



An
Bord
Pleanála

Inspector's Report ABP316003-23

Development	Change of use to 4 apartments, elevation alterations, new roof, boundaries and site works.
Location	Mount St Oliver, Drogheda, Co Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	22992.
Applicant(s)	Earlby Limited.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellant(s)	Earlby.
Observer(s)	Mr Neil Branigan Mr Noel Kierans.
Date of Site Inspection	12 th July 2023.
Inspector	Richard Taylor.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
4.0 Planning History.....	7
5.0 Policy and Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations	12
5.3. EIA Screening	12
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Planning Authority Response	16
6.3. Observations	16
6.4. Further Responses.....	17
7.0 Assessment.....	18
8.0 Recommendation.....	26
9.0 Reasons and Considerations.....	26

1.0 Site Location and Description

- 1.1. The proposed site is located at Mount Saint Oliver, within an urban area of Drogheda. Mount Saint Oliver is largely residential, and the site is located to the rear of a residential street comprising two storey terraced dwellings finished in render with slate pitched roofs.
- 1.2. The site is accessed via an existing laneway formed between a single dwelling and a row of dwellings. It is broadly rectangular in terms of shape and is level and terms of topography. It is currently in retail use for the supply of hard landscaping products and associated materials. There is an existing large rectangular single storey building in the northeastern corner of the site. This building is commercial in appearance with rendered walls and corrugated sheet metal roofing. To the rear of the building there is an area of mature trees and vegetation. The majority of the building is sited between 4-7m from the rear site boundary, narrowing to approximately 0.4m from the northwestern gable. The rear boundary comprises a historic stone wall structure relating to the old town, 'Millmount'. This structure has protected status, and is approximately 3m at its lowest point, increasing in height as it traverses northeast away from the site. The southeastern gable is approximately 1m from the adjacent site boundary. The majority of the site is finished in hardstanding and includes a parking area with external display of landscaping products. Beyond the site boundary there is a further area that also displays hard surfacing products. Between the existing building the historic wall to the rear there are a number of very mature trees. The site sits at a much lower level than existing residential development located to the northeast. Existing dwellings to the southwest adjacent to the site are elevated above the appeal site by approximately 1.5-2m.

2.0 Proposed Development

- 2.1. The development proposes a change of use of the existing building to residential accommodation, comprising one studio apartment approximately 36 sqm in area and three one-bedroom apartments of approximately 46sqm.
- 2.2. The proposal also includes alterations to the existing building including window and door openings to the front elevation, upgrading and replacement of the roof to blue/black slate with roof lights, internal front boundary wall to the front of the

proposed dwellings, amenity space, four car parking spaces with vehicle manoeuvring area, and bin storage area of approximately 17 sqm enclosed within a 1.8-metre-high fence. The access laneway is approximately 5.6 metres an overall width, 4.4 metres in width for vehicles with a footpath width of approximately 1 metre along the eastern boundary from the site boundary and frontage of the proposed dwellings.

3.0 Planning Authority Decision

3.1. Decision

The Council issued a recommendation to refuse on 17th February 2023, for three reasons:

1. The development constitutes the conversion of an existing store into four apartments where the design of said apartments is considered to be substandard having regard to “Design Standards for New Apartments-Guidelines for Planning Authorities (2022)” specifically in terms of the substandard design, awkward internal layouts, substandard quality of the private amenity spaces and the communal immunity space proposed and where it has not been demonstrated that habitable rooms would receive adequate natural light.

To permit the proposed departments would be contrary to the Ministers guidelines issued under Section 28 of the Planning And Development Act, 2000 (as amended) in respect of “Design Standards For New Apartments-Guidelines for Planning Authorities (2022)”, would represent a substandard form of development on this site where qualitative residential and amenities have not provided for future occupants of the proposed 4 apartment units and would set an undesirable president for other similar substandard apartments in the area.

2. The proposed development is contrary to policy BHC 3 and BHC 31 of the Louth County Development Plan 2021-2027 (as varied) as the proposed development fails to preserve or enhance the character and appearance of that area, and has failed to demonstrate that it will not impact upon a section

of Dundalk historic town wall that forms part of this site and is also a scheduled monument (reference LH024-041014) and protected structure (reference DB158). The proposal has limited architectural design and detailing in relation to both the proposed apartment building and hard and soft landscaping within the site and has failed to demonstrate that it would not impact upon the structural integrity of the town wall and as such would be contrary to the proper planning and sustainable development of the area.

