



An
Bord
Pleanála

Inspector's Report

ABP-318114-23

Development

Demolition of two storey sports hall and single storey science block, outbuildings within the curtilage of the protected structures and boundary stone wall to Nichols Street.

Construction of 57 apartments in a three-storey apartment block including the adaption, extension and change of use of the former St Mary's College (Protected Structure Ref. No. 13702025 & 13702026) (providing 32 no. apartments with associated adaption works) The change of use of the former Gospel Hall from Education Use to a community hall. The creation of a new vehicular entrance from Nicholas Street. The refurbishment, reconfiguration, and realignment of the interface wall between the sports hall and the original school building.

Associated bin, bicycle storage buildings and car parking including associated electrical vehicle charge points, and all associated site works within the grounds of a Protected

	Structure Ref. A Natura Impact Statement (NIS) accompanies this application.
Location	St Mary's College, St Mary's Road and Nicholas Street, Dundalk, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	22827
Applicant(s)	Armagh Construction Limited
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First Party
Appellant(s)	Armagh Construction Limited
Observer(s)	None
Date of Site Inspection	25 th September 2024
Inspector	Emma Nevin

1.0 Site Location and Description

- 1.1. The site is located between St. Mary's Road and Nicholas Street at the norther end of Dundalk Town Centre, with a stated area of 0.77 ha and incorporates the site of the former Mary's College. The former St Mary's College and associated buildings are Protected Structures Ref. No. 13702026 and Ref. No. 13702025. The Gospel Hall, which was originally a Methodist Church is also located within the site. The site will be accessed via a new entrance off St. Nicholas Street, to the west.
- 1.2. The site is bound to the east by Marist School, to the north by College Court residential development and St. Nicholas Primary School, and to the west by housing in the form of town houses, apartments, and mews developments.

2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of a two-storey sports hall and singe storey science block, outbuildings within the curtilage of the Protected Structure and a boundary stone wall to Nicholas Street.
- 2.2. It is proposed to construct a three-storey apartment block comprising 9 apartments, with associated private open space in the form of balconies and terraces. 16 no. duplex apartments with associated private opens space to the rear, with first and second floor enclosed terraces.
- 2.3. The adaptation, extension and change of use of the former St. Mary's College, which is a Protected Structure (Ref No: 13702025 and Ref: No: 13702026) to provide 32 no. apartments with associated internal adaptation works including the provision of an internal life and external balconies.
- 2.4. The change of use of the former Gospel Hall from education use to a community hall.
- 2.5. Access to the site will be via a new vehicular entrance from Nicholas Street with the provision of 50 car parking spaces to serve the development with all associated site, drainage and landscaping works within the site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority granted permission, following significant further information request, on 1st September 2023, subject to 24 conditions, the following conditions are of note as follows:

- Condition 2 relates to the requirements of Section 47.
- Condition 3 relates to the mitigation measures included in the NIS submitted as part of the application.
- Condition 14 relates to the naming and numbering of the development.
- Condition 16 relates the requirements of Sections 94 (4), 96 (2) and (3) (Part V) of the Planning and Development Act, 2000, as amended.
- Condition 17 relates to Section 48 Development Contributions.
- Condition 18 requires a cash deposit.
- Condition 20 requires the development to be carried out in one phase, with the programme of works to be agreed with the planning authority prior to the commencement of development.
- Condition 24 relates to the details of the community hall permitted to be agreed with the planning authority prior to the commencement of development.

3.1.2. The Notification of Decision to Grant also includes 9 notes for the applicant and 3 Uisce Eireann standard notes.

3.2. Planning Authority Reports

3.2.1. Planning Reports dated 6th December 2022 and 31st August 2023 have been provided.

3.2.2. This planning application was assessed under the Louth County Development Plan, 2021 – 2027.

3.2.3. The original planning report considered it necessary to seek further information on the following items:

- The applicant was requested to address Specific Planning Policy Requirement 3 (SPPR 3) which requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard by a minimum of 10% by submitting a revised layout along with quantitative information which complies with this requirement.
- The applicant was requested to engage the services of a suitably qualified Archaeologist to carry out specific works.
- Item 3 related to infrastructure requirements.
- Details from Uisce Eireann acknowledging acceptance of surface water from the site into the combined system.
- All recommendations from the Road Safety Audit should be updated on the drawings and submitted by way of further information.
- Item 6 included various layout and design requests.
- To engage with Irish water through the submission of a pre connection inquiry in order to demonstrate the feasibility of such connection to the public water/ wastewater infrastructure. The confirmation of feasibility shall be submitted to the planning authority as part of the response to this further information request.
- Where modifications to mitigations were required, these should be clearly indicated with a rationale for their modifications in the context of providing certainty that the proposed development would not compromise the consideration objectives of the qualifying interests of the European Sites.
- The applicant is requested to provide details of a children's play area within the proposed communal landscaped areas.
- The applicant was requested to alter the phasing arrangement unless a specific rationale accepted by the Planning Authority is put forward by the applicant.
- To submit revised newspaper and site notices as appropriate.

3.2.4. The second planning report considered the further information response and concludes that on the basis of the further information provided, it was considered

that the outstanding issues of the further information request have been satisfactorily addressed and it is recommended that permission be granted subject to 24 no. conditions, noted above.

3.2.5. Other Technical Reports:

3.2.6. The planning report indicates that the following internal departments were consulted:

Infrastructure: Report recommending further information. Following receipt of further information no objection subject to condition.

Housing: No response received.

3.3. Prescribed Bodies

3.3.1. The Planning Authority report indicated that the following prescribed bodies were consulted.

- Development Applications Unit: Report from Archaeology section dates 24th November 2022 – recommending further information by way of an Archaeological Impact Assessment. Following receipt of further information, it was recommended to include a condition in respect of archaeology.
- An Taisce: No response received.
- Irish Water: Report recommending further information. Following receipt of further information, it was recommended to include a condition in respect of Uisce Eireann requirements.
- The Heritage Council: No response received.
- An Comhairle Ealaíon: No response received.

3.4. Third Party Observations

3.4.1. No third-party submissions were received.

4.0 Planning History

4.1.1. Ref: 21/1259: Extension of duration of 16/217 refused on 19th November 2021. The reason for refusal pertained to the fact that no development had taken place under

Ref: 16/2147 and considerations of an economic nature beyond the control of the applicant cannot be considered and is therefore contrary to the provisions of Section 42 of the Planning and Development Act 2000, as amended.

- 4.1.2. ABP247212/Ref: 16/217: Permission granted on appeal to An Bord Pleanála on 17th January 2017 for the demolition of the sports hall/science block and the construction of 25 apartments and associated site works.
- 4.1.3. 12520035 – Planning permission was granted by Louth County Council on 28th May 2012 for a development consisting of 4 no. temporary classrooms with lobby area and all associated site works.

5.0 Policy Context

5.1. Development Plan/Local Area Plan

- 5.1.1. The Louth County Development Plan 2021 – 2027, came into effect on 11th November 2021, as amended by Variation 1 on the 18th July 2022 and Variation 2 on the 20th May 2024.
- 5.1.2. Under the Louth County Development Plan 2021 – 2027, the site is zoned “Objective G1 (Community Facilities), with a stated objective *“to provide for and protect civic, religious, community, and education, health care and social infrastructure”*.
- 5.1.3. This zoning will facilitate the provision of community, educational, health, institutional, and religious facilities and to safeguard their future provision. Residential development is open for consideration under this zoning objective.
- 5.1.4. The Draft Dundalk Local Area Plan 2024 – 2030 has been published.

5.2. Relevant Development Plan Sections

- 5.2.1. Section 1.2.1 of the Plan relates to residential developments in Dundalk and notes that the success of Dundalk as a self-sustaining Regional Growth Centre (RGC) will be dependent on the delivery of a minimum 30% compact growth, through regeneration and redevelopment a vacant, infield and/ or brownfield sites in the town centre, which will contribute to place making.
- 5.2.2. Section 2.4.4 Louth’s Growth Strategy states the *“Contribution of urban regeneration lands and development of infill sites to the revitalisation of settlements and*

sustainable compact urban growth (in Louth a minimum 30% of new homes to be in the built up footprint of the urban area) facilitated by investment in services, transport, infrastructure etc.”.

