contribute to the quality of the ACA and detracts from the setting of the adjoining protected structure within the ACA. Its demolition and replacement are entirely appropriate.
- 8.3.6. Section 3.10.1 of the Architectural Heritage Protection Guidelines for Planning Authorities (AHPG) details the design of a new building within an ACA will be of '*paramount importance*'. It advises where there is an existing mixture of styles a high standard of contemporary design that respects the character of the area should be encouraged and the scale should be appropriate to the general scale not just the biggest buildings.
- 8.3.7. The proposed development provides a part three mainly two storey structure located within a streetscape of three and two storey existing buildings all of varying heights. While the design of existing structures varies there are general consistencies including fenestration design and patterns as well as a proposed simple painted finish.
- 8.3.8. Proposing new structures within existing streetscapes can often be contentious especially within an ACA and adjoining a Protected Structures. In my opinion the proposal is a well-considered contemporary design solution given the built heritage context of the area. The proposal respects the established character of the area including building heights and contributes positively in terms of design, scale, setting and material finishes within the ACA. It is also appropriate in terms of its design, architectural treatment, character, scale and form and would not be detrimental to the special character and integrity of the adjoining protected structure and its setting. I am satisfied the proposal is consistent with the requirements of objectives 16-14 and 16-18 of the CDP.

8.4. Existing Residential Amenity Impacts

- 8.4.1. The sites ER zoning “Existing Residential/Mixed Residential and Other Uses” places a clear requirement for other uses/non-residential uses to protect and improve residential amenity.
- 8.4.2. It is important to highlight that although the site is not in an active residential use, properties to its rear are in such use as clearly detailed in the Appeals. It is not clear from the information provided with the application or from my site inspection if the neighbouring property No. 28 Friar Street is in residential use. It is considered the rear of ground floor and the upper floors may be.
- 8.4.3. The Appellants have raised a number of residential amenity concerns which shall be looked at in turn and the Board are reminded the site is zoned ‘Existing Residential/Mixed Residential and Other Use’ with an objective to protect and/or improve residential amenity.

8.4.4. Daylight, Sunlight and Overshadowing

- a. The Cork CDP appears generally silent on standards relating to ‘Daylight and Sunlight’ impacts from new development. However, such impacts do have the potential to significantly detract from existing residential amenity and need to be considered in the context of the submitted Appeals.
- b. Although the proposed development is taller than the existing house on site, I am satisfied it is not taller than prevailing building heights in the general urban area with specific regard to Friar St.
- c. In this regard the Board are not bound to apply the broad principles referred to in section 3.1 of the Urban Development and Building Height Guidelines 2018 i.e. compliance with the NPF and compact growth of urban centres and compliance with the development plan etc. but the Guidelines are considered particularly relevant to the scale of the site itself i.e. they state-

‘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'⁴

and where compliance with these requirements is not met 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.'

- d. In terms of the site context and impacts of the proposed development, it is therefore reasonable to refer to the principles of 'Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2022) i.e. BRE209.
- e. BRE209 provides a number of measures that contribute to assessing 'Daylight and Sunlight' impacts. Having examined the contents of this Application, the Appeal and BRE209, I consider the following measures appropriate for this assessment-
- Existing Diffuse Daylight to Lavender Cottage and No. 28 Friar Street
 - Existing Sunlight to the interior of Lavender Cottage and No. 28 Friar Street
 - Existing Sunlight to private amenity areas of Lavender Cottage
- f. Section 1.6 of BRE 209 specifically details that the advice given is not mandatory and should not be seen as an instrument of planning policy. However, having regards to the appeals, the site context and in particular the zoning objective it is considered appropriate that these measures are used to consider the impacts of the development upon existing residential amenity.