3. The proposed development is contrary to policy IU19 of the Louth County development plan 2021-2027 (as varied) in that the drainage details provided have failed to adequately demonstrate how surface water emanating from the proposed development will be disposed of. As such the proposal would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The site is designated as A1 existing residential in the LCDP 2021-2027 (as varied). The principle of residential use is considered acceptable subject to other planning criteria. The site is also located within an Architectural Conservation Area (ACA).
- Reference to previous application reference 22687, for a broadly similar proposal was refused for four reasons, three of which are repeated in the current application with an additional reason relating to access and visibility splays.
- Existing building on site is considered not suitable for residential purposes. The proposed finishing materials are considered to be standard, and the layout of window and door openings does not respect the historic character of the area and does little to enhance the conservation area. Revisions in this regard to the previous application remain unacceptable and substandard for development within an ACA.
- The archaeological impact assessment submitted in support of the application provides greater detail than that submitted with the previous application

however the details remain generic in nature in relation two works required for the proposal and in particular relating to foundation excavation works and potential impact of removal of vegetation adjacent to the historic wall. It is acknowledged that these issues could be dealt with by way of a further information request and archaeological condition requiring supervision of works, preservation of remains, and methodology statement. However, the application has other unacceptable issues, and a refusal is recommended on the basis of information received to ensure that archaeological assets are not prejudiced.

- The floor space proposed for the studio and one-bedroom apartments meet the minimum standards of 37 sqm and 45 sqm respectively as set out in the Design Standards for New Apartments 2022. The building is not suitable for residential accommodation, has poor natural light and ventilation, the two central apartments are served by light on one aspect and roof lights at the rear of the structure or on the northern side which would receive poor natural light. The development is considered to be substandard and is contrary to policies HOU17 and HOU30.
- Inadequate private and communal amenity space is provided. Associated management arrangements have not been provided.
- The proposal will not adversely impact on the amenity of neighbouring properties in relation to overlooking, overshadowing, or noise and disturbance.
- Access and visibility requirements are acceptable, however the dimensions of parking space 4 as noted on the site plan do not accord with table 12.9 of the LCDP. The number of spaces proposed comply with section 13.16 point 12 of the LCDP requirement of 1 space per apartment.
- This site is not identified as being vulnerable to flooding on OPW flood mapping. Insufficient details have been provided to demonstrate adequate solutions for surface water. Wastewater will be discharged to the public sewer system and Irish water have no objections subject to conditions.

3.2.2. Other Technical Reports

- Placemaking and Physical Infrastructure: request for further information recommended relating to dimensions of car parking space number 4 on the site plan and further information relating to soakaway design, drainage, and associated infrastructure.
- Water services: no objection subject to condition.
- Statutory consultees: Irish water-no objections subject to conditions.

4.0 Planning History

Reference: 22687

Proposal: Change of use of existing commercial premises and yard to residential accommodation consisting of 1 number studio apartment and three number one bed apartments including alterations to elevations, provision of new roof, provision of on-site car parking, connection to public services, revised site boundaries and all associated site works

Decision: refused 20th October 2022

Preplanning consultation: reference PP 22103

General policy advice given, applicant advised of restricted nature of site and close proximity to historic walls and potential archaeological features.

5.0 Policy and Context

5.1. Development Plan

5.1.1 The Louth County Development Plan 2021-2027 (LCDP) is the operative plan for the area. The following policies are relevant to the appeal:

Settlement Map: site identified as A1 Existing Residential and adjacent to an Architectural Conservation Area.

Chapter 2: 2.13.5 site located within the Heritage Area figure 2.6.

2.13.9 Strategic Settlement Strategy Policy Objectives for Drogheda.

SS1: to facilitate the continued expansion and growth of the town based on the principles of balanced, sustainable development that enables the creation of employment, supports economic investment, and creates an attractive living and working environment.

Residential Policy:

HOU10: to continue to support the creation of sustainable communities throughout the county for people across all life stages by facilitating the creation of attractive neighbourhoods where there are strong links and connections to local services, community facilities and employment areas and where walking, cycling, and public transport is prioritised.

HOU11: to encourage and support a range of appropriate uses in town and village centres that will assist in the regeneration of vacant and underutilised buildings and land and will re energise the town and village centres, subject to a high standard of development being achieved.

HOU15: 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.

HOU17: 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.

HOU18 to develop sustainable and successful neighbourhoods through the consolidation and redevelopment of built-up areas and promote new compact mixed-use urban and rural villages served by public transport and green infrastructure.