- 5.2.3. Section 2.6.6 Compact Growth states, *“An overriding objective of both the NPF and the RSES is the need to achieve ambitious targets for compact growth in urban areas”, and “In satisfying this target for compact growth, an analysis of appropriate brownfield and infill sites with potential capacity to deliver new homes was completed for Dundalk, Drogheda, Ardee and Dunleer and the remaining Level 3 settlements”.*
- 5.2.4. Section 2.14.5 Residential Development states, *“The town centre area will be the focus for infill and brownfield development with a number of significant development opportunities available”.*
- 5.2.5. Section 3.6 Sustainable Neighbourhoods and Communities states that the Plan will *“will promote healthy living by encouraging compact growth and the development of infill and brownfield sites in preference to edge of centre greenfield locations and promote quality residential developments with a suitable mix of housing in proximity to local services and community and recreational facilities”.*
- 5.2.6. 13.8.17 Private Open Space, specifically Table 13.4: Private Open Space Requirements for infill developments.
- 5.2.7. Section 13.8.27 Apartments which states *“Apartments shall generally be located in central urban areas within a reasonable walking distance (up to 15 minutes) of town centres, public transport, or employment areas. Outside of the central areas of towns, apartments are more likely to form part of a larger residential scheme than be a standalone development. However, there may be opportunities to provide smaller apartment schemes on infill or brownfield lands in these locations”.*
- 5.2.8. Section 13.8.28 Design Standards for New Apartments which states, *“The Design Standards for New Apartments (2018) set out the design criteria for apartment developments. All applications for apartments are required to demonstrate compliance with these Guidelines and the Specific Planning Policy Requirements”.*
- 5.2.9. Section 13.8.29 Design Schedule which states *“Any application for an apartment development or a mixed-use development including apartments shall include a schedule...”.*

5.2.10. Section 13.8.30 General which states *“In order to reduce the maintenance requirements of apartment developments, careful consideration should be made to the design and finishes of the building(s). To prevent demands for the installation of numerous satellite dishes, provision should be made for locating communal or individual dishes on less visible parts of the building such as roof level”*.

5.3. Relevant Development Plan Policies

5.3.1. Phasing

- CS4 – “To apply phasing to the delivery of new residential development as indicated on the zoning maps for the applicable settlements, whereby residential development, other than infill, brownfield or mixed use development will generally only be permitted on Phase 1 lands. Where lands zoned ‘New Residential Phase 1’ are not being brought forward for development in particular areas and this is impeding the achievement of Core Strategy projections and restricting the growth of the settlement as envisaged in national and regional policy, consideration may be given to releasing during the lifetime of this Plan appropriately located ‘New Residential Phase 2’ lands, subject to the lands contributing to compact and consolidated patterns of development”.

5.3.2. Appropriate Assessment

- NGB6 – “To ensure a screening for Appropriate Assessment (AA) on all plans and/or projects and/or Stage 2 Appropriate Assessment (Natura Impact Report/ Natura Impact Assessment) where appropriate, is undertaken to make a determination. European Sites located outside of the County but within 15km of the proposed development site shall be included in such screenings as should those to which there are pathways, for example, hydrological links for potential effects”.

5.3.3. Apartment Development

- HOU11 – “To encourage and support a range of appropriate uses in town and village centres that will assist in the regeneration of vacant and under-utilised 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 – “To require a design led approach to be taken to sustainable residential development in accordance with the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024) and any associated Design Manual, 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 this 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 backland sites in existing urban areas subject to the character of the area and environment being protected”.

5.3.4. Built Heritage and Culture

- 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”.

- BHC23 – “To require that all planning applications relating to protected structures contain the appropriate documentation as described in the Architectural Heritage Protection Guidelines for Planning Authorities (2011) or any subsequent guidelines, to enable a proper assessment of the proposed works and their impact on the structure or area”.
- BHC24 – “To require the retention of original features such as windows, doors, renders, roof coverings, and other significant features which contribute to the character of protected structures and encourage the reinstatement of appropriately detailed features which have been lost, to restore the character of protected structures as part of development proposals”.
- BHC25 – “To promote best conservation practice and the use of skilled specialist practitioners in the conservation of and for any works to protected structures”.
- BHC26 – “To encourage the retention, sympathetic reuse and rehabilitation of protected structures and their settings where appropriate and where the proposal is compatible with their character and significance. In certain cases, development management guidelines may be relaxed in order to secure the conservation of the protected structure and architectural features of special interest”.
- 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 32 – “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. Applications for demolition shall be

accompanied by a measured and photographic survey, condition report and architectural heritage assessment”.

5.3.5. Other – Drainage and Flooding

- IU19 – “To require the use of Sustainable Drainage Systems to minimise and limit the extent of hard surfacing and paving and require the use of SuDS measures be incorporated in all new development (including extensions to existing developments). All development proposals shall be accompanied by a comprehensive SuDS assessment including run-off quantity, run off quality and impacts on habitat and water quality”.
- IU26 – “To reduce the risk of new development being affected by possible future flooding by: • Avoiding development in areas at risk of flooding and • Where development in floodplains cannot be avoided, taking a sequential approach to flood risk management based on avoidance, reduction and adaptation to the risk”.
- IU27 – “To ensure all proposals for development falling within Flood Zones A or B are consistent with the “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” 2009. Proposals for development identified as being vulnerable to flooding must be supported by a site specific Flood Risk Assessment and demonstrate to the satisfaction of the Planning Authority that the development and its infrastructure will avoid significant risks of flooding and not exacerbate flooding elsewhere. In Flood Zone C, where the probability of flooding is low (less than 0.1%), site specific Flood Risk Assessment may be required, and the developer should satisfy themselves that the probability of flooding is appropriate to the development being proposed. The County Plan SFRA datasets and the most up to date CFRAM Programme climate scenario mapping should be consulted by prospective applicants for developments in this regard and will be made available to lower-tier Development Management processes in the Council. Applications for development in flood vulnerable zones, including those at risk under the OPW’s Mid-Range Future Scenario, shall provide details of structural and non-structural risk management measures, such as those

relating to floor levels, internal layout, flood-resilient construction, emergency response planning and access and egress during flood events”.

5.4. National Planning Framework (NPF)

- 5.4.1. The NPF provides an overarching policy and planning framework for the social, economic and culture development of the country. An important element of the growth strategy, intrinsic to the NPF, is securing compact and sustainable growth as it offers the best prospects for unlocking regional potential. The preferred approach for compact development is one which focuses on reusing previously developed ‘brownfield’ lands and development of infill sites and buildings. To this end the NPF requires at least 30% delivery of all new homes in settlements (outside of the 5 cities) to be within the existing built up footprint (NPO 3(c)).

5.5. Regional Spatial and Economic Strategy (RSES) - Eastern and Midland Regional Assembly (EMRA)

- 5.5.1. The RSES sets out the strategic framework for the economic and spatial development of the Eastern and Midland Region up to 2031. The primary objective of the RSES is to support more sustainable settlement patterns that focus on compact growth, makes the most efficient use of land and infrastructure, and takes an integrated approach to development that provides employment opportunities and improvements to services alongside population and residential growth.
- 5.5.2. Reflecting the NPF, the RSES emphasises sustainable development patterns, and seeks to focus growth in regional growth centres, such as Drogheda and Dundalk and within the footprint of existing urban areas.

5.6. The Architectural Heritage Protection Guidelines for Planning Authorities, 2011

- 5.6.1. The Architectural Heritage Protection Guidelines for Planning Authorities (‘the Architectural Heritage Protection Guidelines’) are a practical guide for planning authorities and for others who must comply with Part IV of the Planning and Development Act 2000 on the protection of the architectural heritage.
- 5.6.2. The Guidelines stress the importance of protecting and enhancing the curtilage of, and views, of and into Protected Structures. In this regard, they state the setting of an area, together with views in and out of it, can contribute greatly to its overall character and should always be considered when assessing its importance.