⁴BRE209 has been revised in a Third Edition published in 2022 and BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018

8.4.4.1. Diffuse Daylight

- a. The Appellants from Lavender Cottage specifically state in their appeal that they “*utilise a western facing gable window to bring natural light into our home*”. During my site inspection I did observe a first floor window on this gable from the rear of the existing building on the application site. However based on the information on file, I cannot determine if there is also an existing ground floor window to this gable.
- b. Despite this concern being raised in the submissions to the Council and in this Appeal, the Applicants have not submitted an assessment of impacts from the proposed development upon diffuse daylight in existing buildings.
- c. I note the Planning Authority reports including those on the RFI submission do not appear to specifically address loss of diffuse daylight.
- d. Section 2.2 of BRE209 titled ‘Existing Buildings’ details it is important to safeguard daylight to nearby buildings. BRE 209 is clear in that they relate to rooms in adjoining dwellings where daylight is required including living rooms, kitchens and bedrooms. Windows to circulation areas such as hallways need not be analysed. Based on the Appellants comments loss of daylight is a real concern.
- e. The development proposes a new building of a much larger scale and mass than the existing building on site, significantly closer to the west facing gable and at least one existing window of Lavender Cottage i.e.-
 - Using the Urban Place Map (1:1000) submitted with the original application the ridge level of the existing building appears to be c. 18m from the side gable of Lavender Cottage
 - Using original Drawing 20026-CEA-DN-PL-A-L104 the existing ridge height is 7.68m.
 - Using RFI Site Plan drawing 20026-CEA-FI-A-L0003 the two storey parapet of the proposed building will be c. 9m from the side gable of Lavender Cottage.

- Using RFI North East and West Elevation drawing 20026-CEA-FI-A-L0101 the proposed parapet of the two and three storey facing the side gable of Lavender cottage will be 7.655m and 9.755m.
- f. Summary Box 2.1.23 and Figure 20 of BRE209 provides a 'Decision Chart' or flow chart for considering diffuse daylight in existing buildings and the impact of proposed developments. I have carried out a rudimentary assessment based on this methodology which suggests any ground floor window on the western gable would suffer a significant loss of diffuse daylight from the proposed development.
- g. Having considered the contents of the Appeal and in the absence of a comprehensive daylight analysis of the relationship between Lavender Cottage and the proposed development in accordance with BRE 209, I cannot be satisfied that daylighting to Lavender Cottage would not be significantly affected by the proposed development.
- h. The Board are also advised that the existing building on site is located c. 3.8m from the side elevation of No. 28 Friar St. in which three large windows are in situ, two at ground level and one at first floor. The proposed development will be c. 1.8m from this elevation and at a much higher height ranging from 9.775m and 10.475m.
- i. There is no information on file to inform me of the existing uses of these floors of No. 28. Consequently I have concerns regarding the potential loss of daylight to residential rooms. No such concerns have been raised by the Appellants or the Planning Authority in this regard, but in my opinion they should be addressed through a comprehensive daylight analysis for the proposed development.
- j. Having regard to the ZU 18-9 zoning objective and based on the information on file, I am not satisfied that the proposal protects and/or improves existing residential amenity.

8.4.4.2. Existing Sunlight to the Interior of Lavender Cottage and No. 28 Friar Street

- a. Section 3.2 of BRE209 provides guidance in relation to safeguarding access of sunlight to interiors of existing dwellings in the form of calculable 'Annual Probable Sunlight Hours' (APSH). Summary box 3.2.13 states-

'If a living room of an existing dwelling has a main window facing within 90 degrees of due south and any part of a new development subtends an angle of more than 25 degrees to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sunlighting of the existing dwelling may be adversely affected.'

- b. The south west facing gable of Lavender Cottage and south east elevations of No. 28 Friar St. all face within 90 degrees of due south and from a rudimentary assessment any ground floor window to these elevations would be subtended by more than 25 degrees by the proposed development.
- c. I acknowledge this situation is already likely to exist with No. 28 Friar St, however BRE209 does also make provision in these circumstances i.e. section 3.2.7 details APSH should not be less than 0.80 times their former value.
- d. The existing building on site and the proposed development will obstruct to some extent existing windows to these elevations. Section 3.2.3 of BRE209 states-

"all main living rooms of dwellings, and conservatories, should be checked if they have a window facing within 90° of due south. Kitchens and bedrooms are less important, although care should be taken not to block too much sun. Normally loss of sunlight need not be analysed to kitchens and bedrooms, except for bedrooms that also comprise a living space...."

