



An  
Bord  
Pleanála

## Inspector's Report ABP-315402-22

### Development

Construction of a residential development in a 6 storey block and the conversion of an existing building to provided 44 no. apartments. The proposal includes the demolition of structures and associated site works. NIS included.

### Location

Rice's Yard, 19 Seatown Place, Dundalk, Co. Louth.

### Planning Authority

Louth County Council.

### Planning Authority Reg. Ref.

22/135.

### Applicant

Liza Halpin.

### Type of Application

Permission.

### Planning Authority Decision

Refusal of Planning Permission.

### Type of Appeal

First Party v Refusal of Planning Permission.

**Appellant**

Liza Halpin.

**Observer(s)**

1. Seamus Meegan.
2. Alex & Mary Burden.
3. Sharon McArdle.
4. Dundalk Tennis Badminton & Squash Club.
5. Nicholas & Ellen O'Connor,  
Conor MacGuill & Gayle Martin,  
Christine McCarthy.

**Date of Site Inspection**

11/08/2023.

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## **1.0 Site Location and Description**

- 1.1.** The appeal site has an address at Rice's Yard, 19 Seatown Place, and is centrally located within a mixed use area of the designated Regional Growth Centre of Dundalk, Co. Louth. The site is located on the southern side of Seatown Place, c. 130m to the east of the junction of Seatown Place and Castle Street. Known locally as Rice's Yard, the backland site has a history of use as a builder's yard and a joinery, and it is confirmed in the Applicant's documentation that the site has not been in use for c. 15 years. The site has an irregular shape with an entrance on Seatown Place between Nos. 18 and 20 which then extends to the south and to the rear of Nos. 20-24 Seatown Place. The site comprises a number of large industrial style, galvanised storage sheds which vary in height and are located adjacent to the western and southern site boundaries. There is also an existing double storey joinery building located adjacent to the eastern and northern site boundaries. I note that the site is covered in hardstanding with limited vegetation cover. Some trees are located adjacent to the southern site boundary. The appeal site has a stated area of c. 0.308ha.
- 1.2.** In terms of the site surrounds, there is a wide mix and range of uses within the surrounding area which is indicative of the 'Mixed Use' (C1) zoning that applies to the site and surrounds. Seatown Place is designated as an Architectural Conservation Area (ACA) under the current County Development Plan and the entrance to the site and laneway serving the appeal site extend into the ACA. This ACA also applies lands to the immediate west of the appeal site which are understood to be within the control of St. Vincent's Secondary School. This site to the west comprises a large tract of undeveloped lands encompassing several combined plots over a distance of c. 130m. These lands are likely to have comprised the former rear gardens of the properties fronting onto Seatown Place.
- 1.3.** To the immediate north of the appeal site are Nos. 20-24 Seatown Place which are understood to be currently in mixture of residential and commercial uses. No. 25 Seatown Place appears to be in residential use with the back garden associated with this dwelling adjoining the full length of the eastern site boundary. The properties to the north of the site along Seatown Place are designated as Protected Structures

under the current County Development Plan. Rear garden areas associated with the properties along the southern side of Seatown Place are also located further to the east. The campus associated with St. Vincent's Secondary School is located to the north of the appeal site on the opposite side of Seatown Place.

- 1.4.** The appeal site has southern abuttal with the Ramparts River. This river has a width of c. 5m adjacent the boundary of the appeal site and there is a pedestrian pathway on the southern side of the river which connects Ramparts Lane and St. Alphonsus Road further to the east. A stone wall with galvanised fencing above forms the southern boundary of the site with the Ramparts River. The Dundalk Lawn Tennis, Squash and Badminton Club is located to the immediate south of the appeal site on the opposite of the pedestrian walkway.

## **2.0 Proposed Development**

- 2.1.** The proposed development originally sought planning permission for site clearance works, the demolition of the existing galvanised storage sheds and the construction of a residential development, comprising a total of 44 no. apartments. The development comprised the construction of a 6 no. storey apartment building which includes 40 no. 1 and 2 bedroom apartments. The proposal also sought planning consent to refurbish and convert the existing joinery building on the appeal site to provide 4 no. apartments and their associated amenity areas.
- 2.2.** The 'L' shaped apartment building is positioned within the southern portion of the site and with pedestrian access to the building provided from the north. Adjacent to the entrance at ground floor level is a reception area/office, community room, laundry, cycle storage, servery, plant room and 2 no. WCs. Apartments within the development are provided across the 6 no. floors and comprise a total of 23 no. 1 bedroom and 21 no. 2 bedroom apartments (including 4 no. apartments within the converted building). The proposed building has flat roof form with a maximum height of c. 20.6m. A restricted palette of materials and finishes have been adopted and comprise a combination of brick in a red colour and metal cladding for its principal elevations. Perforated brick is also being utilised on all recessed balconies while projecting

balconies utilise powder coated metal railings.

- 2.3.** Vehicular access to the appeal site is via the existing entrance on Seatown Place and resident parallel car parking is provided on either side of the internal laneway serving the development. Additional perpendicular spaces are provided centrally within the appeal site. The proposed development provides a total of 22 no. resident car parking spaces (including 2 no. disabled spaces) and a total of 87 no. bicycle parking spaces. An enclosed bin store and covered bicycle parking area is located adjacent to the northern site boundary.
- 2.4.** The proposed development is to be served by communal open space with a combined area of c. 570sq.m. The communal open space comprises 2 no. lawn areas to the north of the proposed apartment building and adjacent to the converted joinery building. An area including picnic benches with a gravel surface finish is also proposed to the north of the proposed apartment building. Private open space for the proposed development is provided in the form of ground floor level terraces and balconies on the upper floor levels.
- 2.5.** A summary of the development details is included as follows:
- Density: 142 units per ha.
  - Plot Ratio: 1.2.
  - Site coverage: 35%.
  - Building height: 6 no. storeys.
  - Car Parking: 22 no. spaces.
  - Bicycle Parking: 87 no. spaces.
  - Communal open space: 570sq.m.
  - Private open space: 5sq.m. – 10sq.m.
- 2.6.** In terms of the proposed foul network, the foul effluent system will be discharged via a gravity pipeline network into the existing combined sewer on Seatown Place. For surface water, no attenuation is proposed as the runoff from the proposed development will be less than that of the existing, as the proposed impermeable area

of 1,350sq.m. is less than the existing impermeable area of 2,695sq.m. (i.e. 50% reduction in impermeable areas). Runoff from the roof areas, access road and overspill from car parking bays and footpaths will discharge to the Ramparts River, similar to the existing surface water system. It is proposed as part of the storm water network system that the runoff from the hardstanding areas will pass through a petrol interceptor to remove hydrocarbons before the storm water enters the Ramparts River.

**2.7.** The application is accompanied by a Natura Impact Statement. Documentation submitted at application stage also included:

- Planning Statement,
- Architect Design Statement
- Quality Housing Assessment,
- Architectural Impact Statement,
- Engineering Report,
- Town and Visual Impact Assessment,
- Building Energy Report,
- Public Lighting Report,
- Archaeological Assessment,
- Daylight, Sunlight and Overshadowing Assessment,
- Photomontages,
- Appropriate Assessment Screening Report,
- Bat Survey,
- Flood Risk Assessment,
- Building Lifecycle Report,
- Traffic Impact Assessment,
- Assessment of Car Parking Provision.

**2.8.** The proposed development was amended at additional information stage following concerns raised by the Planning Authority during their assessment of the application. The revisions to the design of the development are discussed in detail in Section 3.2 below and in summary include:

- A reduction in height to a maximum of 5 no. stories,

- Reduction in Unit Nos. (39 no. apartments),
- Consolidated communal open space,
- Reduction (20 no. spaces) and revisions to access and car parking layout.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Louth County Council refused planning permission for the proposed development for the following 1 no. reason.

- Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, sets out that 'development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to the topography, its cultural context, setting of key landmarks, protection of key views. Policy Objectives SS 22 of the Louth County Development Plan, 2021-2027, as varied, seeks to support increase building heights at appropriate locations in Dundalk, subject to the design and scale of any building making a positive contribution to its surrounding environmental and streetscape. Further to this there is Policy Objective SS 26 which seeks to support the implementation of the 2008 Urban Design Framework Plan for Dundalk where building heights are identified at typically 2.5 to 4 storey in the Seatown Character Area.

The revised plans submitted do not address the concerns of the Planning Authority with regards to the negative impact on Jocelyn Street/Seatown Place Architectural Conservation Area, in particular the elevation to the rear of the block which will be seen from Jocelyn Street. The proposed development is considered contrary to the provisions of Section 9.6.1 of the Louth County Development Plan, 2021-2027 in respect of Architectural Conservation Areas. Moreover, the overall scale, height and location of the proposed structure on the site is considered overly dominant and inappropriate having regard to the architectural character within the immediate vicinity of the site and the opportunity to provide a set-back along the Ramparts to enhance the



attractiveness and functionality of a linear riparian corridor along the canal to serve the future occupants of the proposed scheme and to enhance the opportunity for facilitating enhanced biodiversity.

Further, the revised disposition of public open space and car parking is considered to detract from the residential amenity for future occupants. The proposed development is therefore considered contrary to the provisions of the Louth County Development Plan, 2021-2027 and would set an undesirable future precedent for inappropriately sited and overly dominant structures along the canal. The proposal would be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Report**

3.2.1.1. The Louth County Council Planning Reports form the basis for the decision. The First Planning Report provides a description of the site, surrounds and the development proposal, a summary of the relevant planning history and an overview of the policy at local through to national level that is relevant to the development proposal. The report also summaries in detail the observations to the application.

3.2.1.2. Within their assessment of the application, the Planning Authority was satisfied that the principle of development was acceptable at this location, noting the site's central location and the policy support for developments of this nature. However, concerns were raised with respect to the scale and height of the proposed development given the site's location relative to the Jocelyn Street/Seatown Place Architectural Conservation Area (ACA) and the Protected Structures within the site's vicinity (i.e. Seatown Place). The overall height of the proposed development was considered to be excessive in the context of its setting and the Applicant was afforded the opportunity to submit a revised proposal with a reduced building height. The Planning Authority also requested further information with respect to the following items:

- Planning Issues:
  - o Detailed proposals to demonstrate that the development would not have an

undue negative impact on the existing residential amenity of properties within the vicinity.

- Demonstrate how the proposed design achieves the optimal solution for the site, having regard to viz-a-viz, the location of the car parking and communal open space area.
  - Consideration for the provision of a greater southern boundary set back to the Ramparts River to provide communal open space at this location.
  - Address concerns that the proposed development would impact on the future development potential of the lands to the east and west of the site.
  - Submission of a revised sunlight/daylight assessment for the communal open space and the proposed apartments. In addition, the revised assessment should provide a shadow prediction assessment that addresses the issue of amenity both to residential development on Seatown Place and takes into consideration the setback of the development and implication of daylight, sunlight and overshadowing on the development potential of the lands east and west of the development site.
  - The Applicant was required to provide further justification into the rationale behind such a high proposal of 1 bedroom units as part of the overall scheme or alternatively amend the apartment mix accordingly.
- Traffic & Car Parking:
- The submission of a justification in relation to the proposed car parking strategy and the shortfall in car parking spaces proposed.
  - Revised layout plans to ensure sufficient entrance and exit from the car park shall be provided for all users including vulnerable road users.
  - The provision of an RSA Stage 1 and 2 audit report on the proposed development.
  - A request to liaise with the County Council to discuss alterations of car parking spaces on the footpath along Seatown Place.
  - The provision of pedestrian/cyclist access to the south of the site across the Ramparts River.
- Construction Management
- Prepare and submit a Construction Management Plan for the proposed

development.

- Grid Connection.
  - o Clarification as to how power is to be maintained during construction and what plans are in place for future grid connections for the properties.
- Ramparts.
  - o The Planning Authority noted that the boundary of the Ramparts River is collapsing in some sections and leaning out towards the river. The response should address the maintenance and repair of the wall and submit proposals regarding same.
- Appropriate Assessment.
  - o The Applicant was requested to revise the NIS to take account of the condition of the wall at the Ramparts and to ensure mitigation measures are in place to prevent collapse and possible pollution into the Ramparts River.