5.7. Section 28 Ministerial Guidelines

5.7.1. Having considered the nature of the proposal and the documentation on file, I am of the opinion that the directly relevant S28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024);
- Guidelines for Development of New Emergency Accommodation (2022)
- Housing for All (2021)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020);
- Urban Development and Building Heights Guidelines (2020)

5.7.2. Other Relevant Guidance:

- The Architectural Heritage Protection Guidelines for Planning Authorities, (2011)

The Architectural Heritage Protection Guidelines for Planning Authorities ('the Architectural Heritage Protection Guidelines') are a practical guide for planning authorities and for others who must comply with Part IV of the Planning and Development Act 2000 on the protection of the architectural heritage.

The Guidelines stress the importance of protecting and enhancing the curtilage of, and views, of and into Protected Structures. In this regard, they state the setting of an area, together with views in and out of it, can contribute greatly to its overall character and should always be considered when assessing its importance.

- Design Manual for Urban Roads and Streets (2013).

5.8. Natural Heritage Designations

5.8.1. The subject site is not located within a designated European Site. However, the closest such sites are:

- Dundalk Bay SPA/pNHA (Site Code: 004026), which is approx. 135m from the site.
- Dundalk Bay SAC/pNHA (Site Code: 000455), which is approx. 135m from the site.
- Carlingford Mountain SAC (Site Code: IE0000453), which is approx. 7.85km from the site.
- Slieve Gullion SAC (UK) (UK 0030277), which is approx. 9.35km from the site.
- Stabannon/Braganstown SPA/pNHA (Site Code: 004091), which is approx. 13.4km from the site.
- The Carlingford Shore SAC (Site Code: 002306), which is approx. 14.5km from the site.

5.9. EIA Screening

- 5.9.1. I refer the Board to Appendix 1 – Form 1 EIA Pre-Screening and Form 2 EIA Preliminary Examination of this report.
- 5.9.2. 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

This is a first-party appeal against Condition No. 20 of the Planning Authorities Notification of Decision to Grant Permission.

Condition No. 20 relates to the phasing of the development and that no new apartments are occupied until all refurbishment works to adapt the school to residential use and that all works are completed in full.

The appellant requests that Condition No. 20 be removed from the decision 22/827. The grounds for appeal can be summarised as follows;

- The Planning Authority failed to have regard to the legislative and legal context which the zoning of the site provides for, in that the zoning objective enjoys an enhanced status over that of other policies and objectives under a Development Plan. It is submitted that the proper planning and development of the site is achieved by balancing both the new build, and refurbishment works in a manner that does not result in unnecessary vacancy or loss of accommodation within the site.
- The existing building protected structure is in use for providing emergency refugee accommodation with the applicant having a lease with the Council. If the condition was applied going forward and St. Mary's vacated to facilitate construction works to the Protected Structure, then c. 50 families would have to vacate St. Mary's and be rendered homeless. This is contrary to the National policy that seeks to provide accommodation for refugees.
- The Planning Authority has failed to have regard to the ongoing contract which the appellant has with the Housing Section.
- The zoning of site as G1 Community Facilities along with the objectives of the Louth Conty Development Plan all seek to ensure existing buildings are kept in use, along with the policy context of the Core Strategy that seeks to provide additional housing.
- The pragmatic way to deliver the proposal is in two phases:
 - (i) Phase one incorporating the new build units along with associated site works.
 - (ii) Phase two incorporating the refurbishment of St. Mary's Protected Structure.
- The construction and intervention work required to adapt St. Mary's building to residential use as apartments requires extensive intervention works. Such works mean the building has to be fully vacated in terms of ongoing use of a site to facilitate construction works.
- The design and layout of the scheme with new-build units were assessed previously by the Board under permission 247212 and deemed acceptable. The

appellant submits this is a material consideration in that the new-build units have been deemed acceptable as phase one in overall development of the site.

- Given the financial commitment required to construct apartments, the applicant requires the scheme to be delivered in two phases. The appellant highlights that lending institutions will not fund the entire development in a single phase as the capital expenditure is in excess of 15 million euro. Therefore, as with any large residential development, it is necessary for the scheme to be delivered in two phases to meet lending criteria.

- Should the Board be minded varying condition 20 and not remove same the appellant submits the following condition would state:

“Apartment Block 01, duplex block 01 and duplex block 02 along with all site works to include for parking, services, communal spaces and public open spaces shall be completed in entirety prior to the occupancy of any residential units within the development. Thereafter in phase 2 the works to the former St. Mary’s School shall be carried out in accordance with details as submitted to the Planning Authority on the 19th October 2022 and as amended by details submitted on the 18th July 2023 or as may otherwise agreed in writing with the Planning Authority”.

- It is requested that the Board omits Condition No.20 from decision 22/827 which is in the interests of the proper planning and sustainable development of the area.

6.1.1. I note that within the body of the first party appeal, reference is made to the MCDP, the decision under Ref. 23/494 and Conditions 2A, 2B, 2C and 2D, which is not relevant to this instant appeal and as such will not form part of my assessment.

6.2. Planning Authority Response

6.2.1. A response was received from the planning authority dated 19th October 2023. The submission responds to the third party appeal as follows:

- (i) The primary reason for the Planning Authority around the development to be carried out in a single phase was to ensure that the protected structure

Saint Mary's college is refurbished as this is regarded as a critical element of the proposed development.

- (ii) There are other instances in the county where permissions have been granted on brownfield sites that have included an element of new build and refurbishment of protected structure and the only elements being brought forward for development are the new build elements.
- (iii) While students recognize that there are costs and complexities in the renovation and refurbishment of protected structures such works are an integral part of the town centre regeneration.
- (iv) Taking account of the issues raised in the appeals submission the planning authority would have no objections to no more than 50% of the new build elements being occupied prior to the commencement of the refurbishment of Saint Mary's college however to ensure that the refurbishment is completed it is considered that no more than 75% of the apartments should be occupied prior to Saint Mary's college being refurbished in full and to the written satisfaction of the planning authority.

6.2.2. A suggested wording for the revised condition is as follows;

“A detailed phasing program for the entire development shall be submitted for the written agreement of the planning authority prior to the commencement of any development. No more than 50% of the new build apartments shall be occupied until works have commenced and the refurbishment of Saint Mary's college and no more than 75% of the new build departments shall be occupied until the refurbishment of Saint Mary's college has been completed in full and to the written satisfaction of the planning authority.

Reason: To ensure the timely completion of the refurbishment of Saint Mary's college and the interests of proper planning and sustainable development”.

6.3. Observations

None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Scope of Appeal
- Condition No. 2 - subject of appeal
- Appropriate Assessment
- Other Matters

7.2. Scope of Appeal

7.2.1. The proposed development entails permission for a residential development including the adaptation, extension and change of use of the former St. Mary's College totalling 57 residential units, and all associated site works. I have read all of the documentation attached to this file including the appeal, which specifically states that the appeal is against Condition 20, and the report of the Planning Authority, in addition to having visited the site, I am satisfied that the appeal is against the imposition of Condition No. 20 of the decision to grant permission.

7.2.2. I consider it is appropriate that the appeal should be confined to Condition No. 20 only and I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted and that it would be appropriate for the Board to use the provisions of Section 139 of the Planning and Development Act 2000, as amended, in this case.

7.3. Condition No. 20 – subject of appeal

7.3.1. Condition No. 20 of the Notification of Decision to Grant Permission made by Louth County Council requires that *“the entire development shall be carried out in one phase a detailed phasing program for the entire development shall be submitted for the written agreement of the planning authority prior to commencement of any development. The applicant shall ensure that no new apartments are occupied until all refurbishment works to adopt the former school to residential use and that all associated landscaping works and boundary treatments are completed in full. Reason*

to ensure the timely provision of services, for the benefit of occupants of the proposed dwellings”.

- 7.3.2. The rationale for this condition was to ensure that the Protected Structure is refurbished as this is seen as a critical element of the proposed development. As part of their submission on the appeal the planning authority have stated that they would have no objection to no more than 50% of the new build elements being occupied prior to the commencement of the works to the protected structure i.e. Saint Mary's College and have suggested a revised condition with the following wording:

“A detailed phasing program for the entire development shall be submitted for the written agreement of the planning authority prior to the commencement of any development. No more than 50% of the new build apartments shall be occupied until works have commenced and the refurbishment of Saint Mary's college and no more than 75% of the new build apartments shall be occupied until the refurbishment of Saint Mary's college has been completed in full and to the written satisfaction of the planning authority.