- e. The Appellant from Lavender Cottage clearly states in the Appeal-

"we are gravely concerned that our natural light and sunlight will be obliterated due to the height and proximity of the proposed build."

- f. In the absence of a comprehensive interior sunlight analysis of the relationship between Lavender Cottage, No 28 Friar St. and the proposed development in accordance with BRE 209, I cannot be satisfied that interior

sunlighting to Lavender Cottage and No.28 would not be significantly affected by the proposed development.

- g. Having regard to the ZU 18-9 zoning objective and based on the information on file, I am not satisfied that the proposal adequately protects and/or improves existing residential amenity.

8.4.4.3. Existing Sunlight to private amenity areas of Lavender Cottage

- a. Section 3.3 of BRE 209 considers the impact of proposed developments on sunlight to existing amenity spaces such as private gardens. Section 3.3.7 recommends that at least half of the amenity space should receive at least two hours of sunlight on March 21st and in scenarios where detailed calculations cannot be carried out it is suggested that the centre of the area should receive at least two hours of sunlight on March 21st.
- b. The rear amenity space to No. 28 Friar St. appears to extend c.20m from its rear elevation and c.13m from the rear of the application site boundary. In this regard more than half of that space will benefit from access to direct sunlight (when available) from the east and south in the morning and early afternoon. The proposed development is not likely to obstruct at least two hours of sunlight on March 21st as per BRE209.
- c. Having considered the sites location and context I consider the main area of concern relates to the private amenity space to the rear of Lavender Cottage. This space is L-shaped wrapping around the rear of the house. The south west leg of the L- shape appears to be 5m wide by 9m long with the south east leg narrower at 3m wide. Direct sunlight access to this area is likely restricted by Lavender Cottage itself, No. 30 Friar Street (the Protected Structure) which extends almost completely along the southern boundary of the amenity space (the extent of this is incorrectly shown on original drawing 20026-CEA-DN-PL-A-L104) at a significant height and the existing building and boundary of the application site.
- d. It is not clear if this private amenity space does achieve the recommended direct sunlight as per section 3.3 of BRE209. However it does appear to receive the majority of its direct sunlight from a south westerly direction and

this orientation will be most impacted by way of overshadowing from the proposed development due to its height and closer proximity to the boundary.

- e. The Appellant concerns in this regard have been clearly articulated in their original submissions to the Council and in their Appeal. The Planning Authority have considered the set back of building elements and staggered design of the original design approach would not cause overshadowing unduly impacting residential amenity. The Applicants response to the appeal is unsatisfactory in this regard and appears to mainly focus on overlooking.
- f. In the absence of a comprehensive sunlight and overshadowing analysis of the relationship between private amenity space of Lavender Cottage and the proposed development in accordance with BRE 209 including existing sunlight achieved and the impact upon same as a consequence of the proposed development, I cannot be satisfied that sunlighting to the private amenity space of Lavender Cottage would not be significantly affected by the proposed development.
- g. Having regard to the ZU 18-9 zoning objective and based on the information on file I am not satisfied that the proposal adequately protects and/or improves existing residential amenity.

