

Public Document Pack

**Democratic Services Section
Legal and Civic Services Department
Belfast City Council
City Hall
Belfast
BT1 5GS**



**Belfast
City Council**

13th April, 2023

PLANNING COMMITTEE

Dear Alderman/Councillor,

The above-named Committee will meet in hybrid format, both in the Lavery Room - City Hall, and remotely, via Microsoft Teams on Tuesday, 18th April, 2023 at 5.00 pm, for the transaction of the business noted below.

You are requested to attend.

Yours faithfully,

John Walsh

Chief Executive

AGENDA:

4. (a) Implementation of the Belfast Local Development Plan, Plan Strategy (Pages 1 - 6)
- (b) Development Management - Update on Lean Systems Experimentation (Pages 7 - 12)
- (c) Planning Appeals Commission - Appeal Decision on the proposed Centralised Anaerobic Digester Facility and North Foreshore (LA04/2019/1540/F) (Pages 13 - 54)
- (d) Delegation of Local Applications with NI Water Objections (Pages 55 - 60)
5. (a) **LA04/2022/1280/F** - Proposed social housing led, mixed tenure residential development comprising of 52 no. dwellinghouses and 87 no. apartments with public open space, children's play park, landscaping, car parking, associated site works and infrastructure and access arrangements from Blackstaff Road. Former Kennedy Enterprise Centre (north of Westwood Shopping Centre) Blackstaff Road Belfast (139 no. units in total) (Pages 61 - 100)

- (f) **LA04/2021/0691/F & LA04/2021/0915/DCA** - Demolition of existing dwelling and erection of a new detached dwelling and associated siteworks. 1D Malone Park. 1D Malone Park Belfast Bt9 6NH (Pages 101 - 118)



Subject:	Implementation of the Belfast Local Development Plan, Plan Strategy
Date:	18 April 2023
Reporting Officer(s):	Kate Bentley, Director of Planning and Building Control
Contact Officer(s):	Ed Baker, Planning Manager (Development Management) Keith Sutherland, Planning Manager (Plans and Policy)

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of Main Issues
1.1	To set out the proposed approach to applications previously decided by the Committee but which will not have a decision issued at the point of adoption of the new Plan Strategy. The Plan Strategy will be adopted on 02 May 2023.
2.0	Recommendation
2.1	The Committee is asked to: <ul style="list-style-type: none"> note the report; and give delegated authority to the Director of Planning and Building Control to reassess and determine Local applications that the Committee has previously decided, but which will not have a decision issued on 02 May 2023, in the context of the new Belfast LDP Plan Strategy.
3.0	Main Report
3.1	<u>Background</u> The Belfast Local Development Plan, Plan Strategy will be adopted on 02 May 2023.

3.2	Section 6(4) of the Planning Act (Northern Ireland) 2011 states that in making any determinations under the Act, regard is to be had to the local development plan, and the determination must be made in accordance with the plan unless material considerations indicate otherwise.
3.3	The Plan Strategy, alongside the Local Policies Plan which is yet to be published, will form new Development Plan for Belfast and will replace the Belfast Urban Area Plan 2001 as the statutory plan for the city. The above legislation means that the Plan Strategy will have primacy in decision making for all planning applications and other determinations, including assessment of enforcement cases, from the date of adoption.
3.4	When considering land-use zonings, designations and proposals maps, the Council will still have regard to the Belfast Urban Area Plan 2001, draft Belfast Metropolitan Area Plan 2015 and other draft plans until such time as the new Local Policies Plan is adopted.
3.5	The Plan Strategy will replace the operational policies currently provided by the Departmental Planning Policy Statements (PPSs). Those policies will no longer have effect from 02 May 2023, irrespective of whether planning applications have been received before or after that date (par. 1.11 of the Strategic Planning Policy Statement).
3.6	The Plan Strategy comprises strategic and topic based operational policies including, but not limited to, housing, employment, design, built heritage, environment, communities, transport, infrastructure and natural heritage. A suite of Supplementary Planning Guidance that provides additional advice on the implementation of policies within the Plan Strategy will also come into effect at the same time.
	Reassessment of applications previously considered by the Committee
3.7	Having regard to Section 6(4) of the Act, on adoption of the new Plan, the Council will need to reassess all applications previously considered by the Committee but which do not have a decision issued at the point of adoption, in the context of the new policies in the Plan Strategy. Typically, those will be applications where the determination was subject to the prior completion of a Section 76 planning agreement, or where delegated authority was given to officers to address other outstanding issues before a decision can be made, and the decision remains to be issued.
	<i>Major applications</i>
3.8	Legislation requires that applications for Major development are determined by the Committee and cannot be delegated. Members are advised that Major applications previously decided by the Committee but remain undetermined at the point of adoption of the Plan Strategy will be reported back to the Committee for reconsideration in the light of the new policies. This will take the form of an addendum report to the original case officer report. It is expected that this process will commence in June after the election.
	<i>Local applications</i>
3.9	It is proposed that reassessment of applications for Local development that have previously been decided by the Committee is delegated to officers. However, this would not include Local applications required to be determined by the Committee in accordance with legislation under paragraph 3.8.5 of the Scheme of Delegation. Therefore, the following such Local applications would not be delegated to officers.