3.2.1.3. As part of the additional information response, the Applicant submitted modified plans and updated reports to address the various issues raised. The overall height of the development was reduced, whereby the upper level of the apartment building was omitted to provide a maximum of 5 no. storeys. The proposed unit mix was also revised to provide 41% 1 no. bedroom apartments and 59% 2 no. bedroom apartments. I note that the resident areas at ground floor level were omitted as part of the Applicant's revised proposals. The Applicant's proposals also included revisions to the car parking layout and a reduction in the total number of car parking spaces provided on site (i.e. 20 no. spaces).

3.2.1.4. Notwithstanding the reduction in height, the Planning Authority had a continued concern regarding the visual obtrusiveness and over-dominance of the structure and its ability to integrate into this urban area and create a sense of place. In addition, the Planning Authority did not accept the Applicant's reasons for not moving the apartment building to a better position within the site and creating an open space area to the south of the building. It was considered by the Planning Authority that the proposed development was not acceptable in relation to its impact on the surrounding urban environment and it had not been satisfactorily demonstrated that the proposal would

not adversely prejudice the connections, permeability or future development potential of the adjoining lands to the east and west of the appeal site. The Planning Authority go on to note that the proposed development failed to provide an appropriate urban design response for this central urban location and would, if permitted, be visually incongruous in the immediate and wider environs of the site, and negatively impact on the setting and character of the Seatown ACA and the Protected Structures adjoining to the north of the site at Seatown Place. The proposed development, by reason of its overall character, excessive height and scale, inappropriate building design, poorly considered open space areas and site layout would militate against the creation of an attractive, high quality residential environment and as such would set an undesirable precedent for future inappropriate development. The application was therefore refused for 1 no. reason.

#### 3.2.2. Other Technical Reports

Environment: No objection to the proposed development subject to compliance with conditions.

Heritage Planning Report: Initial report on file recommending further information with respect to the condition of the southern boundary wall with the Ramparts River. Other commentary is provided within the report with respect unit mix, car parking.

Environmental Compliance Section: Report on file stating no objection to the proposed development subject to conditions.

Infrastructure Section: Initial report on file recommending additional information with respect to the items summarised in Section 3.1. Second report on file stating no objection to the proposed development subject to compliance with conditions. A condition was recommended requiring the Applicant to provide a pedestrian connection to the site across the Ramparts River.

Housing: No objection to the proposed development subject to compliance with conditions.

### 3.2.3. Prescribed Bodies

Irish Water: 2 no. reports on file stating no objection subject to compliance with a condition.

Department of Housing, Local Government and Heritage: Initial report on file recommending additional information with respect to a requirement for the Applicant to undertake archaeological investigations. Second report on file recommending conditions to be attached in the event of a grant of permission.

### 3.2.4. Third Party Observations

A total of 14 no. observations were received by Third Parties during the initial consultation period. Following the submission of the further information, a further 4 no. submissions were received within the statutory timeframe.

A total of 5 no. valid submissions were received by the Board to this planning appeal. The issues raised in the submissions are broadly similar to the issues raised throughout the application process and are summarised in detail in Section 6.3 of this report.

## 4.0 Relevant Planning History

### 4.1. The Subject Site.

4.1.1. **14497:** Extension of Duration of Planning Permission 08/520240 granted by the Planning Authority in December 2014 for development consisting of: a) demolition in part of existing buildings b) construction of a 4 storey office building complete with an underground car park and surface parking c) site development works including a vehicular entrance at Seatown Place and a pedestrian only entrance from Ramparts road with a pedestrian bridge over the Ramparts River.

4.1.2. **13520087:** Planning permission refused by the Planning Authority which sought permission for alterations & partial demolition of existing shed, new entrance & gates, 3 no fuel pumps, an overground bunded diesel storage tank, car wash, petrol

interceptors & all associated site works. The application was refused for 2 no. reasons on grounds relating to the endangerment of public safety by reason of a traffic hazard and the impact of the proposed development on the architectural character of the site and surrounds.

- 4.1.3. **08/520240 (ABP Ref. PL55.234919):** Planning permission granted by the Planning Authority for the a) demolition in part of existing buildings b) construction of a 4 storey office building complete with an underground car park and surface parking c) site development works including a vehicular entrance at Seatown Place and a pedestrian only entrance from Ramparts road with a pedestrian bridge over the Ramparts River.
- 4.1.4. **06520288 (ABP Ref. PL55.255308):** Planning permission refused by the Planning Authority for the construction of an apartment building comprising 5 storeys and containing 28 apartments, construction of apartment building comprising 2 storeys and containing 6 apartments and reuse of existing 2 storey building to include 6 apartments, underground car park with parking for 55 cars and all associated site development work. The application was refused for 2 no. reasons on grounds relating to the impact of the proposed development on the architectural character of the site and surrounds and its impact on the residential amenity of adjoining properties.
- 4.1.5. **03520288:** Planning permission granted by the Planning Authority granted by the Planning Authority for construction of 4 no. high cubic grain storage units and their associated works.

## **4.2. Site Surrounds.**

### **4.2.1. *Lands to the west.***

**2360365:** Planning permission sought for the construction of an extension to the existing school to provide a new school building one to three stories in height, including reconfiguration and demolition works to some existing buildings, ancillary accommodation and all associated site development works including relocated car parking and new sports pitches on the site south of the main school site accessed via Seatown Place. The subject site contains five Protected Structures; D454, D291,

D456, D455, D236 and is located within the Jocelyn Street/Seatown Place ACA.

This application has been submitted by The Board of Management St. Vincent's Secondary School and the red line boundary extends to lands to the north and south of Seatown Place. On the lands adjacent to the appeal site (i.e south of Seatown Place), the proposal includes the provision of a surface level car parking and sports pitches for the extended school. The application is currently the subject of a further information request from the Planning Authority.

## **5.0 Policy and Context**

### **5.1. Louth County Development Plan, 2021-2027 (CDP)**

- 5.1.1. The Louth County Development Plan, 2021-2027 (CDP) is the operative plan for the purposes of the appeal determination. The appeal site is located within an area zoned 'C1' (Mixed Use), the objective of which is 'To provide for commercial, business and supporting residential uses'. This zoning objective applies to all lands within the immediate surrounds of the appeal site. The appeal site is also partially located within the Jocelyn Street / Seatown Place Architectural Conservation Area (ACA). This ACA applies to the front portion of the site and also to the lands to the immediate west of the appeal site. There are also a number of Protected Structures to the immediate north of the appeal site on Seatown Place.

Relevant Strategic Settlement Strategy Policy Objectives (2.14.8) for Dundalk include:

- SS 21 To support sustainable high density development, particularly in centrally located areas and along public transport corridors and require a minimum density of 50 units/ha in these locations.
- SS 22 To support increased building heights at appropriate locations in Dundalk, subject to the design and scale of any building making a positive contribution to its surrounding environment and streetscape.
- SS 26 To support the implementation of the 2008 Urban Design Framework Plan for Dundalk.

- 5.1.2. The core strategy of the Plan includes an objective to achieve compact growth, to

support proposals to develop buildings of height on suitably located sites and to deliver high quality residential development; and that at a minimum 30% of new homes will be provided within the built up footprint of the urban area.

5.1.3. In relation to higher densities, the plan states that when identifying the potential density of a site, consideration must be given to the surrounding context and how the development would relate to the existing built form and character of its location. One of the key elements of making a high density development an attractive place to live, is in the quality of the internal design such as the amount of daylight the accommodation receives and the external space on which the building(s) is located i.e. the quality of the public realm. The quality of the open space is also a critical aspect. Whilst it is an objective of the Plan to support higher densities, this will take account of the capacity of the lands to accommodate this type of development, the location of the lands and public transport accessibility. The primary considerations will be the quality of the residential environment that will be created. Recommended minimum density in the Regional Growth Centres, Dundalk and Drogheda, 50 units per ha.

5.1.4. Buildings of Height:

- Location: Higher buildings will normally be located in central areas of towns close to public transport, in strategic locations at the entrance to towns or on strategic lands on the approach road to the town centre. The local area shall have the social and physical infrastructure to accommodate the increased levels of activity.
- Strengthened Legibility: Higher buildings shall be a positive landmark in the streetscape and shall respect and respond to the character of the area.
- Strengthen the Sense of Place: Higher buildings have an important role in shaping the perceptions of an area. If they are poorly designed or located in the wrong area they can create a negative image for an area.
- Promote Quality Design: Higher buildings must make a positive and lasting contribution to their location.
- Protect and Enhance the Existing Streetscape and Heritage: It is important that higher buildings do not disrupt or negatively impact on the historic areas of towns



or intrude on important views. They should only be located in places that would enhance the character of an area.

5.1.5. Relevant objectives of the Plan include:

- HOU 15: To promote development that facilitates a higher, sustainable density that supports compact growth and the consolidation of urban areas, which will be appropriate to the local context and enhance the local environment in which it is located.
- HOU 16 To support increased building heights in appropriate locations in the Regional Growth Centres of Drogheda and Dundalk.
- HOU 17 To promote and facilitate the sustainable development of a high quality built environment where there is a distinctive sense of place in attractive streets, spaces, and neighbourhoods that are accessible and safe places for all members of the community to meet and socialise.
- HOU 22 To require residential developments to prioritise and facilitate walking, cycling, and public transport and to include provision for links and connections to existing facilities and public transport nodes in the wider neighbourhood.
- HOU 24 To require the provision of high quality areas of public open space in new residential developments that are functional spaces, centrally located, and passively overlooked.
- HOU 25 All new residential and single house developments shall be designed and constructed in accordance with the Development Management Guidelines set out in Chapter 13 of the Plan.
- HOU 26 To require the provision of an appropriate mix of house types and sizes in residential developments throughout the County that would meet the needs of the population and support the creation of balanced and inclusive communities.
- HOU 28 To encourage innovation in design that delivers buildings of a high quality that positively contribute to the built environment and local streetscape.
- HOU 29 To seek that all new residential developments in excess of 20 residential units provide for a minimum of 30% universally designed units in accordance with the requirements of 'Building for Everyone: A Universal Design Approach' published by the Centre for Excellence in Universal Design.

- HOU 30 To encourage building design and layout that maximises daylight and natural ventilation and incorporates energy efficiency and conservation measures that will improve the environmental performance of buildings in line with best practice.
- HOU 32 To encourage and promote the development of underutilised infill, corner and backland sites in existing urban areas subject to the character of the area and environment being protected.
- HOU 33 To promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area
- BHC 6 To ensure any development, either above or below ground, adjacent to or in the immediate vicinity of a recorded monument or a Zone of Archaeological Potential (including formerly walled towns) shall not be detrimental to or detract from the character of the archaeological site or its setting and be sited and designed to protect the monument and its setting. Where upstanding remains exist, a visual impact assessment may be required.
- BHC 21 The form and structural integrity of the protected structure and its setting shall be retained and the relationship between the protected structure, its curtilage and any complex of adjoining buildings, designed landscape features, designed views or vistas from or to the structure shall be protected.
- BHC 31 To require that all development proposals within or affecting an Architectural Conservation Area preserve or enhance the character and appearance of that area, protect architectural features of special interest and ensure that the design respects the character of the historic architecture in terms of height, scale, layout, and materials. All development proposals shall have regard to the Architectural Conservation Area objectives in Appendix 11, Volume 3 and objectives contained in applicable Character Appraisals where available.
- BHC 35 To require that any development on the periphery of an Architectural Conservation Area does not detract from the existing character of the designated Architectural Conservation Area.
- OU 12 To work with the relevant stakeholders including the OPW, the Heritage Council, Fáilte Ireland, the Arts Council, local communities and businesses to

support the development of heritage and cultural tourism in Louth.

- 5.1.6. Chapter 13 contains development standards and includes (at 13.8.10) under the heading Daylight and Sunlight that care shall be taken in the design of residential developments to ensure adequate levels of natural light can be achieved in new dwellings and unacceptable impacts on light to nearby properties are avoided.
- 5.1.7. Referring to the Building Research Establishment (BRE) guidelines 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011) and BS 8206-2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' - provide useful guidance, it also states that per section 6.7 of the 'Apartment Guidelines' where a proposal may not be able to fully meet all the requirements of the daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solution must be set out, in respect of which the planning authority should apply their discretion, having regard to local factors including site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives.
- 5.1.8. Under the heading 'Residential Amenity' (13.8.9.1) Privacy - Residential developments shall be designed to take account of the amenities of existing residents in the locality of a development area, in addition to the amenities of future residents of the subject development. Whilst some degree of overlooking between properties is likely to occur in urban areas, efforts shall be made to minimise the extent of this overlooking where this is possible. A minimum of 22 metres separation between directly opposing first floor habitable rooms in residential properties shall generally be observed. This separation distance is not required for windows in non-habitable rooms such as bathrooms, stairwells or landings. There may be instances where a reduction in separation distances may be acceptable. This is dependent on the orientation, location, and internal layout of the development and its relationship with any surrounding buildings. Any applications for such developments will be assessed on a case-by-case basis. Where the front elevation of new properties in urban locations are close to or abut the public footpath, consideration shall be given to providing some

form of buffer such as a planting strip between the property and the footpath where this is feasible.