HOU19: to enhance and develop the fabric of existing urban and rural settlements in accordance with the principles of good urban design including the promotion of high quality well designed visually attractive main entries into our towns and villages.

HOU20: require a design led approach to be taken to sustainable residential development in accordance with the 12 urban design principles set out in the "Urban Design Manual- A Best Practice Guide (2009)" and any subsequent guidance, to

ensure the creation of quality, attractive, and well-connected residential areas and neighbourhoods.

HOU21: to ensure that new residential developments are consistent, in so far as practicable, with the “Guidelines on Sustainable Residential Development in Urban Areas” in creating attractive, sustainable, climate resilient and healthy communities.

HOU22: 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.

HOU23: to require the layout of residential developments to take account of the Design Manual for Urban Roads and Streets (2019) in the provision of pedestrian and cycling infrastructure and crossing points and the design of estate roads and junctions.

HOU24: 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.

HOU25: 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.

HOU30: 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.

HOU32 to encourage and promote the development of underutilised infill, corner and back land sites in existing urban areas subject to the character of the area and environment being protected.

Built Heritage:

BHC3: to protect known and unknown archaeological areas, sites, monuments, structures and objects, having regard to the advice of the national monument’s services of the Department of Housing, Local Government and Heritage.

BHC5: to protect all sites and features of archaeological interest discovered subsequent to the publication of the record of monuments and places having regard

to the advice and recommendations of the National Monument section of the Department of Housing, local government and heritage.

BHC6: 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 shall be sited and designed to protect the monument and its setting. Where upstanding remains exist, a visual impact assessment may be required.

BHC7: to require applicants seeking permission for development within zones of archaeological potential and other sites as listed in the record of monuments and places to include an assessment of the likely archaeological potential as part of the planning application and the council may require that an on-site archaeological assessment is carried out by trial work, prior to a decision on a planning application being taken.

BHC8: to protect and preserve in situ all surviving elements of medieval town defences (both upstanding and buried) and associated features in accordance with the conservation and management plans as applicable and with “National Policy on Town Defences”, Department of Environment, Heritage and Local Government, 2008.

BHC20: to ensure that any development, modification, alteration, or extension affecting a protected structure and or its setting is sensitively sited and designed, is compatible with the special character and is appropriate in terms of the proposed scale, mass, density, layout, and materials of the protected structure.

BHC21: 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.

BHC22: to prohibit inappropriate development within the curtilage and or attendant grounds of a protected structure. Any proposed development within the curtilage and or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire complex including the structures, demesne and or attendant grounds.

BHC31: 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.

BHC32: to retain any building within an Architectural Conservation Area which makes a positive contribution to the character or appearance of the area. Demolition of such structures, the removal of features and street furniture which contribute to the character of the area shall only be considered in exceptional circumstances.

BHC33: to ensure any new service infrastructure shall not be located where it will be detrimental to the character of the Architectural Conservation Area.

BHC35: 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.

Chapter 13: Development Management Guidelines.

Surface water drainage, flooding, wastewater treatment and water supply:

IU13: to require that all development taking place within an area served by a public wastewater treatment system connects to that system.

IU19: to require the use of sustainable training systems to minimise and limit the extent of hard surfacing and paving and require the use of SUDS measures to be incorporated in all new development. Proposal shall be accompanied by a comprehensive SUDS assessment including runoff quality, quality, and impact on habitat and water quality.

IU26 and 27 relating to flooding.

Other relevant planning policies:

National Planning Framework

National Development Plan 2018-2027

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

Design Manual for Urban Roads and Streets (DMURS), 2013

Sustainable Urban Housing- Design Standards for New Apartments, Guidelines for Planning Authorities, December 2022

Urban Design Manual: A Best Practice Design Guide, 2009

Framework and Principles for the Protection of Archaeological Heritage, Department of Arts, Heritage, Gaeltacht and the islands, 1999.

5.2. **Natural Heritage Designations**

The site is not within or adjacent to any designations. The closest European sites are as follows:

River Boyne and river Blackwater SAC, side code IE 0002299, 0.17 kilometres from the site.

Boyne Estuary SPA, site code IE 0004080, 1.9 kilometres from the site.

Boyne Coast and Estuary SAC, site code IE 0001957, 2.9 kilometres from the site.

River Boyne and river Blackwater SPA, side code 004232, 3 kilometres from the site.