3.10	<ul style="list-style-type: none"> • Those made by elected members of the Council; • Those made by Council staff at senior management grade (PO12) or above and all staff in Place and Economy Department and Legal Services; • Those made by the Council; • Those in which the Council has an estate <p>The Committee is asked to give the Director of Planning and Building Control delegated authority to reassess and determine those Local applications that the Committee has previously decided but which do not have a decision issued on 02 May 2023. In some cases, these include associated Conservation Area Consent, Listed Building Consent and other consents. The Local applications officers are seeking delegated authority to reassess and determine are listed at Appendix 1. It should be noted that a decision on some or all of those applications may have been issued by the adoption date.</p>
4.0	Financial & Resource Implications
4.1	The reassessment of Local applications previously decided by the Committee by officers will save Committee and officer time and help to minimise costs.
5.0	Equality or Good Relations Implications / Rural Needs Assessment
5.1	No adverse impacts identified.
6.0	Appendices – Documents Attached
	Appendix 1 – list of Local applications previously decided by the Planning Committee for which delegated authority is sought for officers to reassess and determine.

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Appendix 1 – Local applications previously decided by the Committee for which delegated authority is sought

	Application Ref.	Proposal	Address	Committee Date
1	LA04/2022/0311/F	Erection of 40 no. residential units and 2 no. commercial units with associated car parking, cycle storage servicing, landscaping with access off Balmoral Avenue	The King's Hall and RUAS site south of Upper Lisburn Road/Balmoral Avenue west of Harberton Park and north-east of Balmoral Golf Club, Belfast, BT9 6GW	March 2023
2	LA04/2021/1964/F	Proposed re-cladding of and front extension to existing Carlton House office building, erection of four additional floors of office accommodation and public realm enhancement works extending along site frontage and Fulton Street	Carlton House 1-5 Shaftesbury Square Belfast BT2 7DA	January 2023
3	LA04/2019/0081/F	Erection of 12No. apartments (social/affordable housing units comprising 3No. one bed & 9No. two bed) with provision of community pocket park, car parking, landscaping and all associated site and access works.	Lands at former Maple Leaf Club 41-43 Park Avenue Belfast	December 2022
4	LA04/2020/2325/F	Proposed erection 21no. dwellings (social/affordable housing units comprising 17no. townhouses and 4no. semi-detached), car parking, landscaping and all associated site and access works (Amended drawings, additional information)	Lands at Former Maple Leaf Club 41-43 Park Avenue Belfast.	December 2022
5 6	LA04/2020/0847/F & LA04/2020/1208/DCA	Partial demolition and redevelopment of existing buildings to provide 15 apartments (social	25-29 University Road and lands to the rear of 3 -17 Claremont Street Belfast BT7 1NA	March 2022