- 5.1.9. Schemes in excess of 25 units shall endeavour to provide an appropriate mix of residential accommodation.
- 5.1.10. Public open space within a development shall normally equate to 15% of the total site area. In developments where the standard of the open space is of a high quality due to its location, functionality, and any additional detailing proposed e.g. paving, landscaping, or surfaced play areas and equipment, a reduced rate of open space may be acceptable. Such a reduction will be assessed on a case-by-case basis.
- 5.1.11. A secure and conveniently located cycle parking area shall be provided in apartment developments. This cycle parking area shall be covered.
- 5.1.12. Table 13.11 car parking required - 1 space per apartment in Area 1 (Lands Located within town and settlement centres) A reduction in the car parking requirement may be acceptable where the Planning Authority is satisfied that:
- There is sufficient parking available in the vicinity of the development to cater for any shortfall;
  - The nature of the development is such that existing parking spaces in the vicinity could facilitate the dual use of parking spaces, particularly if the development operated at off-peak times. Supporting documentation will be required demonstrating how the dual use will work;
  - The public transport links available would reduce the demand for car parking;
  - The central location of the development is such that the customers/residents/users of the development would be likely to walk or cycle; and
  - There was no off street car parking provided with the existing/previous use of the property and the redevelopment of the property would not result in a significant increase in the car parking requirement.

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

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

## **5.2. Section 28 Ministerial Guidelines.**

5.2.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (the 'Sustainable Residential Development Guidelines'), including the associated Urban Design Manual (2009).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020, updated in 2022) (the 'Apartment Guidelines')
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines')
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).
- Architectural Heritage Protection Guidelines for Planning Authorities, Department of Housing, Local Government and Heritage, 2011. (updated in 2022)

Other relevant national guidelines include:

- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (Department of Housing, Local Government and Heritage) (August 2018).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

### **5.3. Climate Action Plan (CAP) 2024**

### **5.4. Project Ireland 2040 National Planning Framework (NPF)**

5.4.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

### **5.5. 'Housing for All - a New Housing Plan for Ireland (September 2021)'.**

5.5.1. Housing for All is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price,
- Built to a high standard in the right place,
- Offering a high quality of life.

## **5.6. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).**

5.6.1. The primary statutory objective of the RSES is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. A key National Strategic Outcome (NSO 1) in the NPF and Regional Strategic Outcome (RSO 2) in the RSES is the need to achieve ambitious targets for compact growth in our urban areas.

## **5.7. Natural Heritage Designations**

5.7.1. The nearest designated sites are the Dundalk Bay Special Protection Area (Site Code: 004026) and the Dundalk Bay Special Area of Conservation (Site Code: 000455), located c. 410m to the north-east of the appeal site.

## **5.8. EIA Screening**

5.8.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

# **6.0 The Appeal**

## **6.1. Grounds of Appeal**

6.1.1. A First Party appeal has been prepared and submitted on behalf of the Applicant. The

submission comprises an Appeal Statement & Associated Appendices. The submission also includes an Architectural Design Statement and copies of an amended Site Layout Plan for the proposed development.

6.1.2. In support of the appeal, the Applicant has submitted a revised layout with an on-site car parking provision 0.3 spaces per unit. This amended layout shifted the envelope of the building further north within the site. It is stated that this level of parking provision is appropriate given the site's central location and it is considered that this reduced car parking goes a long way towards addressing the reason for refusal. The Applicant refers to a number of applications where the Planning Authority were satisfied with either very limited or no on-site car parking at all, on centrally located sites which are comparable to the appeal site. Whilst noting that the revisions are dependent on an onsite parking provision of 0.3 space per unit, it is submitted that the proposed amended layout as submitted as part of the appeal achieves a series of positive benefits as follows:

- an additional communal open space provided between the southern facade of the building and the Ramparts River,
- a setback from the river of between 6 and 9m allowing more breathing space in terms of the relationship between the river and the building,
- it allows for a much more improved and centrally located communal open space,
- the combined communal open space areas amount to 24% of the site area and three times the required provision for communal open space in the Apartment Guidelines,
- it confines vehicle penetration into the site, restricting cars to the accessway and turning area towards the north-western corner of the site,
- the feeling of space within the central communal open space is increased by the generous entrance plaza between the open space and the main pedestrian entrance of the building. The Board is requested to note that this area, and indeed other incidental open space areas do not form part of the open space calculations for the proposed development,
- a separation distance of approximately 39m is maintained between the nearest



part of the building and the rear returns of the properties to the north and a distance of c. 48m to the main rear walls of these properties. It is submitted that these separation distances will ensure that the residential amenities of these properties are adequately protected. The Applicant notes that both Nos. 20 and 22 Seatown Place are in commercial use.

6.1.3. Section 3.1 of the Applicant's Appeal Statement provides 2 examples where the Planning Authority has inconsistently applied the development management requirements for on-site car parking/manoeuvring and building heights between the application site and sites in direct proximity. In the case of 21/1390, the Planning Authority decided it was appropriate to permit the proposed development with no on site car parking. In addition, a 5 no storey building within the same character area in the Urban Design Framework was considered acceptable under ABP Ref. 311279. The development proposed under this current appeal includes car parking at a reduced rate of 0.5 spaces per unit (to be reduced to 0.3 spaces as part of the revised layout at appeal stage). In their decision to refuse permission, the Planning Authority note that the revised disposition of public open space and car parking is considered to detract from the residential amenity for future residents. The appeal submission notes that the Applicant has no objection to a reduction of on-site car parking to increase open space for use by future residents. The revised layout shows that by providing 12 no. car parking spaces to serve the 39 no. units, open space for residents will increase from 296sq.m. to 740sq.m. It is submitted that the application site, being a brownfield site in a central location within the growth center of Dundalk is suitable for reduced car parking provision and this location has been recognised as being suitable by the Planning Authority.

6.1.4. Section 4.1 of the Appeal Statement provides an overview of the local planning policy context that is relevant to the development proposal. In terms of the applicable zoning objective, it is stated that residential is listed as a use that will generally be permitted under this zoning and it is stated there is no requirement for a percentage or proportion of any particular site or planning application to have a commercial element. In terms of policy on built heritage, it is confirmed that a Grade 1 Conservation Architect

provided advice on the proposed development through an iterative process and an architectural heritage impact statement was submitted with the planning application. This assessment included a review of the architect's drawings, photo montages, 3D images and the Townscape Visual Impact Assessment. The assessment concluded that even at six storeys, the scale of development does not impact on the ACA, surrounding Protected Structures or the setting or character of those Protected Structures and sits comfortably within the built environment that surrounds the application site. This section of the Appeal Statement also considers the planning history of the application site and the adjoining lands to the west and east of the site.

Section 5 of the appeal statement provides an overview of the relevant policies and provisions of the Louth County Development Plan and sets out how the proposed development is compliant with same. The appeal statement focuses on the following sections of the County Development Plan:

- Settlement hierarchy and core strategy,
- Urban design, building height and density,
- Housing strategy,
- Development management guidelines,
  - o Density and plot ratio,
  - o Apartments and dwelling mix,
  - o Building height and design statement,
  - o Infill and backland development in urban areas,
  - o Separation distances,
- Landscaping,
- Car parking,
- Cycle parking, and,
- Bin storage.

Section 6 of the appeal statement examines the national planning policy that is relevant to the development proposal which includes the National Planning Framework and the Regional Spatial and Economic Strategy. It is contended within the submission that the proposed development is fully in keeping with the relevant National Policy

objectives and is compliant with the approach outlined by the RSES to grow a compact settlement by redeveloping vacant and underutilised sites for residential uses.

Section 7 of the Appeal Statement addresses how the proposed development is consistent with the various Section 28 Ministerial Guidelines, which includes:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (the 'Sustainable Residential Development Guidelines'), including the associated Urban Design Manual (2009).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- The Apartment Guidelines.
- The Building Height Guidelines.

Section 8 of the Appeal Statement examines the report of the Planning Officer, consultee reports on the decision of the Planning Authority. The key issues raised by the Planning Officer which are reflected in the single refusal reason are addressed as follows within the Appeal Statement:

### *Height*

It is stated that the Planning Authority expressed concerns regarding the height of the development as originally submitted and in the applicant's FI submission. The refusal reason references the Urban Design Framework Plan and the commentary within that plan where building heights are identified as typically 2.5 to 4 storeys in the Seatown Character Area. It is strongly contended that a building of 5 storeys can readily be accommodated on the site and sits comfortably within its setting by reference to the ACA, the Ramparts River and the adjoining lands. It is submitted that it is incorrect for the Planning Authority to take its reference point for acceptable building heights in the area from the Urban Design Framework Plan. It is stated that this plan is 14 years old and there has been a raft of guidance issued since this plan was prepared. It is reasonable to say that there has been a sea change in the approach to density and height since this plan was prepared and the Planning Authority has erred in using this

benchmark reference point for building heights in this area. It has stated that the framework plan is not a development management tool and at no point in the plan is it stated that 4 no. storeys is the maximum height permissible in the Seatown Character Area.

#### *Layout of the Proposed Development*

In terms of the scale and bulk of the proposal and its impact on the ACA, it is stated that the Planning Officer's report provides very little in terms of an evidence base to support their assertions. The Architectural Impact Assessment and Townscape and Visual Impact Assessment conclude that the development can be comfortably accommodated within its built and natural environment setting. The building is set so far back into the site that it's not possible to see it from Seatown Place, other than glimpses as one passes the site entrance. The north elevation of the building where it faces the rear of the properties on Seatown Place is essentially an I-shaped building with stepped and staggered balconies and it is submitted that the building is not a bulky monolithic structure. Furthermore, it is submitted that the character of the Seatown ACA is derived from the street and not from the disused areas to the rear of the houses wherein the application site lies. It is submitted that the proposed development does not impose itself on, dominate or overwhelm any part of the ACA and or the main architectural characteristics of the ACA.

In terms of the internal disposition of open space, car parking and cycle parking, it is stated that the Applicant was fearful that if the provision of less than 0.5 spaces per unit was provided, it would attract a recommendation to refuse planning permission from the Infrastructure Section of the Planning Authority. The development as originally submitted contained 44 no. units and 22 no. car parking spaces. The FI proposals contained 39 no. units and 20 no. car parking spaces and the revised layout as proposed as part of this appeal provides 12 no. spaces to serve the 39 no. apartments.

#### *Impact on Lants to East & West*

The planning officer in their report considers the potential impacts on the development

potential on the lands to the east and west of the appeal site. It is submitted that the proposed development has been designed in such a manner so as not to impede the development potential of the adjoining or surrounding lands. The building is designed with no openings on the eastern elevation, thus taking account of the narrow plot widths of the lands to the east. The site to the west is a much larger site than the application site. It is understood that the site is in the ownership of Saint Vincent's Secondary School and that a planning application is to be lodged for the use of the site as sport pitches for the school. Even if these lands were to be developed for residential or commercial purposes, it is submitted that there is ample space within this site to enable an architect to design the development that makes efficient use of this land with the proposed development in place. To require the development to be set back from its western boundary would essentially result in a development that does not make best and most efficient use of the application site.

#### *Pedestrian Bridge to Ramparts Road*

It is noted that a pedestrian bridge link across the river was not included within the development proposal as no such link is provided for in the Dundalk Urban Design Framework Plan. It is stated that this plan sets out clearly the proposals for pedestrian connections in the area and the only pedestrian route illustrated is on the south side of the river and then turning north to rejoin Seatown Place at the junction between the street and St. Alphonsus Road. In addition, the appeal statement includes a walk zone map to the various facilities in the area which demonstrates that there is no benefit in terms of permeability or connectivity by providing a pedestrian bridge link between the site and the Ramparts Road. It is submitted that there is no point in providing a bridge just for the sake of it. However, if the Board considers that such a link to be warranted, then the Applicant is willing to accept a condition in that regard.

#### *Housing Mix*

It is highlighted within the appeal submission that the planning officer was satisfied that the apartment mix as submitted by the applicant as part of the FI response is acceptable.