8.4.5. **Overbearance**

- a) The Appellants raise concerns of overbearance from the proposed development which is to be located in close proximity to existing private amenity space.
- b) The existing building on site is two storey with a rear return extending to the adjoining boundary with Lavender Cottage. Drawing 20026-CEA-DN-PL-A-L104 submitted with the original application shows
 - the northwest elevation of the exiting building
 - it details the eaves of the structure to be 5.2m high and the ridge to be 7.68m high.
 - It suggests the 3.68m high single storey rear return is located less than 1m from the rear boundary and

- the two storey element is c. 9.2 from the rear boundary.
 - suggests the building of No.30 Friar Street does not extend beyond the boundary of the site.
- c) Having visited the site and using Ordnance Survey Geohive mapping and aerial photography available to ABP I am satisfied the drawing detailed above ending in L104 does not accurately reflect the situation on the ground and should be considered misleading.
- d) The following RFI drawings show-
- 20026-CEA-FI-A-L0101 North East Elevation-
 - a single storey element along the rear boundary of the site with a height of 3.71m.
 - A two storey element ranging from c. 6.6m to 7.655m for 8m before rising to
 - the third floor element c.9.7m high for a further c. 7m along the boundary with Lavender Cottage.
 - 20026-CEA-FI-A-L0003- Site Plan and subsequent floor plans ending in L0010-L0012) show the-
 - Single storey element directly along much of the rear boundary
 - The two and three storey elements set back c. 4m from the rear boundary.
- e) Having considered the above it is evident that even though the proposed two storey parapet heights are similar to the eaves height of the existing building on site, the proposed two storey element of the development will be located significantly closer to the boundary with Lavender Cottage i.e. from 9.2m to c. 4m and by way of its height, bulk and massing will represent a significant visual intrusion from the rear private amenity space of Lavender Cottage that does not currently exist.

8.4.6. Overlooking

- a) The Appellants raise concerns in relation to overlooking from the panoramic window on the NE elevation and the proposed roof terrace which would be impacting upon privacy affecting neighbouring property as well as several properties on Strand Street. They argue that adequate separation distance should be provided.
- b) The Appellants detail in their response to the appeals that the application is not a residential development and overlooking from same is not intended or proposed with the building designed in such a way to avoid incidents of overlooking. No windows exist on the rear of the building. They highlight the building design with no windows on the rear elevation other than the panoramic window which is located within a stairwell at a height where looking down is not possible.
- c) The RFI drawing shows a narrow high level window at second floor level. The second floor plan does not show this window. Section Drawing B-B appears to show this window at a height of c. 1.8m. The Response to the Appeal provides a further Section A and details the window is a requirement for fire safety design. This window is located within a stairwell and is at a height that is not conducive to overlooking. Given the nature of the use of the proposed development I am satisfied this window will not lead to undue overlooking.
- d) The application also proposes a roof terrace at second floor level. This is located to the south east side of the proposed second floor. Its NE boundary is located c. 4m from the boundary of neighbouring property and what appears to be their private rear amenity space. I also note an existing first floor window on the gable wall of the house which appears to be less than 10m from the roof terrace. The second floor roof plan drawing submitted at FI stage suggests 4 large trees along the boundary. The south west elevation (front) and north east elevation drawings detail a 1.5m timber screen but the south east elevation does not adequately show a boundary. The drawings suggest any such boundary is perforated or louvered. The landscaping plan details provision of a c. 1m deep planter bed and a wooden louvered system behind.

- e) In Response to the Appeal the applicants provide a section drawing and details the proposal will provide for views out to the sea only with views from an eyeline of 1.685m would not extend to the public or private amenity spaces including windows of the dwelling.
- f) Having considered the above, I tend to share the concerns of the Appellants. The siting of a roof terrace at second floor level runs a risk of overlooking to a private amenity space and a window on the side gable of an existing residential property to the north east boundary of the site. I do not consider a planter box or 1.5m louvered timber screen would adequately alleviate very real concerns of overlooking or perceived overlooking from the roof terrace.
- g) Should the Board decide to grant permission I recommend a 1.8m obscure/frosted⁵ glazed screen boundary should be provided to the NE boundary of the roof terrace which should extend at the same height for at least 2m along the south east boundary. Final details of same should be submitted for agreement with the Planning Authority prior to commencement of development on site.
- h) The RFI drawing propose two windows and a glazed door along the north west elevation or side gable. These features are located to the stairwell but appear to directly oppose two of three existing windows on the side gable of No. 28 Friar Street that are not identified on the submitted drawings.
- i) There are no windows along this elevation of the existing building and the proposal brings the new structure c. 1.8m from the side elevation of No. 28. Should the Board decide to grant permission in order to avoid undue overlooking, I recommend a condition be attached to ensure fenestration to doors and windows along the northwest elevation should be of obscure/frosted glazed.