		housing units), communal bin store and external amenity space (Amended Description and Drawings)		
7 8	LA04/2021/0547/F & LA04/2021/054/DCA	Demolition of the existing buildings and redevelopment of site for 2 no. commercial units on ground floor; 11 no. 1 & 2 bed apartments; landscaped communal courtyard; and all associated site works.	Lands at 124-126 Lisburn Road Belfast BT9 6AH	February 2022
9	LA04/2020/1360/F	Proposed demolition of existing church hall building and construction of 9.no apartments and 1no. retail unit.(amended description & plans)	491-495 Lisburn Road Belfast BT9 7EZ	September 2021
10	LA04/2021/0244/F	Demolition of existing building and erection of 8-storey building with retail/coffee shop at ground floor and 45No serviced apartments for both long and short term occupancy on the floors above.	52-54 Dublin Road Belfast BT2 7HN	August 2021
11	LA04/2019/1797/F	Redevelopment of listed buildings and lands to the rear for a residential development comprising of 7no. townhouses and 34no. apartments with associated landscaping, parking and site works. (amended plans)	Derelict lands at and to the rear of No's 34-36 The Mount Belfast BT5 4NA	February 2021



Subject:	Development Management – update on lean systems experimentation
Date:	18 April 2023
Reporting Officer(s):	Kate Bentley, Director of Planning and Building Control
Contact Officer(s):	Ed Baker, Planning Manager (Development Management)

Restricted Reports	
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If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of Main Issues
1.1	The Council's Planning Service is currently experimenting with a new way of processing planning applications following lean systems principles. Officers gave the Planning Committee an overview of the experimentation at the Committee Workshop in December. Members asked that further quarterly updates are provided to the Committee.
2.0	Recommendation
2.1	That the Committee notes the report.
3.0	Main Report
3.1	<u>Background</u> The Council's Planning Service is currently experimenting with a new way of processing planning applications following lean systems principles. Officers gave the Planning Committee an overview of the experimentation at Committee Workshop in December. Members asked that further quarterly updates are provided to the Committee.