5.3. **EIA Screening**

Having regard to the nature and scale of the proposed development, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The fee simple owner is Louth County Council and has remained so since inception of the lease on 3rd of February 1931. The appellant is a leaseholder of the site. Several attempts have been made by the Council to sell the subject lands, and as part of the sale the Council has insisted on a right of way to lands to the rear as a condition of the sale. The Council do not currently have access to these lands from Mount Saint Oliver. In the opinion of the appellant, the Council have engaged in attempts to acquire property rights over the site. The planning assessment was not subject to proper procedure and a balanced and genuine assessment of the application was not undertaken.
- The proposed development would represent an efficient use of underutilised residential zoned lands which are serviced and located in a central urban location close to the town centre and public transport routes.
- The proposal would remove a “non-conforming land use” from an established residential area and given this “non-conforming use” does not have any planning conditions attached regulating the operating hours or type of business permitted on this property. The current commercial use is not suitable to its current location in an established residential area.
- The proposal is located in a historically sensitive area and would represent a much-improved visual appearance on the existing commercial building and yard area, open the new vista of the old town wall and remove from the area heavy commercial vehicles associated with the current commercial use.
- A comprehensive archaeological report from archaeological consultancy services unit was included in support of the application. This report addressed in full each item identified within the observation of the Department of Housing, Local Government and Heritage in the previous application reference: 22687. The planning authority did not refer the current application to the Department of Housing, Local Government and Heritage for their advice. This would be contrary to policy BHC3 of the plan. It is contended that

it may have been advantageous to the Council's agenda not to have the department's advice on file. This report has not been fully assessed or considered as part of their assessment.

- The supporting archaeological report concludes the development will have no more/neutral visual impact as the size and scale of the proposed development matches that of the existing premises. The proposal is therefore in compliance with BHC31 and there will be no adverse impact on the Architectural Conservation Area.
- The proposal meets the Sustainable Urban Housing Design Standards for new apartments in full. All four apartments have south facing aspect while two of the four apartments have dual aspect, one with southwest orientation and one with S&E orientation thereby exceeding the minimum requirement of 33%. The living dining area of each apartment is provided with 2.7m ceiling heights in compliance with standards. South facing windows and large Velux roof windows will capture the maximum daylight into each living dining area. The internal rooms in each apartment provide for usable spaces and well proportioned.
- Each apartment will be afforded generous south facing private open space areas in excess of requirements. Each apartment will have its own front door exiting directly onto its own garden which would be walking to a quality housing development than a modern apartment development, improving the overall residential experience. Gardens to the front are bounded by a traditional court house railings on a low-level wall with each apartment having its own front garden entrance gate. The railing is typical of the area.
- It is proposed to retain all four elevation walls of the existing building, or in the event deemed necessary by a qualified engineer to reconstruct the existing front boundary wall of the existing building to accommodate new openings for the proposed use. It is proposed to retain all three of the gable and rear elevation walls and reconstruct the front elevation using existing foundations thereby eliminating any possible ground disturbance. This matter has been taken into account within the archaeological assessment.

- Car parking space number 4 is 5 metres in length with a varying width of 2.5 metres-2.95 metres as the boundary wall does not run parallel to the car parking space. Accordingly, the average width is 2.725 metres and in compliance with requirements. Six bicycle storage spaces or provided adjacent to the car parking area and therefore complies with the guidelines.
- Existing vegetation adjacent to the Old Town wall will be removed to ground level only thereby avoiding the need to disturb the ground or any remains. Their removal will be positive due to opening up a new vista of the Old Town wall their removal will help the protection of existing foundations of the wall by continued growth of related root systems.
- Reference to 3 approved and constructed schemes within Drogheda, which the appellant considers create a strong precedent and support the proposal.
- The concept is to refurbish the existing commercial building into an age friendly development suitable for people who may wish to downsize into a single storey dwelling within a short distance of the town centre and regional transport hubs. This would be complementary to the age demographic of residents in the immediate area of the site and remove the existing commercial use from one of the older established residential areas of Drogheda.
- Proposal would provide much needed new homes in the Drogheda area and given the current homelessness crisis, according to the Peter McVerry Trust, there are 11,754 people in state funded emergency accommodation in January 2023. 153 adults accessed Local Authority managed accommodation in Louth during the period 1st January 2023 to 27th of January 2023. The proposal will assist in meeting this need.
- The proposal is in compliance with the National Planning Framework, the National Development Plan, Sustainable Residential Development in Urban Areas, and the Regional Spatial and Economic Strategy for the Eastern and Midland Region. The proposal will satisfy requirements being an underutilised site in a central location within Drogheda and responds to a recognised need at national level for residential accommodation.