⁵ Section 5.3.4 of BRE209 details that Frosted glass often has an overall transmittance similar to, or slightly less than, clear glass. Thereby such a boundary should not impact unduly on daylight. It would not however allow for direct sunlight to private amenity spaces or to the interior of rooms and impacts of this would also be considered separately as per section 8.4.4.3.

8.4.7. Conclusion on Existing Residential Amenity Impacts

- a) It should be noted that when this application was originally lodged it appears the site benefitted from a Town Centre zoning under the provisions of the previous County Development Plan and Youghal LAP. The current Cork CDP came into effect on 6th of June 2022 and the Council permitted the proposal under same.
- b) The site is currently zoned 'Existing Residential/Mixed Residential and Other Uses' and the CDP clearly details that other uses/non-residential uses such as that proposed should protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of existing residential/mixed residential and other uses areas should not be encouraged.
- c) I am satisfied overlooking and loss of privacy concerns can be addressed by condition should the Board decide to grant permission.
- d) However, having considered the site context, the scale, volume, massing and proximity of the proposed development to shared site boundaries with Lavender Cottage and No. 28 Friar St and in the absence of comprehensive studies of access to daylight and sunlight, I cannot conclude that the proposal would not adversely impact on Lavender Cottage and No. 28 Friar Street by reason of loss of daylight, sunlight to interiors and overshadowing of private amenity spaces.
- e) These concerns cannot be adequately addressed by condition without a fundamental redesign of the proposal. Such a condition is not considered appropriate. The proposed development is therefore considered contrary to the proper planning and sustainable development of the area and should be **refused**.

8.5. Car Parking and Roads Issues

- 8.5.1. The Appellants raise concerns in relation to the loss of 4 on-site parking spaces to the rear of the existing building, the provision of no onsite parking for users of the facility and the impact of the proposal on existing on street parking and traffic movements to this one way street.

- 8.5.2. The Applicants contend that local policy provides does not require parking to be provided in town centres locations to promote non private vehicle movements in town centres and urban environments.
- 8.5.3. The Council granted permission having regard to the provisions of the previous development plan. The SE Planning Report refer to the sites previous zoning which was detailed as 'Town Centre'. It then details that the draft plan stipulates that car parking requirements do not apply to development located in Town Centre locations as identified in this plan where the development involves the reuse/refurbishment of an existing occupied or vacant building, any change of use or where small scale infill developments are proposed.
- 8.5.4. The site is zoned 'Existing Residential/Mixed Residential and Other Use' in the Cork CDP 2022-28. In this regard it is not located within the parts of Youghal zoned or identified as 'Town Centre/Neighbourhood Centres'. The Youghal zoning map on page 268 of Volume 4 of the CDP does not identify any other provision to consider the site as 'Town Centre'. Therefore, I am not convinced the relaxation afforded to car parking requirements as set out in the SE Planning Report and detailed in footnote 3 of Table 12.6 of the current CDP apply to the subject site.
- 8.5.5. The existing and proposed use of the development i.e. a cancer support centre is not specifically listed in Table 12.6. The RFI Design Statement explains the nature of the facility, detailing the space requirements for two group consultation rooms on ground and first floors and two versatile rooms at first floor (counselling/quiet/rest rooms). Other rooms include an open kitchen area, therapy gym and a roof lobby. The nature of this use in the context of car parking standards (Table 12.6 of the CDP) could be considered as falling under a 'Clinics & group medical practices' or 'Cultural, community & recreational buildings' where there would be a maximum car parking requirement ranging between 6-12 spaces not allowing for staff and 21 spaces respectively.
- 8.5.6. Footnote 1 of Table 12.6 details that if a development type is not specified then the planning authority will determine the parking requirement having regard to the traffic and movement generation associated with the development and the other objectives of the plan.