3.2	<p><u>Why experiment?</u></p> <p>There is need to further improve delivery of the Council's planning application service having regard to the following context.</p> <ul style="list-style-type: none"> • The NI planning system is not fit for purpose – following the recommendations of the Public Accounts Committee and NI Audit Office reports, improvements to the regional planning system are only likely to be made in the medium and long term (see the update to the March Planning Committee on the regional improvement agenda). This places additional importance on the Council exploring ways to maximise the efficiency and effectiveness of its own Planning Service now. • Under performance by some statutory consultees – this is having a significant adverse impact on overall performance and opportunities for improving how the Planning Service engages with both statutory and non-statutory consultees should be explored immediately. • The need to make more effective use of IT – the Planning Service is still in the process of implementing the new Planning Portal. There are clear opportunities for improving how the Planning Service utilises information technology in the application process. • Increase in “live applications” in the system post COVID-19 – the total number of live applications had at once stage risen from around 850 pre-pandemic to 1,250 at its height (an increase of around 45%). Whilst this has recently fallen to around 1,000 applications, the Planning Service needs to ensure that total applications are kept down to manageable levels. • Some dated working practices – whilst a range of substantial improvements have been made to the Planning Service since 2015, some working practices still date back to the former Department of Environment and initial transfer of planning to the council. There is opportunity for streamlining and improved efficiency. • Overall performance and customer satisfaction is not yet where we want to be – the Council has not consistently met statutory targets for speed of decision on planning applications. There is also recognition that there should be greater consistency in its delivery of customer excellence. • Demanding and very pressurised environment for staff to work in – the above factors have contributed to a challenging environment for staff to work in. There is opportunity to make the work environment more sustainable, to better support staff development and enable them to be more empowered. <p><u>What is lean systems redesign?</u></p> <p>3.3 Lean systems redesign is a tried and tested approach to improving businesses, whether in the service or manufacturing sectors. The concept is to improve the system by focusing on “value” activities and eliminating “waste”. The approach is to consider delivery from a customer perspective rather than “this is the way we have always done things...”.</p> <p>3.4 A significant number of Planning Authorities have adopted this approach in GB and it is also advocated by the Planning Advisory Service, a government agency in England, which advises councils on how to improve the delivery of their planning services.</p> <p>3.5 The Council's Planning Service has therefore been experimenting with the way in which it processes applications following lean systems principles.</p>
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<p>3.6</p> <p>3.7</p>	<p><u>Methodology</u></p> <p>The Council's Planning Service is being mentored through this experimentation process by Wolverhampton Council which implemented a lean systems intervention approximately 10 years ago to great effect. Wolverhampton Council has significant experience of mentoring, having worked with a large number of Planning Authorities in GB. It has also worked closely with the Planning Advisory Service and UK government on improving local authority planning processes.</p> <p>The Council's Planning Service began the experimentation process in summer 2022, establishing a small "experimentation team" comprising the Planning Manager (Development Management), then Principal Planning Officer, Business Support Manager, Business Support Officer and Assistant Planning Officer.</p> <p>The experimentation methodology is following three stages:</p> <p>Stage 1 "Check" – reviewing the Planning Service's historic processes to better understand why we do things the way we currently do and the resulting outcome.</p> <p>The experimentation team began by assessing 20 random applications, looking at contact points, and understanding each customer's story and their experiences. The team found that the average processing time for those applications was 17.9 weeks – above the statutory target of 15 weeks for Local applications. 90% of customer contact was due to "failure demand", i.e. the result of the Planning Service failing to do something that could have avoided the need for the contact in the first place.</p> <p>Stage 2 "Experimentation" – experimenting with a small number of applications by starting from scratch and redesigning processes. The focus is on only doing what is required by the legislation and activities that add "value" to the process.</p> <p>The experimentation team also reflected on the purpose of the planning application service and agreed that it should be to say "<i>Yes, quickly, to good development</i>". This is very similar to the Planning Service's current mission statement of "helping our customers get a timely planning decision that benefits the city." It recognises that the following factors are important to service delivery:</p> <ul style="list-style-type: none"> • Taking a positive approach and helping our customers through the process • Timely decision making • Quality outcomes on the ground. <p>The project team initially considered one application at a time. The focus was on the individual customer (applicant), understanding who they were and why they had submitted the application. A core principle was to take action straightaway – contacting the applicant as soon as possible with the team's initial thoughts on the planning application including whether the application was valid (i.e. that sufficient information was provided with the application, as well as whether it was acceptable).</p> <p>The project team recognised that it is the "end to end time" that is important, rather than the current statutory measure of the date that the application is valid to the date of decision. When considering the process from the customer perspective, the important measure is from when the customers "first asks whether they can build", which might even be at the Pre-Application Discussion stage, to when "they can build" (i.e. they have a "clean", implementable planning permission with no pre-commencement conditions to discharge).</p>
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3.8	<p>For each application, a record is kept of the key actions required to determine the application as well as learning points around process for future reference.</p> <p>Stage 3 “Make normal” – following refinement of the experimentation, the next stage is to roll out the new way of working to the whole of the Planning Service. The process can then be repeated, moving back to Stage 1 Check, to ensure continuous improvement of the service.</p> <p><u>Update on the Experimentation</u></p>
3.9	<p>The project team has expanded and currently includes two Assistant Planning Officers who are working in this new way. Due to the challenges around the implementation of the new Planning Portal and key vacancies in the Development Management service, further expansion of the experimentation is currently on hold. However, once the experimentation picks up again, it is envisaged that one or two officers will be able to move across to the new way of working each month. It could therefore take some time until the whole of the Planning Service is working in this way.</p>
3.10	<p>The experimentation has extended to 106 applications since August 2022. Of these, 53 (50%) have been determined.</p>
3.11	<p>Unfortunately, due to current issues around extracting accurate information from the Planning Portal, it is not possible at this time to update the Committee on current performance. When performance was last reported to the Committee in December 2022, the average processing time from valid to decision was 5 weeks and 2 days – well inside the statutory target of 15 weeks. The average time from receipt of application to decision was 7 weeks, again well within the target. Due to challenges around implementation of the new Planning Portal, performance will have inevitably fallen. Officers are considering how to best present performance to the Committee in the future having regard to this “dip”.</p> <p><u>Learning to date</u></p>
3.12	<p>In terms of learning, the team has so far recorded 61 learning points across 106 applications. Headline learning points include:</p> <ul style="list-style-type: none"> • Assessment of applications on “Day 1” allows the project team to make decisions much more quickly and effectively • Prompt, direct customer contact builds relationships and saves time • There is significant scope to reduce hand-overs and inefficiencies in the process • Marked reduction in the number of consultations that have been issued, thereby reducing pressure on statutory and non-statutory consultees • The team continues to find areas where simple changes to the legislation could make huge differences to the efficiency and effectiveness of the service overall • The Assistant Planning Officers are dealing with a wider range of applications, making the work more interesting and helping their professional development <p><u>Next Steps</u></p>
3.13	<p>The next key step is to expand the experimentation by rolling in more officers to the project team. This process is currently on pause pending the bedding down of the new Planning Portal, implementation of the new Belfast LDP Plan Strategy and recruitment to current key vacancies within Development Management.</p>