In conclusion, the Applicant submits that the proposal as submitted at further information says is acceptable. However, they would be willing to accept the revised layout as now submitted as part of the appeal. In the event that the Board concurs, it is respectfully suggested that the Board uses its powers under Sections 133, 132 and 137 of the Planning and Development Act 2000 (as amended) to invite revised drawings and details, including new public notices.

Included as appendices to the Appeal Statement are a Schedule of Areas – Quality Assessment and an Assessment against the 12 Principles of the Urban Design Manual.

The appeal submission also provides an overview of the relevant policy at National and Regional level and outlines how the proposal is in compliance with same.

## **6.2. Planning Authority Response**

- 6.2.1. The Planning Authority provided a response to the matters raised in the First Party appeal and requests the Board to uphold the decision to refuse planning permission.

## **6.3. Observations**

- 6.3.1. A total of five (5) no. observations have been received from the following Third Parties:

- Seamus Meegan.
- Alex & Mary Burden.
- Sharon McArdle.
- Dundalk Tennis Badminton & Squash Club.
- Nicholas & Ellen O'Connor, Conor MacGuill & Gayle Martin, Christine McCarthy.

- 6.3.2. *Seamus Meegan.*

The following points are raised in the submission on file:

- The submission contends that the height of the proposed development contravenes the guidelines of the County Development Plan.
- The proposed development will cause traffic congestion in the surrounding

street network.

- The 5 no. storey building height proposed will be overpowering to the ACA of Seatown Place.

#### 6.3.3. *Alex & Mary Burden*

The submission sets out that solid walls such as those in the Seatown Place terrace to the north of the proposed development are permeable to water and therefore absorb water and moisture into the wall and subsequently rely on the ability to dry. When the walls of a historic building within the ACA do get wet, it is critical to ensure that the walls can dry again effectively. The proposed development will result in increased shading of the Seatown Place terrace to the north of the site. Despite the submitted daylight reports showing minimum levels of daylight being achieved, there is no account of the impact of shadowing on the Protected Structures and their vertical elevations, how they function and the impact of lower wall temperatures due to shading in the winter months. It is contended that the proposed development directly impacts the amount of direct sunlight that hits the south elevation of the properties to the north, which faces the prevailing weather.

Concerns are highlighted with respect to the height of the proposed development, and it is noted that the negative impact of tall buildings includes downwash, wake effects, funneling and corner effects. The combination of these effects and the resulting microclimate should be modeled and considered in the context of the proposed development. Putting the walls in shade combined with increased wind speeds, will reduce the temperature of the external walls. It is also stated that the lower the temperature in the walls, the higher risk of moisture accumulation in the walls and the higher risk of damp related issues arising.

The observation notes that a sustained buildup of moisture in traditional walls can have serious and detrimental consequences which range from cold, damp or mold as well as spalling of brick faces and rot within the floor joists, roof rafters and window heads. It is highlighted that remediation has already taken place in many houses to replace rotten timbers on the windward side of the terrace.

When the drying capacity of the wall is reduced, the relative humidity of the wall will rise and as a result condensation may occur. The inability of a wall to release moisture to the environment at a faster rate than is input, will impact the Protected Structures in terms of comfort and energy usage. At the same time, it may contribute negatively to the structural integrity of the building. It is stated that the increased condensation risk is compounded by the lowering of wall temperatures which reduces the drying potential further.

The submission contends that any development in the site to the south of the Seatown Place terrace should respect not only its setting within the ACA, but also the neighbouring Protected Structures and how they function with respect to access to solar radiation that both heats the building fabric, dries out the walls and provides solar gain into the building via windows.

The submission notes that the concerns raised during the application process were outlined in detailed in their initial observation and include:

- the inability for the saturated street parking to absorb the additional vehicles,
- the unsuitability of access viz-a-viz congestion and safety,
- the irreversible impact of the proposal on the streetscape,
- how the proposal jars with the ACA,
- the impact of the proposal on how Seatown Place terrace functions today and how it will function into the future with the adoption of renewables.

The observation refers to the European Solar Rooftops Initiative, and the Board is requested to consider any development that could preclude the terrace from the future use of maximizing solar energies, be it on the main roofs or the lower return roof spaces.

It is highlighted that a lower building with less density, could still easily exceed the urban density guidelines and at the same time result in:

- fewer cars,



- safer access,
- blending in more seamlessly with the character of the ACA,
- improve the public realm,
- coexist harmoniously with neighbouring lands, including the Tennis Club, school fields, gardens and the Seatown Place terrace and streetscape,
- allowing Seatown Place terrace to continue to function as it has done and needs to if the buildings within the ACA are to be protected.

For the above reasons. It is contended that only a 2-3 storey building, set back in the site to the south can permanently:

- protect the wider Dundalk ACA,
- integrate with the locality safely and proportionately,
- provide an optimal site layout for the prospective occupants and serve to meet their reasonable expectations on public realm, amenity and sense of place.
- Avoid negatively impacting the energy efficiency of the terrace and serve to protect the neighbouring listed historic properties into the future.

#### 6.3.4. *Sharon McArdle*

The following points are raised in the submission on file:

- Concerns are raised that the lights at the entrance of the proposed development from the public road would constitute a high degree of light pollution into the rooms of neighbouring properties.
- It is stated that the proposed alteration to the existing access roadway at the entrance into the development would involve encroaching upon a property within the curtilage of a Protected Structure. Concerns are raised that this would cause structural damage to the Protected Structure at Seatown Place. In addition, the proposed ground surface at this location would encourage illegal parking on the grass margin, causing traffic hazards at the site entrance. In addition, this could potentially cause damage to the Protected Structure and result in an increase in the level of noise pollution at this location.
- It is submitted that the landscape buffer between the access road and the gable end of the Protected Structure should be increased, and this area be properly

landscaped to deter car parking at this location.

- The proposed development involves the removal of a number of on-street car parking spaces along Seatown Place without any provision elsewhere in the vicinity provided for the loss of this car parking. It is stated that there is already insufficient car parking to meet the demands of local businesses, residents and the schools in the area.

#### 6.3.5. *Dundalk Tennis, Badminton & Squash Club*

The submission provides details of the Club and its history. The Club is located to the south of the appeal site on the opposite side of the Rampart's River. The following points are raised in the submission on file:

- It is highlighted within the submission that there was no prior communication with the Club from the Applicant in relation to the proposed development.
- The club is not aware of and did not have any input to any impact statement which had been prepared insofar as the club is concerned. It is submitted that if the development proceeds, such an impact statement should be done.
- Concerns highlighted regarding the overall scale and height of the proposed development.
- Concerns regarding the potential for overlooking of the adjoining Club to the south of the appeal site.
- Concerns regarding the scale of the proposed development in the context of St Joseph's Redemptorists Church Dundalk and the adjoining monastery building and the negative impact of the proposed development on same.
- Concerns highlighted regarding traffic and car parking related impacts, and it is contended that the construction of a high density development will give rise to an intensification of traffic and a demand for car parking in the area.

#### 6.3.6. *Nicholas & Ellen O'Connor, Conor MacGuill & Gayle Martin, Christine McCarthy*

The submission prepared on behalf of the Third Party observers provides a description of the site and surrounds and overview of the development proposal. The grounds to the Third Party observation are detailed as follows:

### Material Contravention of the Land Use Zoning

It is contended that the proposed development materially contravenes the C1 Mixed-Use land zoning pertaining to the subject lands as the proposed development is solely residential in nature and does not provide any mix of land use as required by the zoning provisions. The proposal is taking the place of a previous commercial use on the site, and it is considered that the proposed single use materially contravenes the C1 – Mixed Use zoning that pertains to the lands.

### Impact on the Architectural Conservation Area & Streetscape.

The observation notes that the following site constraints apply to this backland site:

- The site has no frontage to any public street or road. The site has a frontage onto Seatown Place to its north as it lies behind the terrace of Victorian buildings which are Protected Structures and form part of the ACA.
- The site has no road frontage onto the Rampart Road to the south because it is bounded along its entire southern boundary by the Ramparts River, which abuts a narrow and secluded pedestrian alleyway. It is noted that the Applicant's attempt to amend the proposal at appeal stage to provide communal open space to the south of the building would result in poor quality open space which is obscured from public view or passing traffic.
- The sport grounds and playing fields of the Saint Vincent Secondary School lie along the site's western boundary and immediately to its east are the residential gardens in the curtilage of Protected Structures and an ACA.
- The only entrance and accessway into the development is along a laneway which is itself part of the ACA.

It is contended that the development of a 5 no. storey building at this location is not considered to be an appropriate increase in scale or height, but rather a complete departure from the prevailing height of the ACA and from what could be considered as being acceptable. It is also stated that the overall height of the building is 43% taller than the ridge height of the houses on Seatown Place and as such it will only serve to dominate the streetscape and give rise to an overbearing impact on the residents.

The submission sets out the key policies and objectives of the current County Development Plan which they consider the proposed development contravenes. It is argued that the amended proposal at appeal stage, which carries forward the building line closer to the terrace of Protected Structures will increase its visibility and the detriment caused within the ACA.

The observation refers to the planning history of the appeal site and surrounds, which includes Ref. 06/288 (PL55.225308), whereby planning permission had been previously refused on the appeal site as the proposal was considered to adversely impact the character of the ACA. The submission also refers to Ref. 08520240 (PL55.234919) which was originally met with criticism by the Planning Authority and the design underwent amendments during the application process to reduce its height.

The submission contends that the Applicant has failed to provide a justifiable basis for a proposal of this scale and no proper assessment of the development's impact on the ACA has been undertaken by or on behalf of the Applicant. It is submitted that the Applicant's Architectural Heritage Impact Assessment makes no attempt to assess the proposal in terms of its impact upon the ACA and the Protected Structures. In addition, it is contended that no reasonable attempt is made to explain how this "clearly modern" contemporary design is anticipated to protect and enhance the character of the existing ACA. It is stated that the Architectural Design Statement (appeal stage) contradicts the Architectural Heritage Impact Assessment, where it now concedes the building is to be so visible as to be a recognisable feature in the locality.

The observation notes that the Applicant has placed a heavy reliance on the Urban Development and Building Height Guidelines (2018). However, the Applicant has failed to acknowledge that taller buildings are not needed at the current location to reinforce any sense of place. In addition, they have failed to acknowledge that the site is not in an area designated for urban renewal and that the current neighbouring uses confirm no opportunity for comprehensive urban development. The Planning Authority have not identified the current location as an appropriate site for increased heights and permission has been refused in the past due to the height of the development and

its impact on the character of the ACA.

Whilst the observation notes that the development of this site is welcomed, concerns are highlighted that the focus of the current development is to achieve maximum density beyond what the site can realistically accommodate given its obvious constraints.

### *The Public Realm.*

It is contended that the application has failed to demonstrate how a safe sense of place will be achieved in the absence of any passive overlooking of its only entrance and access route by the public at Seatown Place. It also submitted that location of the open spaces by virtue of where they are, down a lane with no passive surveillance from any public thoroughfare cannot be perceived to be safe and it is entirely inadequate in those circumstances that reliance would be placed on resident surveillance to achieve a safe sense of place, either for residents or anyone else.

It is stated that for the most part, apartment windows are physically above ground level and recessed behind balconies, with no ability when inside to have clear vision of what happens outside. Such routes are perceived to be unsafe as they present opportunities for anti-social behaviour. This concern is heightened by the fact that the proposal actively encourages very little passing traffic.

Whereas it is contended that the proposal does not provide any acceptable level of passive surveillance of its open areas from members of the public, the scale and height of the development contribute to significant overlooking of properties within the surrounds from its residents. It is stated that the revisions to the design at appeal stage would compound this impact.

### *Urban Design Considerations*

The observation rebuts a number of the Applicant's interpretations of how the scheme complies with the 12 principles set out in the Urban Design Manual. In terms of 'Context', it argues that the proposed development is completely out of character with

its surroundings as it has been designed as a landmark and feature building, yet it is located within a backland site. The increase in density is stark in comparison to the surrounding area and greatly exceeds the intention of the Development Plan and national policy. The observer also questions the suitability of the palette of materials and finishes proposed.

In terms of '*Efficiency*', concerns are highlighted with respect to the quantum and quality of the open space on site. In addition, it is considered that the proposal will adversely affect the thermal efficiency of the neighbouring Protected Structures and likely prevent them from being able to make use of solar/PV panels due the overshadowing that the development will give rise to.