Reason: To ensure the timely completion of the refurbishment of Saint Mary's college and the interests of proper planning and sustainable development”.

- 7.3.3. The appellant in their appeal requests that Condition No. 20 be omitted and/or replaced with the following altered condition,

“Apartment Block 01, duplex block 01 and duplex block 02 along with all site works to include for parking, services, communal spaces and public open spaces shall be completed in entirety prior to the occupancy of any residential units within the development. Thereafter in phase 2 the works to the former St. Mary's School shall be carried out in accordance with details as submitted to the Planning Authority on the 19th October 2022 and as amended by details submitted on the 18th July 2023 or as may otherwise agreed in writing with the Planning Authority”.

- 7.3.4. As the building on site is a protected structure, I reference the Architectural Heritage Protection Guidelines for Planning Authorities, specifically Section 13.5 Development

within the Curtilage of a Protected Structure, which states “*Proposals are often made which combine works to a protected structure, often to allow a new use be made of it, with new development within its curtilage or attendant grounds. Proposals for the existing structure should normally be made and considered together with those for any new development. The new development can be phased in such a way to ensure that conservation works to the protected structure are satisfactorily carried out. In particular, where conservation works to the structure will be costly, a reasonable and considered approach should be taken to the phasing of the development which ensures both that the protected structure is successfully conserved and the works satisfactorily completed*”.

- 7.3.5. Having regard to guidelines and noting the protected status of this structure and the town centre location of this site, I consider it to be appropriate in this instance to include a phasing condition, to ensure that the works are carried out to the protected structure in a timely manner. I also concur with the concerns raised by the local authority in relation to the delivery of the works to the protected structure, which are an integral element of the overall development.
- 7.3.6. I also consider it desirable that the wording of such a condition should be worked out in consultation with the developer. Notwithstanding the wording suggested by the appellant, I consider that the suggested wording from the local authority to be more appropriate in this instance. In this regard I consider that the requirement of Condition 20 is warranted, as amended to include some flexibility in respect to the phasing of the proposed apartment and protected structure building as suggested by the local authority.

8.0 Appropriate Assessment

8.1. Context:

- 8.1.1. The requirements of Article 6(3) as related to Appropriate Assessment of a project under Part XAB and Section 177U and 177V of the Planning & Development Act, 2000 (as amended) are considered fully in this section with the areas addressed as follows:

- Compliance with Article 6(3) of the EU Habitats Directive

- Brief Description of the Development
- Information received with application
- Screening for Appropriate Assessment
- Appropriate Assessment
- Recommendation

8.2. **Compliance with Article 6(3) of the Habitats Directive:**

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development at Saint Mary's College, Saint Mary's Road and Nicholas Street, Dundalk, comprising the extension and renovation of the existing dwelling including site works, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

8.3. **Description of the Plan or Project:**

- 8.3.1. The proposed development comprises the demolition of two storey sports hall and single storey science block, outbuildings within the curtilage of the protected structures and boundary stone wall to Nichols Street. Construction of 57 apartments in a three-storey apartment block including the adaption, extension and change of use of the former St Mary's College (Protected Structure Ref. No. 13702025 & 13702026) (providing 32 no. apartments with associated adaption works) The

change of use of the former Gospel Hall from Education Use to a community hall. The creation of a new vehicular entrance from Nicholas Street. The refurbishment, reconfiguration, and realignment of the interface wall between the sports hall and the original school building. Associated bin, bicycle storage buildings and car parking including associated electrical vehicle charge points, and all associated site works.

8.4. Information received with application

- 8.4.1. The application included submission of an Appropriate Assessment Screening Report (dated September 2022) and a Natura Impact Statement (dated September 2022).
- 8.4.2. The AA Screening Report concluded that “impacts to the Dundalk Bay SAC and Dundalk Bay SPA as a result of the proposed development cannot be definitively ruled out. Risk of losses of silt and input of pollutants to the site is possible. Mitigation is needed to avoid pollution of surface waters. Impacts to nesting Gulls which are a QI of Dundalk Bay SPA cannot be ruled out. Pre-construction surveys are needed to avoid impacts. The Castletown estuary which is inside Dundalk Bay Internationally protected site and 200metres north of the application site is deemed ‘At Risk’ of not meeting the Water Framework Directives targets of good quality water status, failing for its ‘biological status or potential’ due to its’s phytoplankton status. The quality and quantity of the phytoplankton depends in part on the nutrient load and the estuary is noted on the EPA catchment maps as a nutrient-sensitive area. Foul wastewater must be adequately treated to avoid adding to this problem. A wastewater treatment plan has been set in place. However, due to the sensitivity of the area this will be outlined in the NIS. Noise from demolition can impact protected bird species. Timed works can avoid these impacts. Additionally, cement dust from demolition works can result in the alkalisation of freshwater habitats and noise disturbance to protected species. It is therefore concluded that Appropriate Assessment (Stage II) is required to avoid impacts”.
- 8.4.3. The submitted NIS outlines the methodology used for assessing potential impacts on the habitats and species within the Dundalk Bay SPA and the Dundalk Bay SAC that have the potential to be affected by the proposed development. It predicts the potential impacts for this site and its conservation objectives, it suggests mitigation

measures, assesses in-combination effects with other plans and projects and it identifies any residual effects on the European site and its conservation objectives. The NIS also referenced stakeholder consultation with the National Parks and Wildlife (NPWS), Irish Wildlife Trust and Inland Fisheries in the preparation of the Report, however no comments were received at the time of preparation of the NIS.

- 8.4.4. The submitted NIS concluded that “the proposed that the proposed project, with the implementation of the prescribed mitigation measures, will not give rise to significant impacts, either individually or in combination with other plans and projects, in a manner that adversely affects the integrity of any designated site within the Natura 2000 network”.
- 8.4.5. I note that the submitted NIS contains some typos and discrepancies in respect to the wording of the proposed development, however, these are considered minor and do not undermine the overall NIS.
- 8.4.6. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential effects and uses best scientific information and knowledge. Details of mitigation measures are provided, and they are summarised in Section 6 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development. Set out below is my own independent assessment.

8.5. Screening for Appropriate Assessment

Natura 2000 Sites:

- 8.5.1. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site(s).
- 8.5.2. The site itself is not located within or border a designated European site. The nearest designated site is the Dundalk Bay SPA approx. 0.2km and the Dundalk Bay SAC approx. 0.5m.

- 8.5.3. I note that the applicant considered a further two sites in a wider area (within 15km) including the Carlingford Mountain SAC (000453) (distance of 6.8 km from the site) and Stabannan Braganstown SPA (0004091) (distance of 13.7km from the site) but ruled these out for further examination due to distance and lack of ecological connections. The applicant considered given the nature and scale of the works, there is no known vector, pathway or conduit for impacts between the proposed works and the remaining Natura 2000 sites. I agree with the applicant that the aforementioned sites can be removed from further consideration due to their distance from the proposed development and the unlikely event that these will have any significant direct or indirect impacts on the remaining Natura 2000 sites, and as such are not considered further in the screening assessment.
- 8.5.4. European sites within the potential zone of influence (Zol) of the proposed development must be evaluated on a case-by-case basis. The preferred method of doing this is by using the Source-Pathway-Receptor (SRP) model. The submitted Screening Report used this SRP model to establish or discount potential connectivity between the site of the proposed development and any European Sites. Table 4.3.1 of the submitted AA Screening Report provides details of all relevant European Sites as identified in the preceding steps and assesses which are within the potential likely Zone of Impact. Having regard to the nature of the proposed development, the nature of the receiving environment and the SPR model, it is considered that this is a reasonable approach to defining the Zol.
- 8.5.5. Having regard to: the information and submissions available; the nature, size and location of the proposed development; its likely direct, indirect and in-combination effects; the source-pathway-receptor model; and the sensitivities of the ecological receptors, I consider that two designated sites are relevant to include for the purposes of initial screening for the requirement for Stage 2 Appropriate Assessment on the basis of likely significant effects, these are namely the Dundalk Bay SAC (Site Code: 000455) and the Dundalk Bay SPA (Site Code: 004026).
- 8.5.6. Table 8.1 below lists the qualifying interests of the 2 no. European Sites within the defined Zol, their conservation objectives and identifies possible connections between the proposed development (source) and the sites (receptors).