6.2. Planning Authority Response

- Issues concerning the ownership of the site and Louth County Council's interest in surrounding lands did not form any basis of the planning assessment and there has been no engagement with other sections of the Council in this regard.
- Section 12 of the report confirms the principle of residential use is acceptable for the site. The report also states it is satisfactory in terms of room sizes etc. Issues relate to the restricted and awkward shape and size of this site and the unsuitability of the building sought to be converted which is of low aesthetic quality and not a building that would readily lend itself for residential purposes from an aesthetic or structural perspective. A more comprehensive design tailored to the site is required with due regard to the constraints in place.
- Whilst the archaeological impact assessment is more comprehensive than the previous submission there was insufficient detail regarding structures to be retained and to be replaced. Existing services are to be utilised and the area for parking, bin storage is to be developed at a shallow depth. The extent of subsurface development is unclear and therefore could raise potential archaeological issues. Whilst removal of vegetation from the face of the wall is welcome, a detailed methodology statement would be required as the uprooting of vegetation could potentially result in damage to the wall. This was not provided at the time of application.

6.3. Observations

Two observations have been received from third parties. The issues raised within the observations can be summarised as follows:

- Long history of commercial activity. Any departure from this form of use may result in an unwelcome precedent for similar sites in the immediate locality.
- Car parking spaces proposed is inadequate resulting in overflow of parking on the public road.
- the proposal would adversely impact on protected structures. The medieval town wall was found to be structurally unstable by a conservation report in

2006 (Gowren). The site also sits on an area of archaeological potential which has never been excavated.

- The suggested approach to redevelopment in the archaeological report relating to reporting of any significant matters during construction to the National Museum is entirely inadequate and represents very serious risks to the walls and fabric of the site. The Council has responsibility and power to ensure that the built on archaeological heritage of the time should be protected. On that basis and on the balance of risk the application should be refused.
- The application repeats a previous application the authority refused and none of the issues have been addressed.
- It is substandard design, fails to demonstrate it will not impact on historic town walls and is also contrary to the proper planning and sustainable development of the area. The increase in height of proposed structure will block views of the wall and detract from it. The proposed temporary hoarding will not remain after completion. The proposed pathway will not prevent hazards or preserve the old wall. There are very limited details to show how this development, or any proposed removal of evergreens will not have a negative impact on the structural integrity of the wall.
- Apartment development is not in keeping with existing family housing and residential area.
- Road safety issues due to increased traffic, on street parking and inadequate access alterations including sightlines.
- The application states that no new services are proposed. All services will have to be above ground into the end of the proposed building.

6.4. Further Responses

No further response is received.

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the refusal reasons and grounds of appeal, and I am satisfied that no other substantive issues arise. Appropriate Assessment (AA) also needs to be considered. The main issues, therefore, are as follows:

- (a) Land Ownership and Conduct of the Council.
- (b) Principle of Development
- (c) Design and Layout, Quality of Residential Development
- (d) Impact on Architectural Conservation Area
- (e) Archaeological impacts and associated issues
- (f) Precedent
- (g) Drainage and surface water issues
- (h) Other issues
- (i) Appropriate Assessment

(a) Land Ownership and Conduct of the Council

7.2. The appellant has raised concerns in the approach and consideration of the application by the council. They essentially consider that the Council has an ulterior motive in trying to secure a right of way across the site to lands to the rear through the application. I consider that these are matters between the parties, and do not consider these issues to fall within the remit of this appeal and associated consideration by the Board. In accordance with the legislative provisions set out in the act, it is the planning merits and associated issues of the proposal which require consideration and assessment.

(b) Principle of Development

7.3. The site is located within an area designated in the LCDP as “A1 existing residential”. The zoning of objective is to “protect and enhance the amenity and character of existing residential communities”. Residential is identified as a “generally permitted use” for this area and the related LCDP development

management guidelines. A number of residential policies support the redevelopment of brownfield sites to facilitate regeneration, sustainable density and compact growth, including HOU11 and HOU15. Accordingly reuse of the site for residential purposes is considered acceptable in principle subject to the proposal being in accordance with the plan and other relevant policy requirements.