On this principle of '*Distinctiveness*', it is noted that this is a backland site and there are no distinct views into or out from the site. In this regard, it is contended that the development would be unable to create a distinct sense of place, identity or legibility. It is contended that the proposal will detract from the character of the surrounds and will materially impact the streetscape of this distinctive and attractive boulevard.

In terms of '*Layout*', the development does not allow for permeability through the site. In addition, the siting of the building relative to the western site boundary will also negate any quality building that may be proposed at that site at a future date. The revised layout at appeal stage will also not facilitate any refuse or HGVs from being able to manoeuvre within the site which will cause them to double park on Seatown Place and cause traffic congestion as a consequence.

### Density

Concerns are highlighted within respect to the overall density of development proposed which is not considered to be in keeping with the character of the area. The observer suggests that a mews style development may be appropriate for the site which delivers sufficient car parking and a density that is suitable for the site and responsive to the ACA within which it is located. The observer also refers to draft government guidelines for medium density developments that would be favoured in

locations such as this.

### Access & Car Parking

Concerns are highlighted with regard to the access to the site and its suitability to accommodate a development of this scale. It is contended that the wrong design criteria has been used when designing the proposed access and will give rise to serious risk of conflict with pedestrians, cyclists and vehicles. The observation notes that:

- The current sightlines proposed are inaccurate and pose a health and safety risk,
- The required sightlines for development onto a regional road are not possible,
- Applying too much discretion in this area will introduce risks from a health and safety perspective,
- Considerable reconfiguration of the public realm will be required to overcome this challenge.

The observation raises concerns with respect to the inadequacy of car parking given the scale of the proposed development. It is also contended that the justification for a further reduced rate at the appeal stage (0.3 spaces per unit), is not supported by any technical evidence from a qualified traffic engineer. It is also highlighted that this further reduction has not been considered by the Planning Authority. The observation notes that there is already an acute shortage of on-street car parking spaces within the surrounding street network and the proposed development will exacerbate this issue.

In terms of the internal layout, it is again highlighted that the amended site layout (appeal stage) will likely result in the development being inaccessible for service or emergency vehicles. This brings into question the safety aspect of the proposed development and the ability of the development to obtain a Fire Safety Certificate. It is also difficult to see how maintenance vehicles could get sufficient access to the building to carry out general works.

### Impact on Solar Gain and Overshadowing

The observation raises concerns regarding the impact of the proposed development on the residential amenity of the properties within the surrounds by means of overshadowing and loss sunlight/daylight. The submission also focuses on the impact of overshadowing on the Protected Structures to the north of the site in terms of the loss of passive solar heating which is critical to the thermal performance and ventilation of these buildings. The increase in shadowing and reduction in sunlight will result in less thermal heating of the buildings and increased dampening of structures which will result in structural damage over time.

Concerns are also highlighted that the amended layout (appeal stage) has not been the subject of an updated daylight, sunlight and overshadowing assessment and the impact of this change on the houses and their private gardens has not been assessed. Therefore, it is questioned how can the Board can lawfully give a decision to grant permission in the absence of such information?

The observation raises concerns with respect to overshadowing and its impact on the ability of the properties to the north being able to make use of renewable energy sources such as solar panels. The observer refers to the attached letter from Downey Architects (Appendix 1) which discusses this matter in further detail. In addition, it is contended that the proposed development restricts the development potential of adjoining sites and the Applicant's daylight, sunlight and overshadowing assessment should have been reflective of the potential development use of these lands.

### Structural Concerns on Protected Structures

Concerns are raised with respect to the potential impact of the proposal development on the structural integrity of the adjoining Protected Structures during the construction phase:

- The Applicant's documentation was generic and light on site specific details,
- Ground conditions at this location would require pile driving for foundations and this would generate significant vibrations for the surrounding area.
- If pile driving were to take place, it would most likely result in a rise in the water



table which would have direct implications for neighbouring Protected Structures.

- The Applicant's documentation does not appear to give any consideration to the impact that will be caused by plant and machinery in an idling mode on the site.
- No detailed subterranean drawings have been provided to indicate the proximity of the foundation boundaries or indeed the depth of the foundations/foundation types. Without such information, the application should have been considered invalid by the Planning Authority.

#### EIA Screening Report and Environmental/Ecological Considerations

The observation submits that no EIA Screening has been carried out by the Applicant as a full EIA screening exercise is required. It is also stated that the proposal is in breach of Policy Objective NBG 57 of the current County Development Plan which seeks 'To ensure that no development, including clearing or storage of materials, takes place within a minimum distance of 10m measured from each bank of any river, stream or watercourse.' Given the location of the appeal site relative to the Ramparts River, where there is a hydraulic connection to an SPA and SAC, there is a concern that there may be contaminated fuels and equipment on the site that were stored there historically and the submitted AA Screening and NIS remains silent on this issue.

#### **6.4. Further Responses**

None.

#### **7.0 Assessment**

The main issues are those raised in the First Party appellant's grounds for appeal, the Planner's Reports on file and the consequent reason for refusal. The issue of appropriate assessment also needs to be addressed. In addition, I have had regard to the matters raised in the observations on the planning file. Overall, I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development & Density

- Built Heritage, Height & Visual Impact
- Layout & Open Space
- Residential Amenity
- Access & Parking
- Appropriate Assessment

## **7.1. Principle of Development & Density**

- 7.1.1. The appeal site is centrally located within the Regional Growth Centre of Dundalk and is zoned 'C1' (Mixed Use) under the Louth County Development Plan (CDP), 2021-2027. The objective of this zoning seeks 'To provide for commercial, business and supporting residential uses' and section 13.21.13 of the Plan notes that maintaining the existing urban character, quality of design, integration and links between uses and spaces are important considerations for new developments within this zoning. In addition, the policy notes that the design and layout of any residential development shall be of a high quality and the compatibility of any commercial, business, or retailing use or operations with a residential development shall be taken into account in the layout and configuration of any development on these lands.
- 7.1.2. Within their assessment of the application, the Planning Authority was satisfied that the redevelopment of this brownfield site was in accordance with local and national level planning policy and no objections were raised with respect to the principle of an apartment style development at this location. I note that an observer to the appeal has raised concerns that the proposal would constitute a material contravention of the zoning given a singular residential use is proposed in this instance. Notwithstanding this, I note that a residential use is identified as being permitted in principle under the current zoning. In addition, I would concur with the Applicant that there is no requirement under this zoning for either a percentage of proportion of any particular site or planning application to have a commercial element. Whilst the guidance for lands zoned C1 under the current CDP is to provide commercial and business uses and the facilitation of residential uses as appropriate, I have had regard to the size of the site, the overall scale of the development proposed and the pattern of development in the surrounding area and I am satisfied that the construction of a residential

development on this backland, centrally located urban site would constitute an appropriate use of serviced lands and is entirely compatible with this zoning objective.

- 7.1.3. Noting the density of proposed development (i.e. c. 130 units per ha. (FI Stage)) and the site's central location, I am satisfied that the proposal is generally in accordance with Policy Objective SS 21 which seeks 'To support sustainable high density development, particularly in centrally located areas and along public transport corridors and require a minimum density of 50 units/ha in these locations'. However, I am conscious of the policy of the current CDP with regard to development density (Section 3.11), which notes that consideration must be given to the surrounding context and how the development would relate to the existing built form and character of its location. Further to this, key elements of making a high density development an attractive place to live relates to the overall quality of the design, its open space and its public realm. Whilst it is an objective of the CDP to support higher densities, this will take account of the capacity of the lands to accommodate this type of development. Therefore, the key issues that need to be ascertained is whether the proposed development is acceptable on this specific site, taking into consideration the design of the development and the site's architectural and cultural context, the layout and quality of the development, the impact on the amenities of adjoining residents and the sustainable planning and development of the area. I will discuss these matters in detail below.

## **7.2. Built Heritage, Height & Visual Impact**

- 7.2.1. As noted, the front portion of the appeal site extends into the Joycelyn Street/Seatown Place ACA. This includes the site entrance, accessway and parallel car parking which will serve the development proposal. As per Appendix 11 (Louth ACAs) of the current CDP, Jocelyn Street and Seatown Place are wide streets, laid out in the 1740's, with rows of two and three-storey Georgian and Victorian Houses. It is the intention of the Council in the designation of this ACA 'To protect and enhance the character of the area by giving consideration to the suitability of scale, style, construction materials, colour and decoration to be used in any proposals for new development, including alterations and extensions, taking place within or adjacent to this area'. The appeal

site extends to the rear of Nos. 20-24 Seatown Place which are all designated as Protected Structures under the current Plan and are 2 no. storey, red brick buildings which are in a combination of commercial and residential uses. These dwellings are located immediately to the east of the appeal site's vehicular entrance. In addition to the galvanized storage sheds (proposed to be demolished), the appeal site contains an eight-bay, two storey stone and brick structure which formed part of the late 19<sup>th</sup> Century joinery works. This structure has a direct abuttal with the eastern site boundary and is currently in a dilapidated state of repair.

- 7.2.2. The proposal seeks planning consent to refurbish and convert the existing joinery building to provide 4 no. apartments. The development originally sought planning consent for the construction of a 6 no. storey, 'L' shaped apartment building which was to be positioned within the southern portion of the site. Following concern raised regarding its scale and height and its potential impact on the character of the ACA, the Applicant modified the design of the development by omitting the upper floor level of the building, thereby reducing its height to a maximum of 5 no. storeys. Notwithstanding the revisions to the scheme's design, the Planning Authority had a continued concern regarding the visual obtrusiveness and over-dominance of the structure and its ability to integrate into this urban area and create a genuine sense of place. In addition, concerns were raised regarding the height, scale and bulk of the development and its potential impact on the character of the ACA. Although a singular refusal reason has been included, there are a number of interrelated issues raised in the Planning Officer's reports on file and it is evident that the Planning Authority had concerns with respect to various aspects of the scheme's design. The following sections will examine the potential visual impact of the proposed development in the context of the ACA and the adjacent Protected Structures.
- 7.2.3. The proposed development, as modified by way of further information, has a maximum height of c. 18.3m above natural ground level and is set back in excess of c. 60m from the site's frontage on Seatown Place. In support of the application, the Applicant has submitted an Architectural Heritage Impact Assessment. A brief assessment of the proposed development is provided within this document which notes that the scale of

the development does not unduly impact on the ACA, due in part to the scale of the structures along Seatown Place and the setback of the new block from the street. In relation to the setting of St. Joseph's Redemptorist Church (located to the south-east of the appeal site), the Report notes that the visual impact of the structure is shown to be minimal and not significant given the separation distances and by reason that it is screened by mature planting. The application is also supported by a Townscape and Visual Impact Assessment which examines the site and the wider townscape where the proposed development may have an influence either directly or indirectly. The report indicates that 6 no. representative viewpoints had been selected following site surveys to establish key locations where there is an open vantage towards the application site. The report considered the magnitude and scale of effects on existing townscape elements, character areas and resources either directly or indirectly. Viewpoints were taken from Seatown Place, St. Alphonsus Road, Rampart Road and from the Tennis, Badminton & Squash Club to the south of the appeal site. The assessment concludes that the proposed development, while substantial, would result in a positive contribution to the townscape character and urban fabric. While recognising there are some significant local impacts to immediately adjacent areas, the report notes that the proposal, on balance, has no unacceptable townscape / landscape or visual effects and can be successfully absorbed into the character and views of this part of Dundalk.

- 7.2.4. Although the appeal submission contends that the Planning Authority erred by relying on the design guidelines set out in Urban Design Framework Plan (UDF) (2008) for Dundalk, Section 2.14.2 (Town Centre Area) of the current CDP notes that the UDF will continue to provide the platform for future development for the town centre area. This Framework Plan identifies 7 no. character areas based on their historic, economic, or architectural form and included specific recommendations for each of the character areas. The appeal site is located within the Seatown Character Area. I note that it is a Policy Objective (SS 26) of the CDP 'To support the implementation of the 2008 Urban Design Framework Plan for Dundalk'. On the issue of building heights, Policy Objective SS 22 of the Plan seeks 'To support increased building heights at appropriate locations in Dundalk, subject to the design and scale of any building

making a positive contribution to its surrounding environment and streetscape'. Whilst a UDF design guide height of 2.5 - 4 storeys is identified for the Seatown Character Area (landmark and key sites will be considered on their merits), I am conscious of the planning history of the wider surrounds, where planning permission has been granted for developments which exceeds this guide height within the same character area. In addition, Section 2.14.4 (Buildings of Increased Height) of the CDP notes that the development of taller buildings which are supported by appropriate design briefs and which are consistent with the provisions of the Specific Planning Policy Requirements set out in the Building Height Guidelines can be considered until a more detailed analysis of the preferred location for taller buildings is carried out as part of the Urban Area Plan for Dundalk.