8.5.7. Table 8.1: Table of European Sites Within a Possible Zone of Influence of the Proposed Development

European Site	Qualifying Interests (summary)	Conservation Objectives	Distance	Connections	Considered further in screening
Dundalk Bay SAC (000455)	<ul style="list-style-type: none"> • 1130 Estuaries • 1140 Mudflats and sandflats not covered by seawater at low tide • 1220 Perennial vegetation of stony banks • 1310 Salicornia and other annuals colonizing mud and sand • 1330 Atlantic salt meadows(Glauco-Puccinellietalia maritima) • 1410 Mediterranean salt meadows(Juncetalia maritimi) 	<p>To maintain Annex I habitats which the SAC has been selected at favourable conservation status.</p> <p>To maintain the extant species richness and biodiversity of the entire site.</p> <p>Detailed conservation objectives for this site (Version 1.0 July 2011) Site specific cons obj (npws.ie)</p>	Within 0.5km at nearest point	Indirect impacts are possible.	Yes
Dundalk Bay SPA (004026)	<ul style="list-style-type: none"> • A005 Great Crested Grebe Podiceps cristatus wintering • A043 Greylag Goose Anser anser wintering • A046 Light-bellied Brent Goose Branta bernicla hrota wintering • A048 Shelduck Tadorna tadorna wintering 	<p>To maintain Annex I and II species for which the SPA has been selected at favourable conservation status.</p> <p>To maintain the extant species richness and biodiversity of the entire site.</p>	Within 0.2km at nearest point	<p>Indirect and direct impacts are possible – the following species are of particular note:</p> <ul style="list-style-type: none"> • Bar-tailed Godwit (Limosa lapponica) [A157] - This species is particularly sensitive to noise disturbance. • A179 Black-headed Gull Chroicocephalusridibundus wintering • A182 Common Gull Larus canus wintering • A184 Herring Gull Larus argentatus wintering. 	Yes

	<ul style="list-style-type: none"> • A052 Teal <i>Anas crecca</i> wintering • A053 Mallard <i>Anas platyrhynchos</i> wintering • A054 Pintail <i>Anas acuta</i> wintering • A065 Common Scoter <i>Melanitta nigra</i> wintering • A069 Red-breasted Merganser <i>Mergus serrator</i> wintering • A130 Oystercatcher <i>Haematopus ostralegus</i> wintering • A137 Ringed Plover <i>Charadrius hiaticula</i> wintering • A140 Golden Plover <i>Pluvialis apricaria</i> wintering • A141 Grey Plover <i>Pluvialis squatarola</i> wintering • A142 Lapwing <i>Vanellus vanellus</i> wintering • A143 Knot <i>Calidris canutus</i> wintering 	<p>Detailed conservation objectives for this site (Version 1.0 July 2011)</p> <p>Site specific cons obj (npws.ie)</p>			
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	<ul style="list-style-type: none"> • A149 Dunlin <i>Calidris alpina</i> wintering • A156 Black-tailed Godwit <i>Limosa</i> wintering • A157 Bar-tailed Godwit <i>Limosa lapponica</i> wintering • A160 Curlew <i>Numenius arquata</i> wintering • A162 Redshank <i>Tringa totanus</i> wintering • A179 Black-headed Gull <i>Chroicocephalus ridibundus</i> wintering • A182 Common Gull <i>Larus canus</i> wintering • A184 Herring Gull <i>Larus argentatus</i> wintering • A999 Wetlands & Waterbirds 				
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Screening Determination

8.5.8. Based on my examination of the submitted AA Screening Report and NIS and supporting information, the NPWS website, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European Sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for two European Sites: the Dundalk Bay SAC (Site Code: 000455) and the Dundalk Bay SPA (Site Code: 004026). This conclusion is consistent with the documentation submitted by the applicant.

8.6. Appropriate Assessment of Implications of the Proposed Development

8.6.1. The proposed development will not result in any direct effects on either the SAC or SPA and no risk of habitat loss, fragmentation or any other direct impact.

8.6.2. However, the old sports hall building could hold suitable for nesting Black headed gull, Common Gull and Herring Gull, impacts generated by the demolition and construction of the development require consideration. Rooftop nesting by gulls in the British Isles, was relatively rare occurrence prior to 1940, but has increased greatly in recent years. Indirect impacts during the construction phase should also be considered.

8.6.3. Sources of impact include:

- The demolition of the old sports hall building could impact on the gull species during nesting season.
- During construction phase pollutants to the surface water bodies have the potential to occur leading potentially affecting the habitats or species for which the Dundalk Bay European sites are designated.
- Dust pollution and Noise pollution during demolition and construction has the ability to impact on the habitats or species for which the Dundalk Bay

European sites are designated specifically the internationally protected wetland habitat which contains wetland birds.

- 8.6.4. The information contained in the following Table 8.2 is a summary of the objective scientific assessment of the implications of the proposed development on the qualifying interest features of the Dundalk Bay SAC (Site Code: 000455) and the Dundalk Bay SPA (Site Code: 004026) using the best scientific knowledge in the field. All aspects of the proposed development which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

Table 8.2 - Summary of Appropriate Assessment of implications of the proposed development on the integrity of Dundalk Bay SAC (Site Code: 000455) and the Dundalk SPA (Site Code: 004026) alone and in combination with other plans and projects in view of the sites' Conservation Objectives.

Qualifying interest feature	Conservation objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on site integrity be excluded?
[1130] Estuaries	<p>To maintain Annex I habitats which the SAC has been selected at favourable conservation status.</p> <p>To maintain the extant species richness and biodiversity of the entire site.</p>	<p>Yes - Indirect impacts possible if overloading of nutrients occurs. Increased loadings of nutrients to estuaries alter ecosystem function by encouraging growth of phytoplankton and macroalgae while inducing large swings in dissolved oxygen and threatening the sustainability of vegetative communities. The direct effects of the cement dust pollution are alkalisation of the ecosystem and the alteration of its chemical composition</p>	<p>Mitigate against pollution inputs to surface waters and dust during construction.</p> <p>See Section 8.8 below for more detail.</p>	<p>The applicant's NIS considers that the proposed project does not have potential to impact on estuary habitat. Indirect impacts are possible whereby the project would result in a significant detrimental change in water quality either alone or in combination with other projects or plans as a result of indirect pollution of surface water or ground water would affect certain species of vegetation. Having reviewed the information submitted and also having considered any possible residual impacts as outlined in the NIS, I am satisfied that no in-</p>	<p>Yes – There is no doubt as to the effectiveness or implementation of mitigation measures proposed to prevent direct or indirect effects on integrity.</p>

				combination effects will occur as a result of the proposed development.	
[1140] Tidal Mudflats and Sandflats	<p>To maintain Annex I habitats which the SAC has been selected at favourable conservation status.</p> <p>To maintain the extant species richness and biodiversity of the entire site.</p>	<p>Yes - An increase in organic matter and eutrophication of ground water bodies from the proposed works could impact surface waters and lead to impacts to mud flats.</p> <p>Nutrient levels commonly associated with coastal eutrophication increase above-ground leaf biomass, decrease the dense, below-ground biomass of bank-stabilizing roots, and increase microbial decomposition of organic matter. Alterations in these key ecosystem properties reduce geomorphic stability. Deposited dust on mud flat surfaces, forms cement like material which is hard and crystalline.</p>	N/A	The applicant's NIS considers that proposed project does not have potential to impact on this habitat type. There will be no habitat taken or affected. I am satisfied that no in-combination effects will occur as a result of the proposed development.	N/A
[1220] Perennial Vegetation of Stony Banks	To maintain Annex I habitats which the SAC has been	Yes – An increase in organic matter and eutrophication of ground water bodies from the proposed works could impact surface waters	No mitigation required. However, the planning drainage	The applicant's NIS considers the proposed project does not have potential for direct impacts on this habitat as it does not	Yes – There is no doubt as to the effectiveness or implementation of