- 8.5.7. CDP objective SC 6-7- Healthcare Facilities seeks to support such facilities to all sections of the community at appropriate locations within settlement boundaries with good public transport links and parking facilities for both motor vehicles as well as bicycles.
- 8.5.8. The proposed development is considered an enhancement of an existing and permitted facility. The infill nature of the site is certainly redevelopment of an appropriate location. The site benefits from existing on street public parking and will provide for bicycle parking and is consistent with objective SC 6-7.
- 8.5.9. I accept concerns relating to increased demand for public on street parking. However such demand is not likely to be constant and I note during my inspection on a Thursday afternoon there was plenty of on street availability despite traffic being heavy in the area. Furthermore, public parking spaces are just that and arrangements such as residential permit parking facilitates existing residents in the area over the wider public. I also note the Council Engineers have raised no roads or transportation issues and provision of disabled spaces or other set down parking areas etc. on public streets are considerations for the Council.
- 8.5.10. The nature of the use proposed is not one that will generate significant traffic and movement generations. The CDP standards are maximum standards not minimum. A development type such as that proposed providing no on-site parking is consistent with the provisions of Section 12 of the CDP, aligns with and supports compact growth and sustainable transport and is in accordance with CDP objective 6-7. The absence of onsite car parking is likely to encourage staff to avail of modal shift such as walking or cycling. There is also sufficient on street pay and display/permit parking in front of the site and the wider area to facilitate parking needs associated with the development.
- 8.5.11. The proposed development will not have a significant impact on one way traffic movements along Friar St. that would be likely to endanger public safety or create a traffic hazard.

8.6. Drawings and Specifications

- 8.6.1. I note concerns raised by Appellants in relation to the quality of submitted drawings and detailed omissions. The Applicants have acknowledged minor drafting errors in their response to the Appeal.
- 8.6.2. Other than the matters raised in section 8.4 in relation I am satisfied the submitted drawings which scale correctly are an adequate reflection of the existing and proposed development and form a reasonable basis for consideration of the development proposed.

8.7. Other Concerns

- The application proposes redevelopment of an existing urban site. Concerns such as impacts from noise, air, dust and dirt pollution are typical of all such proposals and will generally be transitional during the works only. The applicants have submitted a Construction and Environmental Management Plan at RFI stage which addresses many of the concerns raised. I am satisfied the concerns raised can be addressed further through conditions for agreement in advance of works.
- Concerns relating to impacts of construction and demolition stage of the development upon the structural integrity of adjoining properties are generally civil matters. However impacts such as vibration etc can also be addressed further through condition seeking appropriate mitigation measures in this context i.e. works to the neighbouring protected structure.

8.8. Appropriate Assessment

- 8.8.1. Having considered the nature of the development proposed, the established development on the site, its location on existing zoned lands availing of existing water supply and wastewater services, and the separation distance to European sites, no Appropriate Assessment issues are considered to arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

9.1. I recommend permission is refused for the following reason-

10.0 Reasons and Considerations

1. In the absence of comprehensive studies of access to daylight and sunlight, the Board is not satisfied, that the proposed development would not adversely impact on existing properties at Lavender Cottage and No. 28 Friar Street by reason of unacceptable loss of diffuse daylight, sunlight to interiors and overshadowing of private amenity space. Furthermore, it is considered the proposed development by reason of its scale, volume, massing and proximity to shared site boundaries with Lavender Cottage, would have a negative impact on the character of the area by reason of visual obtrusion and overbearance. The proposed development would therefore injure existing residential and visual amenities, would be contrary to Zoning Objective ZU 18-9 of the Cork County Development Plan 2022-28 which seeks to 'protect and/or improve residential amenity' and would therefore be contrary to the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

19th of June 2022