- 7.2.5. Given the location of the appeal site partially within and adjacent to the Jocelyn Street / Seatown Place ACA, Policy Objective BHC 31 of the Plan is relevant to the consideration of this appeal, whereby the policy requires all development proposals within or affecting an ACA to preserve or enhance the character and appearance of that area, protect architectural features of special interest and ensure that the design respects the character of the historic architecture in terms of height, scale, layout, and materials. In addition, Policy Objective BHC 35 seeks to ensure that any development on the periphery of an ACA does not detract from the existing character of the designated ACA. In carrying out its assessment of the application, the Planning Authority formed the view that the proposal did not satisfy the relevant criteria set out in Section 3.2 (Development Management Criteria) of the Building Height Guidelines, whereby development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views.
- 7.2.6. Although the application is supported by a landscape and visual assessment and the Applicant has set out their view as to how the proposal complies with the Building Height Guideline's various development management criteria, I note that critically, only one visualisation of the proposed development has been provided from within the ACA

itself. This image is taken from a location to the west of the site's entrance (i.e. VP1) where the proposed building is largely obscured by the Emmanuel Pentecostal Church. It is my view that the application would have been aided by additional visualisations at locations adjacent to the site entrance and from additional viewpoints to the east where there are gaps within the streetscape. I note that the map provided on Page 1 of the booklet of photomontages identifies a view point (VP2) taken from the site entrance where the building would be most visible in the context of the streetscape. However, the image from this position does not appear to have been included within the documentation on file. Notwithstanding the setback of the building from the streetscape, it is my view that it has not been adequately demonstrated that the proposed development can successfully integrate into/enhance the character of this architecturally sensitive area as specifically required by the development management criteria of the Building Height Guidelines. Further to this, I am not satisfied that the proposed development can enhance the character and appearance of the ACA nor does the design respect the character of the historic architecture in terms of height and scale and would, by reasons of its scale and height, form a visually obtrusive and discordant feature within the existing streetscape. Whilst the building has positive design features such as articulated facades and a well-considered palette of materials and finishes, it is my view that a more graduated building height is required at this location given its visibility within the streetscape and in the context of the neighbouring Protected Structures.

- 7.2.7. An additional development management criterion (Building Height Guidelines) of relevance to the subject proposal is that a development shall enhance the urban design context for public spaces, key thoroughfares and inland waterway/marine frontage. Notwithstanding the backland nature of the site, the site has a prominent interface within the Ramparts River to the south and is visually prominent from an array of vantage points. I would share the concerns of the Planning Authority with respect to lack of appropriate setbacks from this watercourse. In my view, an opportunity has been lost to provide a riparian corridor along this interface which would both provide an important amenity for the future occupants and also allow opportunities for comprehensive landscaping within this portion of the site. As part of

the appeal submission, the Applicant has submitted a revised site layout plan to address this concern which shifts the envelope of the building further to the north within the site and closer to the Protected Structures and the ACA. Although this increased setback is welcomed, the visual impact of the 5 no. storey building is likely to be exacerbated and more pronounced within the streetscape given the reduced setbacks provided. Whilst the omission of an additional level of accommodation (i.e. maximum height of 4 no. storeys) would assist in providing a more graduated height between it and the Protected Structures to the north, the Planning Authority have raised concerns with respect to the overall layout and configuration of the development, including the interface of the development with the site to the west which I will discuss in further detail below. In my view, the scheme would require a more fundamental redesign that could not be readily addressed by way of condition.

### **7.3. Layout & Open Space**

- 7.3.1. The proposal originally sought to provide 2 no. communal open space areas, with one space enclosed to the south and west by the 'L' shaped apartment building. An additional open space area was provided to the west of the converted Joinery building. Within their assessment of the application, the Planning Authority raised concerns with respect to the layout of the development and the minimal setbacks provided to the southern site boundary which the site shares with the Ramparts River. Additional concerns were highlighted with respect to the open space arrangement and its poor orientation. The Applicant was afforded the opportunity to revise the proposal and give consideration to the provision of greater setbacks from the southern boundary and relocate the communal open space to this area of the site. The Applicant was also requested to provide permeability through the site by providing a cyclist/pedestrian access to the south across the Ramparts River. In response to the requests of the Planning Authority, the Applicant had outlined that the car parking layout was amended to address concerns raised by the Road Safety Audit (RSA). The open space area to the north of the apartment building was consolidated and the Applicant outlined that the setback from the southern site boundary was unnecessary to achieve a sunlit communal open space and locating it on the southern side of the building would not provide for the privacy it has when centrally located. It was argued that the



position of the apartment block provided the optimum solution for the site as it provided the greatest separation distance from the properties on Seatown Place and a stronger frontage and a greater presence onto the Ramparts River and the adjoining walkway. It is also contended that the proposed apartment building will be the first development along this section of the Ramparts and therefore must assert its own identity and provide passive surveillance in this location to create a sense of place and security. When considering the Applicant's response, the Planning Authority noted that the revised site layout was made worse by relocating the car parking, public open spaces, cycle stands, and it was considered that the revisions negatively impacted the proposed scheme.

- 7.3.2. As detailed in Section 7.2 of this Report, the Applicant has attempted to address the concerns of the Planning Authority by submitting a revised site layout which incorporated a greater setback from the southern site boundary, ranging from between c. 6m to 9m along the full length of this boundary. The proposal also provided for the omission of a number of car parking spaces to the north of the building and provided an enlarged open space area at this location. Given the abuttal of the site with the Ramparts River, I am conscious of the policy of current CDP (IU 25) which seeks 'To ensure that no development including clearing or storage of materials takes place within a minimum distance of 10m measured from each bank of any river, stream or watercourse'. Whilst the provision of a riparian corridor is not practical in all urban locations such as this, it is my view that an increased setback at this particular location would be welcomed given the visibility of the site from the surrounds and its location relative to the pedestrian walkway along the southern side of this watercourse. As noted, the provision of setback such as this provides the opportunity to incorporate landscaping along this interface which would act to both facilitate enhanced biodiversity and provide the opportunity to soften/filter views of the development from within the surrounds and allow for it be better integrated within the site and surrounds. Although I accept that the open space area to the north of the apartment building satisfies the BRE Guide minimum standards (i.e. 50% of the open space area to receive at least 2 hours of sunlight on March 21<sup>st</sup>), I have concerns regarding the useability of this space and I would agree with the Planning Authority that a communal

amenity area, adjacent to the existing watercourse and which benefits from a southerly aspect and orientation would be a valuable amenity for future occupants and should be considered in any future proposal for the appeal site. Notwithstanding the increased setback from the southern site boundary, passive surveillance of the amenity area and the public walkway to the south of the site would be provided from the south facing apartments within the scheme and would in my view constitute a positive design feature.

- 7.3.3. Notwithstanding the reconfigured layout (i.e. appeal stage), I am conscious of the commentary of the Planning Authority, whereby concerns were raised with respect to the layout of the development insofar that it could compromise the development potential of the adjoining sites. Whilst I do not share their concerns in terms of the lands to the east of the site as the scheme has adopted a blank façade along this interface, there are a number of apartments on each level of the building which are orientated to the west. Given the limited separation distances provided from this boundary and the number of habitable room windows and open spaces (i.e. balconies) along this interface, I would have concerns that the proposal in its current form could compromise the future development potential of the adjoining site and set a undesirable precedent for similar development. The Applicant in their response to the Planning Authority's request for further information and appeal sought to justify the current layout as it was understood that the intention was to develop playing pitches and car parking on these lands. It was also argued that should the adjoining site be developed in the future, greater setbacks could be provided from the appeal site boundary given overall size of this landholding. Whilst I note the planning history of the adjoining site (i.e. Ref. 2360365), there is currently no permission in place for this use nor is it possible to predict whether these lands would to be developed for this use or whether there may be a change of ownership in the future. I note that the site to the west is strategically located within the town and is identified as a 'development site' in the UDF. One could argue that playing pitches and associated car parking at locations such as this would fail to constitute a sustainable form of development where national policy objectives seek to achieve growth, with a focus on a more efficient use of land. Although the Applicant has sought to further revise the scheme by relocating the

building further to the north, it is my view that the proposed development would compromise the development potential of the adjoining site.

#### **7.4. Residential Amenity**

- 7.4.1. I note that there are a number of dwellings within the immediate surrounds of the appeal site and observers to the appeal have raised concerns with respect to the impact of the proposed development on the residential amenity of these properties by reason of overshadowing, loss of daylight/sunlight and by reason of being visually overbearing due to the scale, height and form of the proposed development. Concerns have also been highlighted with respect to overlooking from the development from both residences within the surrounds and the tennis, badminton & squash club which is located to the south of the appeal site on the southern side of the Ramparts River. The proposed building has a predominant wall height of c. 16.5m above natural ground level. The lift overrun then extends to a maximum height of c. 18.27m. On its eastern side, the proposed apartment building has a total length of c. 16.9m and is set back c. 3.5m from the eastern site boundary which it shares with the rear amenity space of No. 25 Seatown Place. I note that the garden of No. 25 Seatown Place and the properties further to the east are generously sized and extend to the south as far as the boundary with the Ramparts River. The northern elevation of the proposed apartment building spans a total length of c. 37m and is set back by between c. 20m (minimum at western end) and c. 40m (eastern end) from the northern site boundary. This portion of the boundary is located to the rear of the properties on Seatown Place. A minimum separation distance of c. 44m is then provided to the rear returns of the properties on Seatown Place. No. 18 Seatown Place is located to the north-west of the proposed apartment building and immediately east of the site entrance and the accessway serving the appeal site.
- 7.4.2. In support of the application, the Applicant has submitted a Daylight, Sunlight and Overshadowing Study. This documented was updated following the revisions to the design of the scheme on foot of the Planning Authority's request for further information and the consequent reduction in scheme's height. In terms of sunlight to the amenity areas of properties within the site's vicinity, it is evident from an examination of the

shadow imagery that there will be additional overshadowing of the amenity areas of the properties to the east in the late afternoon and evening period at the March Equinox. However, the analysis contained within Section 6.1.2.2 (Existing Amenity Results) of the Daylight, Sunlight and Overshadowing Study confirms that all 50% of all amenity areas within the surrounds of the site will receive at least 2 hours of sunlight on March 21<sup>st</sup> in accordance with the BRE Guide (2<sup>nd</sup> and 3<sup>rd</sup> Editions). This is therefore considered to be acceptable, particularly considering the urban location of the appeal site.

7.4.3. In terms of the daylight to existing dwellings, the Applicant's study provides an analysis of the south facing windows of the properties to north along Seatown Place. The study examines the Vertical Sky Component (VSC) of 41 no. windows and provides a comparative analysis of the existing situation and with the development in place. Section 9.3 of this study confirms that 100% of the windows tested have a proposed VSC value greater than 27% or not less than 0.8 times their former value compared to the existing situation, thus complying with the BRE recommendations. In this regard, the proposed development is therefore considered to be acceptable from a residential amenity perspective. Third Party observations have indicated that the solid walls such as those of the properties on Seatown Place are permeable to water and therefore absorb water and moisture into the wall and subsequently rely on the ability to dry. Concerns are highlighted that the proposed development will result in increased shading of the Seatown Place terrace to the north of the site, and it is argued that the Applicant has failed to take account of the impact of shadowing on the Protected Structures and their vertical elevations, how they function and the impact of lower wall temperatures due to shading in the winter months. Notwithstanding the concerns raised, I am satisfied that it has been adequately demonstrated that overshadowing impacts are within an acceptable range and are in accordance with relevant provisions, particularly given the urban location of the site. I am also satisfied that the proposal would not preclude the properties to the north of the site from making use of renewable energy sources such as solar panels in the future.

7.4.4. In terms of potential visual impact, I note that the building is articulated through its

fenestration, balcony openings and projections and a well-considered palette of materials and finishes. As a result, the elevations of the building are therefore animated and provide visual interest when viewed from the surrounding sensitive residential interfaces. Having regard to the overall scale and form of the proposed apartment block and the setbacks provided from adjoining properties, I am generally satisfied that the proposed development will not unduly compromise the residential amenity of properties within the vicinity of the site by reason of by being visually overbearing.