	<p>selected at favourable conservation status.</p> <p>To maintain the extant species richness and biodiversity of the entire site.</p>	<p>and lead to decline of perennial vegetation. Cement dust pollution could result in alkalization of the ecosystem and the alteration of its chemical composition, with impacts to vegetation.</p>	<p>report has been inspected and is outlined within the NIS.</p> <p>See Section 8.8 below for more detail.</p>	<p>occur within area proposed for development. Indirect impacts are possible whereby the project would result in a significant detrimental change in water quality either alone or in combination with other projects or plans as a result of indirect pollution of surface water would affect certain species of vegetation. Having reviewed the information submitted and also having considered any possible residual impacts as outlined in the NIS, I am satisfied that no in-combination effects will occur as a result of the proposed development.</p>	<p>mitigation measures proposed to prevent direct or indirect effects on integrity.</p>
1310] Salicornia Mud	<p>To maintain Annex I habitats which the SAC has been selected at favourable conservation status.</p>	<p>Yes - Indirect impacts are possible -</p> <ul style="list-style-type: none"> • Detrimental change in water quality by indirect pollution of surface water or ground water would affect certain species of vegetation. 	<p>No mitigation required.</p> <p>However, the planning drainage report has been inspected and is outlined within the NIS.</p> <p>See Section 8.8 below for more detail.</p>	<p>The applicant's NIS considers that the proposed project does not have potential for direct impacts on this habitat as it does not occur within area proposed for development. Indirect impacts are possible whereby</p>	<p>Yes – There is no doubt as to the effectiveness or implementation of mitigation measures proposed to</p>

	To maintain the extant species richness and biodiversity of the entire site.	<ul style="list-style-type: none"> • Change in water quality as a result of indirect pollution and eutrophication of surface water. 		the project would result in a significant detrimental change in water quality either alone or in combination with other projects or plans as a result of indirect pollution of surface water. Having reviewed the information submitted and also having considered any possible residual impacts as outlined in the NIS, I am satisfied that no in-combination effects will occur as a result of the proposed development.	prevent direct or indirect effects on integrity.
[1330] Atlantic Salt Meadows	<p>To maintain Annex I habitats which the SAC has been selected at favourable conservation status.</p> <p>To maintain the extant species richness and biodiversity of the entire site.</p>	Yes - Excess nutrients are a particular problem in salt marshes because they lead to eutrophication. Elevated nitrogen and phosphorus levels can be released into local water bodies or groundwater due to improperly managed septic systems. The direct effects of the cement dust pollution are alkalisation of the	<p>No mitigation required.</p> <p>However, the planning drainage report has been inspected and is outlined within the NIS.</p> <p>See Section 8.8 below for more detail.</p>	The applicant's NIS considers that the proposed project does not have potential for direct impacts on this habitat as it does not occur within area proposed for development. Indirect impacts are possible whereby the project would result in a significant detrimental change in water quality either alone or in combination with other projects	Yes – There is no doubt as to the effectiveness or implementation of mitigation measures proposed to prevent direct or indirect effects on integrity.

		ecosystem and the alteration of its chemical composition.		<p>or plans as a result of indirect pollution and eutrophication of surface water.</p> <p>Having reviewed the information submitted and also having considered any possible residual impacts as outlined in the NIS, I am satisfied that no in-combination effects will occur as a result of the proposed development.</p>	
<p>[1410]</p> <p>Mediterranean Salt Meadows <i>Alnion incanae</i>, <i>Salicion albae</i>)</p>	<p>To maintain Annex I habitats which the SAC has been selected at favourable conservation status.</p> <p>To maintain the extant species richness and biodiversity of the entire site.</p>	<p>Yes - Excess nutrients are a particular problem in salt marshes because they lead to eutrophication. Elevated nitrogen and phosphorus levels can be released into local water bodies or groundwater due to improperly managed septic systems. The direct effects of the cement dust pollution are alkalisation of the ecosystem and the alteration of its chemical composition.</p>	<p>No mitigation required.</p> <p>However, the planning drainage report has been inspected and is outlined within the NIS.</p> <p>See Section 8.8 below for more detail.</p>	<p>The applicant's NIS considers that the proposed project does not have potential for direct impacts on this habitat as it does not occur within area proposed for development. Indirect impacts are possible whereby the project would result in a significant detrimental change in water quality either alone or in combination with other projects or plans as a result of indirect pollution and eutrophication of surface water. Having reviewed</p>	<p>Yes – There is no doubt as to the effectiveness or implementation of mitigation measures proposed to prevent direct or indirect effects on integrity.</p>

				the information submitted under Section 8 of the NIS and also having considered any possible residual impacts as outlined under Section 7 of the NIS, I am satisfied that no in-combination effects will occur as a result of the proposed development.	
A999 Wetlands & Waterbirds	<p>To maintain Annex I and II species for which the SPA has been selected at favourable conservation status.</p> <p>To maintain the extant species richness and biodiversity of the entire site.</p>	<p>Yes - Possible general impacts due to:</p> <ul style="list-style-type: none"> • Eutrophication • Habitat Loss • Pollution • Alkalisation • Noise disturbance 	<p>Complete pre-construction surveys and complete demolition works within a given time frame.</p> <p>Mitigate against pollution inputs to surface waters and dust during construction.</p> <p>Complete pre-demolition surveys for nesting gulls. Complete demolition works within a given timeframe.</p> <p>See Section 8.8 below for more detail.</p>	<p>The applicant's NIS considers that direct impacts are not possible as the site does not hold suitable habitat for this species. Indirect impacts are possible whereby the project would result in a significant detrimental change in water quality either alone or in combination with other projects or plans as a result of indirect pollution of surface water.</p> <p>Having reviewed the information submitted and also having considered any possible residual impacts as outlined in the NIS, I am satisfied that no in-</p>	Yes – There is no doubt as to the effectiveness or implementation of mitigation measures proposed to prevent direct or indirect effects on integrity.

				combination effects will occur as a result of the proposed development.	
<p>Bird species which are protected under Dundalk Bay SPA:</p> <ul style="list-style-type: none"> • A005 Great Crested Grebe Podiceps cristatus wintering • A043 Greylag Goose Anser wintering • A046 Light-bellied Brent Goose Branta bernicla hrota wintering • A048 Shelduck Tadorna wintering • A052 Teal Anas crecca wintering • A053 Mallard Anas platyrhynchos wintering • A054 Pintail Anas acuta wintering 	<p>To maintain Annex I and II species for which the SPA has been selected at favourable conservation status.</p> <p>To maintain the extant species richness and biodiversity of the entire site.</p>	<p>Yes - Possible general impacts due to:</p> <ul style="list-style-type: none"> • Eutrophication • Habitat Loss • Pollution • Disturbance during breeding • Loss of nesting sites • Bar-tailed Godwit (Limosa lapponica) [A157] - This species is particularly sensitive to noise disturbance. <p>Direct impacts are possible if the following species were to be found utilising this site –</p> <ul style="list-style-type: none"> • A179 Black-headed Gull Chroicocephalus ridibundus wintering 	<p>Complete pre-construction surveys and complete demolition works within a given time frame.</p> <p>Mitigate against pollution inputs to surface waters and dust during construction.</p> <p>Complete pre-demolition surveys for nesting gulls. Complete demolition works within a given timeframe.</p> <p>See Section 8.8 below for more detail.</p>	<p>The applicant's NIS considers that direct impacts are not possible as the site does not hold suitable habitat for this species. Indirect impacts are possible whereby the project would result in a significant detrimental change in water quality either alone or in combination with other projects or plans as a result of indirect pollution of surface water.</p> <p>Having reviewed the information submitted and also having considered any possible residual impacts as outlined in the NIS, I am satisfied that no in-combination effects will occur as a result of the proposed development.</p>	<p>Yes – There is no doubt as to the effectiveness or implementation of mitigation measures proposed to prevent direct or indirect effects on integrity.</p>