(c) Design and Layout, Quality of Residential Development

- 7.4. The proposal seeks to repurpose a commercial building to residential use, with alterations to the front and gable elevations to facilitate new window openings and access doors. Alterations also include and new roof structure of pitched design finished in blue/black slate. Roof lights are also included to the rear to facilitate daylight to kitchen and bathrooms at the rear of the floor plan. The proposal includes hard surfacing improvements to facilitate car parking and amenity areas, bin storage and cycle parking.
- 7.5. The architectural form and layout are reflective of the function of the current use. It is of simplistic design and materials comprising concrete rendered walls and corrugated sheet roofing. The LPA consider the building of limited aesthetic quality and structurally deficient. Accordingly, they do not consider that the building is appropriate for a change to residential use.
- 7.6. Within their supporting evidence, the applicant has provided a structural survey of the building. This confirms that whilst the building is in poor condition, it is capable of facilitating residential use subject to a range of appropriate structural improvements and alterations.
- 7.7. The LPA has not provided any evidence to dispute the findings of the submitted structural report. I therefore consider that is technically possible based on the structural report conclusions that, subject to appropriate adaptations, that the building could facilitate residential use.
- 7.8. The floor plan layout essentially comprises living space and habitable rooms at the front of the building with bathrooms and store areas at the rear. There are no window openings or associated aspect to the rear of the site and adjacent outdoor area and historic wall. Alterations to the front elevation will provide two windows which will be the main source of natural light, further supplemented by roof lights at the rear of the building to the bathrooms and kitchens. The end apartments will also have an

additional window within the gable wall of the building. The LPA confirm that the internal floor areas and dimensions satisfy requirements set out in the Design Standards for New Apartments. I note that all of the units are at the minimum standards of 37 square metres for the studio apartment, and 46 square metres for the one-bedroom apartments, exceeding standard by 1 square metre. In this regard I therefore do not consider that the layouts are “awkward” in the opinion of the LPA. I have not been provided with any evidence to confirm if internal day lighting levels and ventilation would be appropriate for prospective residents. The orientation of the building is such that the windows would be directed to the southwest. Approximately 10.9m from the front elevation of the building, are the boundary walls and structures of a neighbouring dwelling to the south. This dwelling sits at a higher level and the appeal site, and the boundary wall are significant in scale of approximately 2.5 metres. Notwithstanding the orientation of the building, due to the close proximity of adjacent buildings and structures would impact daylighting into the proposed units and would be limited. I also consider that the aspect of the proposed units to the adjacent car parking and amenity area would be poor and oppressive and would not result in a high-quality design layout for prospective residents. The proposal therefore fails to satisfy policies HOU11 and HOU17 which require high quality sustainable development, and HOU30 which relates to daylighting, ventilation and environmental performance.

- 7.9. In relation to amenity space provision the proposal would meet the minimum standards set out in the plan and Design Standards for New Apartments. Privacy and amenity considerations are set out at the related section of the Urban Design Manual (UDM) at section 10 page 76. Policy HOU20 within the LCDP requires proposals to be in accordance with the UDM. The UDM requires that “*each home has access to an area of useable private outdoor space...where the residents can comfortably sit without being directly overlooked*”. This goes on to state “*as well as providing a good level of privacy from the street, it is important that rooms and private outside sitting areas are not directly overlooked by neighbouring residents*”.
- 7.10. The area to the rear of the site is indicated as being replanted with a summer flower meadow. It is evident from the proposed plans that access to this area will be severely restricted to prospective residents. Whilst the footpath area extends to the northwestern gable of the building, it narrows at this point to approximately 0.5

metres. Access to this area would therefore be severely restricted and the proposed units would not include any overlooking or aspect provision to this area.

Notwithstanding this, the area to the rear of the building would receive limited daylight by virtue of the aspect of the site, and the proximity of the historic medieval wall and associated bank structure immediately to the north and east. The amenity areas to the front of the building are dedicated to each unit and adequate in terms of minimum standards. However, I consider they would be limited in terms of usability, privacy, and quality by virtue of their restricted depth and location immediately adjacent to the proposed car parking, access, and manoeuvring area. I also consider that the layout has inadequate soft landscaping and excessive hard landscaping areas which would not create appropriate public realm and is therefore also contrary to the UDM and 13.8.12 of the plan.

- 7.11. Notwithstanding the above, I am satisfied that the proposal would not adversely impact on the amenity of existing residents in terms of overshadowing, loss of privacy, dominance or noise from the proposed design layout due to the separation distances and topographical arrangement in relation to existing properties.