- 7.4.5. In terms of overlooking impacts, it is my view that the proposed development will not result in undue overlooking of properties within the vicinity of the site given the separation distances proposed from apartment building and the amenity spaces and windows of the properties to the north on Seatown Place. The majority of balconies within the development are also provided on its western and southern elevations. In addition, I note that no windows are proposed on the eastern elevation which could give rise to overlooking of adjoining properties. It also my view that overlooking of the tennis club to the south of the site is not an issue of concern given the nature of this use. Passive surveillance of this pedestrian walkway between the site and the neighbouring sports club would be welcomed.
- 7.4.6. In terms of the amenity of the apartments within the development, I note that their floor areas range in size from between 53.2sq.m. and 56.2sq.m for the 1 no. bedroom apartments and from between 73sq.m. and 91.7sq.m for the 2 no. bedroom apartments. Having examined the plans and particulars, it is evident that the proposed development, as modified by way of further information, are in compliance with the relevant Specific Planning Policy Requirements (SPPRs) of the Apartment Guidelines in terms of housing mix (SPPR 1 & 2), minimum floor areas (SPPR 3), dual aspect (SPPR 4), floor to ceiling heights (SPPR 5) and lift and stair shafts (SPPR 6). In addition, the proposal meets the minimum recommended standards with respect to internal storage and private amenity space. Overall, the proposal is considered to be in compliance with the relevant requirements of the Apartment Guidelines and I am generally satisfied the units within the proposed development and their respective

private amenity spaces will afford an acceptable standard of amenity to its future occupants.

- 7.4.7. The proposed development also includes the refurbishment and conversion of the existing Joinery building on the site to provide a total of 4 no. 2 bedroom apartments. Each apartment is served by either a ground floor terrace or a balcony which is located on the western side of the building. There are currently a number of window openings on the eastern elevation of the building and it would appear that the intention is to obscure these windows given their location on the party boundary. As a consequence, a number of the primary bedrooms within the building would not be served by a conventional window. Given the location of this building relative to the common boundary, any future application for the site should consider an alternative internal layout for the apartments so that the primary rooms benefit from natural light and ventilation. I note that it may be necessary to infill the window openings on the eastern boundary given their position relative to the adjoining site.

## **7.5. Access & Car Parking**

- 7.5.1. Access to the appeal site is via the existing entrance on Seatown Place. Originally the proposal sought to provide parallel parking on either side of the accessway serving the site with additional perpendicular car parking provided to the north of the apartment block. In total, 22 no. car parking spaces were proposed to serve the 44 no. apartments. In order to facilitate access to the appeal site, the proposal also sought consent for the removal of 2 no. on-street car parking spaces. Following concerns raised by the Planning Authority's Infrastructure Section, the proposal was modified by way of further information to provide parallel parking on the western side of the internal accessway only. A new pedestrian footpath was provided between the parallel parking and the western side of the site boundary. A reconfigured car parking layout including turning area was also provided on the northern side of the building. In terms of the impact of the proposal on on-street car parking, it was confirmed as part of the Applicant's further information response, that the area currently used for car parking to the west of the entrance should be a demarcated control area given its location relative to the existing pedestrian crossing. The submitted Road Safety Audit (RSA)

recommends the provision of proper delineation along both approaches to the zebra crossing and an extension of the build-out being provided on the western side of the entrance as far as the crossing as a measure to prohibit car parking at this location. It was confirmed that the build out to the east of the existing entrance will result in the loss of 1 no. on-street car parking space. I note that the recommendations of the RSA have been updated on the Applicant's Drawings and the Planning Authority's Infrastructure Section have confirmed that they have no objection to the Applicant's proposals subject to compliance with conditions. Overall, I am satisfied that the Applicant's access arrangement is acceptable subject to compliance with conditions.

7.5.2. In terms of the adequacy of car parking, Table 13.13 (Car Parking Standards) of the current CDP requires the provision of 1 no. car parking space per Apartment within Area 1 (i.e. Lands Located within town and settlement centres). However, the Plan notes that a reduction in the car parking requirement may be acceptable where the Planning Authority is satisfied that:

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

Based on the reduced no. of apartments proposed following the amendments at further information stage (i.e. 39 no. units), the proposal results in a car parking ratio of 0.51 spaces per unit (20 no spaces provided). In support of the application, the Applicant has submitted a Car Park Strategy/Mobility Management Plan Report setting

out the rationale for the reduction in car parking. In addition, the Applicant submitted a further justification for the car parking strategy as part of the additional information response which had regard to the planning history of similar apartment developments in the surrounding area.

7.5.3. In terms of the availability of public transport in the area, the Applicant's Car Parking Strategy indicates that Seatown Place is located along the route of the Town Centre-Bay Estate-Muirhevnamore bus services operated by both Bus Eireann (Route 174) and Halpenny Transport (Route 95226). It is confirmed that each of these services operate between 08.00-18.00 with a frequency of 2 buses per hour. In addition, the site is within walking distance of the Dundalk depot for the bus service to Drogheda and Dublin operated by Matthews Coaches located at the Marshes Shopping Centre (0.75km), the Bus Eireann Bus Station at the Long Walk, the Taxi Rank at Crowe Street (0.60km) and the Dundalk Train Station (1.5km). Further to this, the following rationale is provided to justify a reduction in the car parking requirement at this particular location:

- The site is well served by both existing and proposed cycle infrastructure,
- The provision of strong cycle parking infrastructure as part of the proposed development which equates to two cycle parking spaces per unit,
- The availability of on street car parking spaces along Seatown Place which are largely unoccupied outside of school and/or work hours allowing for the dual use of these spaces,
- The existing pattern of low car ownership within the Seatown Place area as determined from the 2016 census data with 45% of households within the area having no car compared to 24% of households than the wider Dundalk area,
- The higher opportunity the management structure of an apartment development provides to promote and adopt a range of mobility management initiatives to further reduce dependency on the private car relative to an unmanaged standard pre residential development.

Further to the rationale provided by the Applicant, I am conscious of Section 4.20 of the Apartment Guidelines which notes that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having



regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria. The Guidelines note that for higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. For suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), the Apartment Guidelines note that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. Having regard to the nature of the proposed development, the central location of the appeal site and its access to a range of services and public transport options and the provisions of both the County Development Plan and the Apartment Guidelines, I am satisfied that a reduction in the car parking requirement is considered to be appropriate at this location and this aspect of the proposed development is therefore considered to be acceptable in this regard.

- 7.5.4. In terms of pedestrian access and permeability, the Planning Authority requested the Applicant to provide a cyclist and pedestrian connection via the south of the site and over the Ramparts River. As part of their further information response and the appeal, the Applicant set out a detailed justification as why a pedestrian connection was not required or necessary at this particular location and included an assessment of Pedestrian Route Directness (PDR) which concluded that by re-routing pedestrians from Seatown Place through the application site, the Tennis Club was the only destination to the south of the site that would benefit from the improved PDR. It was also argued that the walkway to the south of the site is isolated and largely unsupervised which makes the environment feel less safe and anti-social behaviour may be more likely to occur if a connection was to be provided. Notwithstanding the Applicant's response, the Planning Authority's Infrastructure Section recommend a condition which required a pedestrian connection to be provided at this location. Given that pedestrian access through the development's communal open space would be required, any future application would need to demonstrate how/if access would be controlled and provide clarity as whether the public would have access or if it would

for the sole use of residents of the scheme.

## **7.6. Appropriate Assessment**

### **Background**

- 7.6.1. The application was accompanied by a Natura Impact Statement (NIS), which was prepared by Moore Group - Environmental Services (dated February 2022). I have considered the NIS (and as amended) as part of my screening assessment below. The NIS includes an assessment of the likely significant effects or impacts that would be caused by the proposal on the integrity of the Natura 2000 network, both independently and in conjunction with other plans and projects.
- 7.6.2. European Sites which are located within a Potential Zone of Influence of the proposed development are associated with Dundalk Bay (Dundalk Bay SAC (Site Code 000455) and Dundalk Bay SPA (Site Code 004026)). Both European Sites are located c. 0.41km to the north-east of the appeal site. The Applicant's screening acknowledges that the site is located within the hydrological catchment of the Ramparts River which adjoins the southern boundary of the appeal site. Downstream, the Ramparts River enters Castletown River and Dundalk Bay. The screening report notes that no direct impacts are anticipated to the Dundalk Bay European sites should the development proceed. However, in the absence of the control of potential pollution on surface water during construction, the potential indirect significant effects on these European Sites remain uncertain. In this regard, a Stage 2 Appropriate Assessment of the project has been prepared by the Applicant.

### **Receiving Environment**

- 7.6.3. The location of the appeal site is described in Section 1.0 of this report. A description of the proposed development is provided in Section 2.0, and expanded upon in the assessment above, and within the submitted application documents. No natural heritage designations apply to the subject site. As noted above, the appeal site has a direct abuttal with the Ramparts River. Therefore, an indirect hydrological connection exists between the appeal site and the Dundalk Bay SAC (Site Code 000455) and the Dundalk Bay SPA (Site Code 004026). The relevant Qualifying Interests and

Conservation Objectives for each of the European sites are outlined in Table 7.1 below:

**Table 7.1**

European Site	Qualifying Interest/ Conservation Objectives	Distance to Development
Dundalk Bay SAC (000455)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Estuaries [1130]  Mudflats and sandflats not covered by seawater at low tide [1140]  Perennial vegetation of stony banks [1220]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]  Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>	0.41km
Dundalk Bay SPA (004026)	<p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]  Greylag Goose (<i>Anser anser</i>) [A043]  Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Shelduck (<i>Tadorna tadorna</i>) [A048]  Teal (<i>Anas crecca</i>) [A052]  Mallard (<i>Anas platyrhynchos</i>) [A053]  Pintail (<i>Anas acuta</i>) [A054]  Common Scoter (<i>Melanitta nigra</i>) [A065]  Red-breasted Merganser (<i>Mergus serrator</i>) [A069]  Oystercatcher (<i>Haematopus ostralegus</i>) [A130]  Ringed Plover (<i>Charadrius hiaticula</i>) [A137]  Golden Plover (<i>Pluvialis apricaria</i>) [A140]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]  Lapwing (<i>Vanellus vanellus</i>) [A142]  Knot (<i>Calidris canutus</i>) [A143]</p>	0.41km

	Dunlin ( <i>Calidris alpina</i> ) [A149] Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Curlew ( <i>Numenius arquata</i> ) [A160] Redshank ( <i>Tringa totanus</i> ) [A162] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Common Gull ( <i>Larus canus</i> ) [A182] Herring Gull ( <i>Larus argentatus</i> ) [A184] Wetland and Waterbirds [A999]	
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### Test of Likely Effects

7.6.4. Section 3.3 of the Applicant's NIS examines and assesses the potential adverse effects of the proposed development on the Dundalk Bay SAC and SPA. These impacts primarily relate to the potential impact of the development on water quality in Dundalk Bay, thus impacting the ecology and species contained within the European Sites. Taking account of the characteristics of the proposed development, including its location and the scale of works, the NIS indicates that there is no potential for direct impacts associated with the proposal and the proposed development will have no impacts upon the integrity or the site structure of the SAC or SPA. I would concur with this conclusion. The assessment emphasis is placed on the potential indirect and cumulative impacts associated with the construction and operation of the proposed development. The primary consideration in terms of the source-vector-pathways for indirect impacts relates to surface water and potential indirect impacts on hydrologically linked habitats and aquatic species.

7.6.4.1. The submitted documents confirm that stormwater from the site will intercept the Ramparts River at the southern site boundary and will ultimately outfall to Dundalk Bay, c. 410m to the north-east of the appeal site. Therefore, surface water drainage from the site, would be seen as outputs from the site during construction and operation that could potentially extend to this Natura 2000 site. The subject site itself does not support significant populations of any fauna species linked with the qualifying interests or species of conservation interest populations of this European site. In addition, any noise from construction or operational works would be localised to the vicinity of the site given the scale of the development. There are intervening buildings and roads

between the proposed development site and the SAC and SPA and therefore any noise from the works would be deemed to have a negligible impact on the qualifying interests due to the distance and existing background noise levels in the vicinity of the European Sites.