<ul style="list-style-type: none"> • A065 Common Scoter <i>Melanitta nigra</i> wintering • A069 Red-breasted Merganser <i>Mergus serrator</i> wintering • A130 Oystercatcher <i>Haematopus ostralegus</i> wintering • A137 Ringed Plover <i>Charadrius hiaticula</i> wintering • A140 Golden Plover <i>Pluvialis apricaria</i> wintering • A141 Grey Plover <i>Pluvialis squatarola</i> wintering • A142 Lapwing <i>Vanellus</i> wintering • A143 Knot <i>Calidris canutus</i> wintering 		<ul style="list-style-type: none"> • A182 Common Gull <i>Larus canus</i> wintering • A184 Herring Gull <i>Larus argentatus</i> wintering. 		<p>Having reviewed the information submitted and also having considered any possible residual impacts as outlined in the NIS, I am satisfied that no in-combination effects will occur as a result of the proposed development.</p>	
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<ul style="list-style-type: none"> • A149 Dunlin Calidris alpina wintering • A156 Black-tailed Godwit Limosa wintering • A157 Bar-tailed Godwit Limosa lapponica wintering • A160 Curlew Numenius arquata wintering • A162 Redshank Tringa totanus wintering • A179 Black- headed Gull Chroicocephalusridi bundus wintering • A182 Common Gull Larus canus wintering • A184 Herring Gull Larus argentatus wintering • A999 Wetlands & Waterbirds 					
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8.7. Potential In-Combination Effects

- 8.7.1. In combination effects are examined within the submitted NIS submitted and have been also considered under Table 8.2 above. The proposed development was considered in combination with other developments collated in the Louth County Council planning portal. This assessment also considers the Board's planning portal, and planning histories considered in Section 4.0 of this report. I consider the list presented adequate for the purpose of the assessment.
- 8.7.2. The conclusion that with the implementation of mitigation measures, the in-combination effect of the proposed development will not be adverse is considered reasonable. It can therefore be concluded that there would be no in-combination effects on the European sites or their qualifying interests.

8.8. Mitigation Measures

- 8.8.1. The mitigation measures that are proposed in the NIS to address the potential adverse effects of the construction and operation of the proposed development are listed under Sections 3.1 of the NIS. These can be summarised as follows:

Control of pollutants during demolition

- Demolition works will adhere to the relevant guidelines.
- All demolition works and rock breaking, blasting and other high-intensity construction activities as may be required within the site are to be programmed to take place outside the wintering season for SPA feature species (i.e. to take place between May and September) to ensure that disturbance to wintering species is avoided.
- Avoiding demolition in April and May will avoid impacts to nests on roofs in the surrounding area.
- Demolition activities and site controls should be planned to minimize the potential for pollutants to be released from the site in stormwater discharges. Activities should not take place in times of heavy rain.
- Dust prevention measures shall be included. A Dust Management Plan (DMP) should be prepared and implemented by the contractor for the construction phase.

Control of Pollutants during construction

- Sediment & Erosion: Groundwater needs to be protected from silt laden water runoff from the demolition/construction work. To prevent this from occurring, surface water discharge will be managed and controlled for the duration of the construction works, until the proposed surface water drainage system is complete. A temporary positive drainage system will be installed to collect surface water runoff for treatment before discharge from the site during the construction phase.
- Any waste arising from the construction and demolition works must be disposed of at a licensed waste facility by a licensed waste haulier. Topsoil must be removed from the site regularly. Louth County Council must be notified regarding the location of this material.
- There must be no direct or indirect discharge of any surface water or groundwater to any water body during construction activities.
- Excavation works will be in accordance with the requirements of the Office of Public Works
- Works must not take place in periods of heavy precipitation.
- Bare soil should be seeded as soon as possible with grass seed or native wildflower seed (local source if possible). This will minimise erosion into local drains.
- Wet concrete is corrosive and can cause serious pollution to watercourses. Best practice in bulk-liquid concrete management must be employed in addressing pouring and handling, secure shuttering, adequate curing times, etc.
- Wash water from cleaning ready-mix concrete wagons and mixers that may be contaminated. Wagons and mixers must be washed off-site or in a bunded, designated area.
- Concrete batching will take place off-site.
- Cement dust must be controlled as it is alkaline and harmful to the surrounding ecology, especially considering the proximity of the site to Dundalk Bay SAC and SPA.

- Activities that result in the creation of cement dust should be controlled by dampening down areas.
- Raw or uncured waste concrete should be disposed of by removal from the site in a location in a manner that shall not impact any watercourse.
- All fuels, lubricants, and hydraulic fluids will be kept in secure bunded areas remotely from any watercourse. The bunded area will accommodate 110% of the total capacity of the containers within it. Containers will be properly secured to prevent unauthorised access and misuse.
- An effective spillage procedure will be put in place with all staff properly briefed.
- Any waste oils or hydraulic fluids must be collected, stored in appropriate containers, and disposed of offsite in an appropriate manner.
- Storage areas, machinery depots, and site offices will be located remotely from the watercourse.
- All refuelling and lubrication of equipment will take place on sealed and bunded surfaces to avoid the potential for accidental spillage of hydrocarbons. Spill kits shall be kept in these areas in case of spillage. Areas will be away from site drains.
- All plants and machinery will be regularly maintained and serviced to minimise the release Louth CC, Planning Department - Viewing Purposes Only! Armagh Construction Ltd. St. Marys Dundalk Residential Scheme Flynn Furney Environmental Consultants 18 of hydrocarbons.
- Spill kits should be present in all plant machinery.
- Oil booms and oil soakage pads will be kept on-site to deal with any accidental spillage.
- Waste oils and hydraulic fluids will be collected in leak-proof containers and removed from the site for disposal or recycling.
- The construction compound will include adequate staff welfare facilities including foul drainage. Foul drainage discharge from the construction

compound will be tankered off site to a licensed facility until a connection to the public foul drainage network has been established.

- Dewatering measures should only be employed where necessary.
- In respect of surface water networks, the system and traps are to be inspected a minimum of 4 times a year as the accumulation of silt is prevalent during the construction period. The number of inspections should be proactive and if silting is found to be excessive in any of the apparatus the number of inspections should be raised accordingly and continually monitored and reviewed.
- Pipe ends associated with the surface water network should be blocked/capped off with proprietary fittings until connected to the completed storm-water system.
- In respect of the disposal of any wastewater from the site, discharge from any vehicle wheel wash areas is to be directed to designated on-site settlement ponds; and any debris or sediment captured by vehicle wheel washes are to be disposed of off-site at a licensed facility. In terms of activities associated with concrete deliveries/pours, all 'wash out' of concrete trucks will take place off-site and any excess concrete is not to be disposed of on-site.
- All design measures laid out in the construction about surface water drainage, attenuation areas and attenuation tanks to be adhered to, to remove the risk of watercourse contamination during the operational phase of the project.

Control of pollutants post-construction

- Constructing all the car parking in permeable paving and to provide large green areas around the development including the public open spaces and the private gardens.
- The existing roof drainage to the protected structure of St Marys College will be maintained.
- The attenuation tank has been designed for all the new hardstanding less the protected structure for a 100-year storm with a hydrobrake limiting the outflow.
- Road drainage will connect to a petrol interceptor before flowing to the attenuation tank. All the hard standing created on site by the new roofs,

tarmacadam surface for access road, car park aisles and raised table (paving at fire turning area to sit on concrete slab) will enter the attenuation tank and this will then discharge into the existing combined system on St. Mary's Road.

- To connect to existing combined system at St. Mary's Road.
- All the new foul water created on site to the existing combined system on Nicholas St by connecting into the existing manhole on the main 225 diameter vitrified clay combined system.

Implementing Best Practice

- Best practice disturbance limitation measures have been included in the Proposed Development design and are described in Section 3.1 of the NIS.

Preventing disturbance to protected birds during breeding seasons:

- If tree felling is considered necessary within the bird breeding season, a breeding bird survey by a suitably qualified ecologist will be undertaken. All clearance works during the bird breeding season will be subject to supervision by the ECoW who will have 'stop works' authority in the event that there is any perceived risk to nesting birds.
- Pre-construction surveys will be undertaken to identify any breeding birds nesting or present within or close to working areas.
- Construction works will be programmed to avoid disturbance during periods or in areas identified as being particularly sensitive following pre-construction surveys.
- Construction activities will be undertaken within defined areas to limit disturbances if nesting birds are found in pre-construction surveys. Works will occur within set working hours to not impact on birds at dawn or dusk. Advice on appropriate working methods and standoff distances from sensitive areas, such as nesting sites of would be provided by a suitably qualified ecologist after pre-construction surveys have been completed.
- Demolition works should be undertaken outside of the breeding season as the sports hall rooftop could be a nesting site.