(d) Impact on Architectural Conservation Area

- 7.12. The second reason for refusal states that the proposal is contrary to policy BHC31 as the proposal fails to preserve or enhance the character and appearance of the area. BHC31 requires proposals within or affecting an Architectural Conservation Area (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. It goes on to state that proposals shall have regard to the architectural conservation area objectives in appendix 3, volume 3 of the plan.
- 7.13. The plan designation indicates that part of the site is within an ACA known as Millmount, noted as area 9 on the accompanying map 11.1 within appendix 11 which sets out the ACA designations within the plan area. This is a relatively small area and focuses on built form and structures to the north and east of the site. The designated boundary appears to follow the rear wall elevation of the existing building on the appeal site but excludes the building and associated hard standing areas within the remainder of the appeal site. Accordingly, the majority of the proposed

development is outside of an ACA, however BHC31 is applicable as the appeal site immediately abuts the ACA designation.

7.14. I note that appendix 11 does not include specific development guidelines for the Millmount designation and accordingly the general criteria set out at appendix 15 are applicable. Section 2.6 relates to roof alterations, and section 2.7 relate to extensions and alterations. Section 2.6 states that in general terms the Council will not permit roof alterations that would harm a significant or sensitive view. Section 2.7 includes a number of considerations for assessment of extensions and alterations which may be considered acceptable, where (relevant criteria listed):

- The scale of the proposed extension is appropriate to the scale and character of the existing property or is not visible from a public place.
- The proposed addition is of a high standard of contemporary or traditional design where appropriate.
- Permission will not be granted for other rooftop structures where these intrude into significant or sensitive public views, harm the character of a building or an area, or adversely affect the amenity of adjoining properties.

These criteria must be read in conjunction with BHC31, HOU11, HOU17 and HOU19, which collectively seek ensure protection of built heritage assets, public views, and delivery of high-quality built environment.

7.15. The plan and accompanying built heritage appendices do not identify key views of the Millmount ACA. Views from Mount Saint Oliver are filtered by existing dwellings and vegetation, however views are available of the building and historic wall to the rear of the site from the public road at the access point to the site. I note that existing trees to the rear of the building's obscure views of the historic wall. I agree with the LPA and appellant that the removal of this vegetation would improve these views. However, their removal would not constitute development, and I have not been provided with any evidence that they are subject to any form of protection. Notwithstanding the presence of the existing trees, I consider that this view is the only discernible view of this section of the historic wall from Mount Saint Oliver and accordingly this elevates the importance of its protection.

7.16. I consider that the roof alterations would improve the appearance of the building and would introduce a more appropriate roofscape treatment typical of the area to the structure. However, with the increase roof height to facilitate this alteration, the visual impact would be such that it would further obscure sections of the historic wall compared to the existing structure. I therefore consider that this will adversely affect the setting and views into the ACA and the proposal is contrary to BHC31.

7.17. The elevation revisions include providing render to the walls, additional windows within the front elevation, and erection of a front boundary wall and railings 1.1m in height. Render is currently present on the building and is a prevalent finish material within the immediate context of the site to the existing dwellings on the appeal site side of Mount Saint Oliver. Views of the ground floor elevation of the building are severely restricted from public viewpoints in Mount Saint Oliver due to intervening dwellings and vegetation and are limited to the site access point at the junction with the public road. On balance I consider these elevation changes would not adversely impact on the ACA.

(e) Archaeological impacts and associated issues

7.18. The second refusal reason relates to the failure to demonstrate that the proposal will not impact on a section of Drogheda's historic town wall which is a scheduled monument (reference LH024-041014). An archaeological impact assessment was submitted in support of the application by the appellant. The appellant asserts that this demonstrates that the proposal could be facilitated without compromising the scheduled monument. The LPA consider that there is insufficient information and detail in relation to the proposal to demonstrate that it will not impact upon the structural integrity of the monument.

7.19. Policies BHC20 and BHC21 relate to protected structures and their setting. BHC 20 requires proposals to be sensitively sited and designed and be compatible with the special character. BHC21 requires the structural integrity of the structure and its setting be retained, its curtilage and designed views or vistas from or to the structure are protected.

7.20. I have reviewed the archaeological impact assessment. It states that the existing building dates from the 1930's and that site has not been subject to previous archaeological investigations at paragraph 3.2. Archaeological impacts are set out at

paragraph 3.9. It states that the proposal will utilise the existing footprint of the building and foundations and that it is unlikely that any foundation trenches or associated subsurface structural works will be necessary. It goes on to state that the height and scale of the proposed residential structure will also match the existing commercial premises and there will be no effect or impact caused by obstruction, overshadowing or visual impact. It also states gravel paths will be created along the wall to enhance the recreational aspect of the development but will only extend as deep as the existing concrete yard surface and hardcore and will not impact on any sub surface feature. Car parking and bin storage services will not extend any deeper than the existing hardcore below the concrete surface and therefore any archaeological features that may be present will not be impacted and preserved. It is proposed to utilise all existing services currently serving the existing premises, however, should this not be possible, new or improved service ducts may be required which may have an archaeological impact on any deposits or features that may be present below the yard surface.