### **Screening Determination**

- 7.6.5. The proposed development involves the demolition and conversion of the existing buildings on site and the construction of an apartment style development. European Sites which are located within a Potential Zone of Influence of the proposed development are associated with Dundalk Bay (Dundalk Bay SAC (Site Code 000455) and Dundalk Bay SPA (Site Code 004026)) as highlighted in the foregoing. The site is located within the hydrological catchment of the Ramparts River which adjoins the southern boundary of the appeal site, and this watercourse enters Castletown River and Dundalk Bay downstream. I would concur with the Applicant's screening report which notes that no direct impacts are anticipated to the Dundalk Bay European sites should the development proceed. However, in the absence of the control of potential pollution on surface water during construction, the potential indirect significant effects on these European Sites remain uncertain.
- 7.6.6. Therefore, having regard to the nature and scale of the proposed development and its location relative to the Ramparts River, I consider that there is the potential for pollution or other hazardous materials entering the adjoining watercourse. In my opinion, it is not certain that significant effects on a European Site can be excluded and that the proposed development cannot be screened out at Stage 1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on the European Sites, in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.

### **Appropriate Assessment**

7.6.7. Within their initial assessment of the application, the Planning Authority indicated that the wall between the development site and the Ramparts River was in a poor condition and this matter had not addressed in the submitted documentation. A concern was raised that the wall may collapse into the stream or that remedial works to the wall may be needed to prevent its collapse. In addition, it was noted that 4 no. discharge pipes from site currently exist and without mitigation in relation to the wall, there may be an impact on water quality in the channel. As part of the Applicant's further information response, a Condition Report was submitted for the boundary wall between the Ramparts River and the appeal site. The report confirms that the wall is generally in a good state of repair. However, remedial works were recommended to prevent deterioration of the wall in the future. It is also highlighted in the report that the existing outfall pipes to the Ramparts River can be terminated to prevent pollution as a new controlled storm outfall line is being proposed as per Drainage Drawing No. E2202-P03. It is stated that this single outfall will release water at a controlled rate and will be fitted with a petrol/oil interceptor to avoid any potential pollution.

7.6.7.1. In addition to this Condition Report, the Applicant submitted a revised NIS (dated September 2022) as part of the further information response which had regard to the recommendations contained within the Construction, Traffic and Environmental Management Plan. Section 3.4.2 (Consideration of Impacts on Surface Water) of the NIS indicates that:

- There will be no in stream works in the Rampart River.
- The likelihood of impacts on hydrologically connected environmental sites is low and will be avoided by best practice construction management.
- Accidental spillages and contaminated runoff will be avoided by construction management measures which are set out in the Construction Traffic and Environmental Management Plan.

7.6.7.2. The project is limited in scale and extent. However, as mentioned above it should be noted that a potential pathway by which silt mobilised from the development site could enter the European Sites. Similarly, oil or other chemicals accidentally discharged from

the site could reach this European site by the same pathways and by causing a deterioration in water quality effect their Qualifying Interests of the SPA. Having examined the submitted information, I consider that the only likely significant risks to the European Sites arise from potential construction and/or operation related surface water discharges from the development site and the potential for these effects to reach the downstream European sites.

- 7.6.8. Section 3.5 of the NIS sets out the various measures to mitigate potential negative indirect impacts on European Sites and are summarised in Table 7.2 below.

**Table 7.2:**

<b>Construction &amp; Demolition Waste</b>	<p>Methods for waste reduction will form the basic strategy for construction waste management. These materials will generally be inert or environmentally benign and may have alternative uses on work areas. Excavated material where possible shall be reused on works area.</p> <p>The contractor will ensure minimisation of waste arising on works area and reuse where possible, either directly or by recycling, waste monitoring and setting of targets. Recyclable materials such as metal, timber, cardboard will be put in color-coded bins, ready for collection by the appropriate contractor. Works will follow best practice guidance as outlined in Guidelines on the Protection of fisheries During Works in an Adjacent to Waters. Best practice will be implemented at all times in relation to all construction activities to avoid any accidental pollution events occurring.</p>
<b>Pollution of Surface Water</b>	<p>The contractor will establish site boundary markings to safeguard features of interest or value.</p> <p>All parts of the drainage system will be protected from construction runoff to prevent silt clogging the system and causing pollution downstream. Measures to prevent this include soil stabilization, early construction of sediment management basins, channeling runoff from water courses and surface water drains and erosion prevention measures.</p> <p>Use of silt fences and silt bags to contain surface water runoff from the works area will be employed along the southern boundary along the Ramparts River.</p> <p>Silt removed from temporary traps and drains to be buried safely on works area when dry.</p> <p>Tools and equipment are not to be cleaned in watercourses.</p> <p>Chemicals used will be stored in sealed containers.</p>

	<p>Chemicals shall be applied in such a way as to avoid any spillage or leakage.</p> <p>Any and all excavated material shall not be temporarily stored adjacent to watercourses.</p>
<b>Fuel/Lubricant Spillage from Equipment</b>	<p>Hydrocarbons or any hazardous chemicals will be stored in specified bunded areas.</p> <p>Pollution control measures will be implemented to control runoff from the works area and prevent runoff which is potentially contaminated with sediments or hazardous chemicals entering the drainage network.</p> <p>All refueling, oiling and greasing will take place above drip trays or on an impermeable surface which provides protection to underground strata and water courses and away from drains and adjacent water courses as far as reasonably practicable.</p> <p>Storage areas, machinery depots and site offices will be located at least 10m from any water course.</p> <p>All plant shall be maintained with any fuel or oil drips attended to on an ongoing basis.</p> <p>A response procedure will be put in place to deal with any accidental pollution events and spillage kits will be available on work areas.</p> <p>Construction staff will be familiarized with emergency procedures and use of the equipment.</p> <p>Any minor spillage during this process will be cleaned up immediately.</p>
<b>Concrete</b>	<p>Pouring of cement based materials fireworks will only be carried out in dry conditions.</p> <p>Pumped concrete will be monitored to ensure there is no accidental discharge.</p> <p>Mixer washings and excess concrete will not be discharged directly into the drainage network.</p> <p>Disposal of raw or uncured waste concrete will be stored to ensure that the adjacent water course will not be impacted.</p> <p>Best practice in bulk liquid concrete management addressing pouring and handling, secure shuttering/form work, adequate curing times.</p> <p>Washwater from cleaning ready mix concrete lorries and mixers may be contaminated with cement and is therefore highly alkaline. Due to the size of the site and the proximity of the sensitive watercourse relative to the site, lorries and mixers will be washed at locations off site.</p>

### Cumulative Effects

7.6.8.1. The expansion of Dundalk is catered for through land use planning, including the Louth



County Development Plan, 2021-2027 covering the location of the application site. This has been subject to AA by the Planning Authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is located on mixed use zoned lands in a central urban area of Dundalk. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water.

- 7.6.9. The NIS (Section 3.6) also states that recent planning applications within the vicinity of the appeal site have been reviewed to cumulatively assess any impact on European Sites in combination with the proposed development. The NIS examines a total of 19 no. permissions within a c. 250 distance of the appeal site and which date back to c. 2017. The NIS notes that there are no predicted in-combination effects given the nature and scale of these developments and their locations relative to the Designated European Sites. This conclusion is accepted.

#### **Appropriate Assessment Conclusion**

- 7.6.10. The NIS has assessed the potential impact of the proposed development on European Sites within the appeal site's Potential Zone of Influence (i.e. Dundalk Bay SAC (Site Code 000455) and Dundalk Bay SPA (Site Code 004026)). The NIS concluded that once the mitigation measures set out within the report are established and operative, there would be no likelihood of significant negative effects on the integrity of either of these sites, or any of the Natura 2000 Network. The appeal site is not located within a designated site and there will be no fragmentation/loss or disturbance of any designated site.
- 7.6.11. In summary, it is my view that the NIS, and its supporting documentation, provides adequate information in respect of baseline conditions, identifies the potential impacts of the proposed development, uses best scientific information and knowledge, and provides details of proposed mitigation measures. Having regard to the totality of the documentation on file, including the revised NIS, I am satisfied that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European Sites within Dundalk Bay in view of the

sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

## **8.0 Recommendation**

I recommend that the planning application be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. Section 3.11 (Densities) of the Louth County Development Plan, 2021-2027 notes that when identifying the potential density of a site, consideration must be given to the surrounding context and how the development would relate to the existing built form and character of its location. Further to this, Section 3.12 (Buildings of Height) of the Plan indicates that higher buildings must make a positive and lasting contribution to their location, and it is important that they do not disrupt or negatively impact on the historic areas of towns. Having regard to the overall scale, height and form of the proposed development and its visual prominence in the context of the Jocelyn Street/Seatown Place Architectural Conservation Area and the Protected Structures to the north of the site along Seatown Place, it is considered that the proposed development fails to accord with Policy Objective BHC 31 of the Louth County Development Plan, 2021-2027, which seeks 'To require that all development proposals within or affecting an Architectural Conservation Area (ACA) preserve or enhance the character and appearance of that area, protect architectural features of special interest and ensure that the design respects the character of the historic architecture in terms of height, scale, layout, and materials...'. Further to this, the proposed development is considered to be contrary to Policy Objective BHC 35, where it is an objective of the Plan 'To require that any development on the periphery of an Architectural Conservation Area does not detract from the existing character of the designated Architectural Conservation Area'. The proposed development fails to provide an appropriate transition in height at this architecturally sensitive location and will therefore detract from and negatively impact upon the character and setting of the ACA and the neighbouring Protected Structures.

The proposal would therefore be contrary to the proper planning and sustainable development of the area.

2. Section 3.11 (Densities) of the Louth County Development Plan, 2021-2027 highlights that key elements of making a high density development an attractive place to live, is the quality of the internal design, the public realm and the development's open space arrangement. By locating the communal open space on the northern side of the building, an opportunity has been lost to provide a setback along the Ramparts River. Setting back the building at this interface would enhance the attractiveness and functionality of a linear riparian corridor along the river to serve the future occupants of the proposed scheme and would provide the opportunity for facilitating enhanced biodiversity. In this regard, the proposal is considered to be contrary to Policy Objective IU 25 of the Plan which seeks 'To ensure that no development including clearing or storage of materials takes place within a minimum distance of 10m measured from each bank of any river, stream or watercourse'. Further to this, the layout and configuration of the proposed development, whereby a large number of balconies and habitable room windows on the building's western elevation are sited within close proximity to the western boundary, may compromise the future development potential of the adjoining site and would set an undesirable precedent for similar development in the area. Therefore, the proposal would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Enda Duignan

Planning Inspector

10/01/2024

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-315402-22		
<b>Proposed Development</b> <b>Summary</b>	Construction of a residential development in a 6 storey block and the conversion of an existing building to provided 44 no. apartments. The proposal includes the demolition of structures and associated site works. NIS included.		
<b>Development Address</b>	Rice's Yard, 19 Seatown Place, Dundalk, Co. Louth.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	Yes
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			

		Threshold	Comment (if relevant)	Conclusion
No				No EIAR or Preliminary Examination required
Yes	X	500 residential units	Class 10(b)(i)	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_

Date: 10<sup>th</sup> January 2024

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-315402-22	
<b>Proposed Development Summary</b>	Construction of a residential development in a 6 storey block and the conversion of an existing building to provided 44 no. apartments. The proposal includes the demolition of structures and associated site works. NIS included	
<b>Development Address</b>	Rice's Yard, 19 Seatown Place, Dundalk, Co. Louth.	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
•	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<ul style="list-style-type: none"> <li>• <b>Nature of the Development</b></li> <li>• Is the nature of the proposed development exceptional in the context of the existing environment?</li> <li>• Will the development result in the production of any significant waste, emissions or pollutants?</li> </ul>	The proposed development is for a residential development within the settlement boundary of Dundalk which is an built up urban area and is connected to public services.	<p>No</p> <p>No</p>
<ul style="list-style-type: none"> <li>• <b>Size of the Development</b></li> <li>• Is the size of the proposed development exceptional in the context of the existing environment?</li> </ul>		No

<ul style="list-style-type: none"> <li>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</li> </ul>		No
<ul style="list-style-type: none"> <li><b>Location of the Development</b></li> <li>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</li> <li>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</li> </ul>	<p>No designations apply to the subject site.</p> <p>The development would be connected to the public wastewater services.</p>	<p>No</p> <p>No</p>
<ul style="list-style-type: none"> <li><b>Conclusion</b></li> </ul>		
<ul style="list-style-type: none"> <li><b>There is no real likelihood of significant effects on the environment.</b></li> <li>EIA not required.</li> </ul>		

**Inspector:** \_\_\_\_\_

**Date:** 10<sup>th</sup> January 2024

**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)