- Should any Schedule 1 species or active Schedule 1 nest sites be identified during construction all works will be suspended within that area and advice sought from a suitably qualified ecologist on the most appropriate course of action.
- Where construction works have the potential to affect active nest sites a suitably qualified ecologist will supervise construction works.

Preventing impacts to wintering birds during demolition works:

- Demolition works should be undertaken outside of the optimal season for wintering waterfowl to prevent disturbance.
- Recommended optimal time for demolition, piling, rock-breaking, blasting and other works which produce high noise pollution:

Mitigation Conclusion:

Subject to the implementation of the mitigation measures, there would be no resultant adverse effects on qualifying interest species and habitats respect to its attributes and targets.

8.9. Residual Effects

- 8.9.1. Section 3 of the NIS contains an assessment of residual ecological impacts, with mitigation and focuses on the detailed attributes under the conservation objective for each qualifying interest of the Dundalk Bay SAC (Site Code: 000455) and the Dundalk Bay SPA (Site Code: 004026). Minor to no residual impacts have been identified post mitigation. I consider the information and assessment presented comprehensive and I would concur with this conclusion.

8.10. Integrity Test

- 8.10.1. Following the Appropriate Assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of the Dundalk Bay SAC (Site Code: 000455) and the Dundalk Bay SPA (Site Code: 004026), in view of the Conservation Objectives of that site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with other plans and projects.

8.11. Conclusion

- 8.11.1. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended.
- 8.11.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Dundalk Bay SAC (Site Code: 000455) and the Dundalk Bay SPA (Site Code: 004026). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives of relevance to the proposed development. The possibility for likely significant effects was excluded for other European sites.
- 8.11.3. Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Dundalk Bay SAC (Site Code: 000455) and the Dundalk Bay SPA (Site Code: 004026), or any other European site, in view of the site's conservation objectives.
- 8.11.4. This conclusion is based on:
- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures.
 - Detailed assessment of in-combination effects.
 - No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Dundalk Bay SAC (Site Code: 000455) and the Dundalk Bay SPA (Site Code: 004026).

8.12. Other Matters

8.12.1. Current Use of Protected Structure

I note that reference has been made in the appeal to the fact that the existing St. Mary's Building i.e., the Protected Structure, is in use for providing emergency accommodation with the applicant having a lease with Louth County Council. At time of site inspection, it was evident that the building was currently occupied with some internal refurbishment works ongoing. The appellant states that the application of

Condition No. 20 is contrary to the National Policy and Housing for All which seeks to provide emergency accommodation.

I note that the provision of emergency accommodation is evaluated under a separate legal code and the lease agreement pertaining to the existing structure on site is a matter between the applicant and the local authority and thus need not concern the Board for the purposes of this appeal.

8.12.2. Planning History:

The appellant refers to the permission granted under ABP247212/Ref: 16/217 and states that it was acceptable to construction this development in one phase. All appeal cases should be assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development. Notwithstanding, I note that the development previously permitted did not involve the change of use of the existing St. Marys College to residential and thus, the phasing of the development was not considered essential in that case.

8.12.3. Funding:

The appellant references the lending associated with the construction of the development and states that lending institutions will not fund the entire development in a single phase as the capital expenditure is in excess of 15 million euro. The matter of funding the project is not within the role of the Board for the purposes of this appeal.

9.0 **Recommendation**

- 9.1. I recommend that the Planning Authority be directed to AMEND Condition 20 as follows:

“The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development as follows:

- (i) The first phase shall consist of not more than 50% of the new build apartments to be occupied until works have commenced and the refurbishment of Saint Mary's college and*

- (ii) *No more than 75% of the new build apartments shall be occupied until the refurbishment of Saint Mary's college has been completed in full together with their associated site development works and to the written satisfaction of the planning authority.*

Reason: To ensure the timely completion of the refurbishment of Saint Mary's college and the interests of proper planning and sustainable development”.

10.0 Reasons and Considerations

1. Having regard to the nature of the condition which is the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs Fingal County Council under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended to –

- (i) AMEND Condition No. 20, as detailed in the foregoing recommendation for the reason as follows:

Having regard to the zoning of the site and planning policy as provided in the Louth County Development Plan 2021 – 2027, as amended by variation 1 and variation 2, and National Guidance in particular the Architectural Heritage Protection Guidelines, which provides guidance in respect to development within the curtilage of a Protected Structure, it is considered reasonable that the development be phased to ensure the timely delivery of the works to the existing Protected Structure on site in accordance with the proper planning and sustainable development of the area. Condition No. 20, as amended above, of the Planning Authorities Notification to Grant Permission, is therefore warranted.

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.



Emma Nevin
Planning Inspector

30th September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318114-23		
Proposed Development Summary	Demolition of two storey sports hall and single storey science block, outbuildings within the curtilage of the protected structures and boundary stone wall to Nichols Street. Construction of 57 apartments in a three-storey apartment block including the adaption, extension and change of use of the former St Mary's College (Protected Structure Ref. No. 13702025 & 13702026) (providing 32 no. apartments with associated adaption works) The change of use of the former Gospel Hall from Education Use to a community hall. The creation of a new vehicular entrance from Nicholas Street. The refurbishment, reconfiguration, and realignment of the interface wall between the sports hall and the original school building. Associated bin, bicycle storage buildings and car parking including associated electrical vehicle charge points, and all associated site works within the grounds of a Protected Structure Ref. A Natura Impact Statement (NIS) accompanies this application.		
Development Address	St Mary's College, St Mary's Road and Nicholas Street, Dundalk, Co Louth		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
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?			
Yes	X	Urban Residential Development	EIA Mandatory EIAR required
No			

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]?

		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	X	Urban Development		

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	318114-23	
Proposed Development Summary	Demolition of two storey sports hall and single storey science block, outbuildings within the curtilage of the protected structures and boundary stone wall to Nichols Street. Construction of 57 apartments in a three-storey apartment block including the adaption, extension and change of use of the former St Mary's College (Protected Structure Ref. No. 13702025 & 13702026) (providing 32 no. apartments with associated adaption works) The change of use of the former Gospel Hall from Education Use to a community hall. The creation of a new vehicular entrance from Nicholas Street. The refurbishment, reconfiguration, and realignment of the interface wall between the sports hall and the original school building. Associated bin, bicycle storage buildings and car parking including associated electrical vehicle charge points, and all associated site works within the grounds of a Protected Structure Ref. A Natura Impact Statement (NIS) accompanies this application.	
Development Address	St Mary's College, St Mary's Road and Nicholas Street, Dundalk, Co Louth	
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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment?	Proposal for demolition, alterations and change of use of existing building on site to residential and the construction of 57 apartments, change of use of former gospel hall to community hall and all associated site works including new vehicular access on community zoned land located in Dundalk town centre. However, the proposal is not considered exceptional in the context of the existing urban environment.	No

Will the development result in the production of any significant waste, emissions or pollutants?	No, the proposal will be connected to the existing water supply and will be connected to the existing public sewer. Surface water will also be connected to the public sewer.	
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>Site measuring 0.77 ha. with a proposed floor area of 5831 sq. m. However, this is not considered exceptional in the context of the existing urban environment.</p> <p>There are no other developments under construction in the proximity of the site.</p>	No
<p>Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The appeal site is not located within any Natura site. The closest such sites are:</p> <ul style="list-style-type: none"> • Dundalk Bay SPA/pNHA (Site Code: 004026), which is approx. 135m from the site. • Dundalk Bay SAC/pNHA (Site Code: 000455), which is approx. 135m from the site. • Carlingford Mountain SAC (Site Code: IE0000453), which is approx. 7.85km from the site. • Slieve Gullion SAC (UK) (UK 0030277), which is approx. 9.35km from the site. • Stabannon/Braganstown SPA/pNHA (Site Code: 004091), which is approx. 13.4km from the site. 	No

	<ul style="list-style-type: none"> The Carlingford Shore SAC (Site Code: 002306), which is approx. 14.5km from the site. <p>However, it is not considered that the development would have a significant impact on the ecological sites.</p> <p>No, there are no natural heritage designations in the immediate vicinity of the site.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector:  _____

Date: 30th September 2024

DP/ADP: _____ **Date:** _____
(only where Schedule 7A information or EIAR required)