7.21. From a review of the file and planning report, I note that the LPA did not consult with the Department of Culture and Heritage on the proposals and submitted details including the archaeological impact assessment. I note the appellants related comments in relation to appropriate consultation not being undertaken and I consider this lack of consultation to be unhelpful to the process. I note from the previous case the Department of Housing Local Government and Heritage responded with a further information request for an archaeological impact assessment for consideration prior to a planning decision being taken. Notwithstanding this, I agree with the LPA that there is insufficient details and bespoke information is necessary due to the issues of the case such as schedule of works and plans relating to the required excavation and associated groundworks to ensure clarity within the supporting information for the application. There is an onus on any applicant to ensure adequate and detailed supporting information is provided with any application to enable a full and proper assessment and given the legislative requirement to safeguard protected structures. I cannot be satisfied, in the absence of detailed comments from the Department of Culture and Heritage, that the proposal would safeguard the protected monument also taking account of the fact that the site has not been previously investigated. In addition, I cannot be satisfied that these issues could be adequately resolved by a

negative planning condition. I therefore conclude that the proposal is contrary to policies BHC3 and BHC5.

(f) Precedent

- 7.22. The appellant in their evidence refers to three approved schemes which they consider support their proposal located at South Quay, James Street, Donore Road, and Scotch Hall shopping centre Marsh Road, Drogheda. I have not been provided with the full details of these proposals other than the commentary of the appellant.
- 7.23. The LPA In response have stated that the context for this site is considered to be different to the listed development and is a much smaller site within an established residential neighbourhood. These developments are purpose built and located within sites with a much greater variety of surrounding land uses close to transport links and town centre services.
- 7.24. Following review of the submitted date details I do not consider that the approved developments are sufficiently similar to the appeal proposal in terms of the characteristics of the site, locality, circumstances and the planning issues in this case. Accordingly, they do not result in a precedent that supports the proposal. For the same reasons, I do not consider that a precedent would result should the proposal be approval as argued by the LPA.

(g) Drainage and surface water issues

- 7.25. The third refusal reason relates to policy IU19 of the plan in that drainage details provided have failed to adequately demonstrate how is surface water emanating from the proposed development will be disposed of. IU19 requires the use of SUDS measures in all new development (including extensions to existing developments). It also requires proposals to be accompanied by a comprehensive SUDS assessment.
- 7.26. The Place Making and Physical Infrastructure Section of the Council responded requesting further information seeking a revised proposal for stormwater management and disposal. This also requires details on soil and infiltration rate, calculation of storage, proposed stormwater pipe network, soak pit details, and drainage infrastructure.
- 7.27. I note from the appellants evidence that no further information or details have been submitted to address this refusal reason. The policy requires proposals to clearly

demonstrate how SUDS measures and associated drainage issues would be addressed. In the absence of any further information to address the issues as set out by the infrastructure consultation response I consider that the proposal fails to satisfy this policy.

(h) Other Issues

7.27 The appellant considers that the removal of the existing business and associated activity which is unrestricted by planning condition, a shortage of homes, homelessness, and need for emergency accommodation are considerations in favour of the proposal. I have considered these factors however they do not outweigh the policy objections set out in the assessment above.

7.28 I have also fully considered the additional observations received and agree that the proposal would adversely impact on the protected wall structure. However, I consider on the basis of the zoning in the plan, that residential use is acceptable at the site subject to compliance with other policy considerations as set out above. The proposal would not, if permitted, adversely impact on traffic or car parking given the response from the Council Infrastructure section, who do not object in relation to these issues.

(j) Appropriate Assessment

7.29 Having regard to the nature and scale of the proposed development no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. It is recommended the proposed development is REFUSED for the following reasons and considerations.

9.0 Reasons and Considerations

9.1 Having regard to the current Louth County Development Plan, 2021-2027 and all material considerations, it is considered that, the proposed development would adversely impact on Drogheda's historic Town Wall, a scheduled monument

(reference LH024-041014) and protected structure (reference DB158), would adversely impact on the setting of an Architectural Conservation Area, would not provide an acceptable standard of residential amenity space, would not provide a high quality residential development, and has failed to demonstrate appropriate measures for the drainage of the site. The proposed development would, therefore, 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.

Richard Taylor
Planning Inspector

28th August 2023