3.14	The Planning Service is planning to hold a customer event in the near future, which will give opportunity to communicate the experimentation to a wider audience.
3.15	The Planning Service continues to advocate the lean systems methodology to the Department for Infrastructure and new Interim Regional Planning Commission, the latter tasked with overseeing the implementation of the recommendations of the Public Accounts Committee and NI Audit Office reports for improving NI planning system.
4.0	Financial & Resource Implications
4.1	The full roll out of the lean systems experimentation will result in a more effective and efficient Planning Service which will provide better value for money.
5.0	Equality or Good Relations Implications / Rural Needs Assessment
5.1	No adverse impacts identified.
6.0	Appendices – Documents Attached
	None

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Subject:	Planning Appeals Commission decision on the proposed Centralised Anaerobic Digester facility, North Foreshore (LA04/2019/1540/F)
Date:	18 April 2023
Reporting Officer(s):	Kate Bentley, Director of Planning and Building Control
Contact Officer(s):	Ed Baker, Planning Manager (Development Management)

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of Main Issues
1.1	To report on the Planning Appeals Commission's appeal decision in respect of the proposed Centralised Anaerobic Digester facility, North Foreshore (LA04/2019/1540/F).
2.0	Recommendation
2.1	That the Committee notes the report.
3.0	Main Report
3.1	<u>Background</u> The Council recently received the Planning Appeals Commission's appeal decision in respect of the Council's decision to refuse planning permission for a Centralised Anaerobic Digestion (CAD) facility at North Foreshore (LA04/2019/1540/F).
3.2	The Planning Committee refused planning permission for the proposal at its meeting in August 2021. The decision notice was issued in September 2021, with the reasons for refusal being:

	<p>1. The proposed development would result in unacceptable environmental conflict with the adjacent film studios to the east (including Phases 1 and 2 of the film studios); and with the leisure, hotel, food and beverage uses contained in Giant's Park Belfast Limited's leisure-led mixed use proposals for land to the north and west. The proposed development would not be compatible with the character of the surrounding area and these adjacent land-uses and would prejudice future operations of these economic uses, contrary to paragraph 6.90 of the Strategic Planning Policy Statement for Northern Ireland (2015); Policy WM 1 of PPS 11: Planning and Waste Management; and Policies PED 8 and PED 9(a) of PPS 4: Planning and Economic Development.</p> <p>2. Policy BHA 05 of the draft Belfast Metropolitan Area Plan 2015 (v2014) zones the area for a range of uses including waste management. The associated North Foreshore Giants Park Masterplan (2010) identifies land to the south east part of the zoning for Arc21 waste management facilities. However, this land has since been redeveloped as film studios with further planning permission granted on these lands to extend the film studios operations. As a consequence, waste management uses are no longer required within the Policy BHA 05 zoning and for this reason planning permission is refused.</p>
3.3	The appeal was heard by way of the informal hearing procedure. The hearing took place on 12 th and 13 th January 2023. The Council was represented at the appeal by counsel. The Planning Manager (Development Management) gave evidence on behalf of the Council.
3.4	The Planning Appeals Commission (PAC) made its decision on 6 th March 2023, issuing both a substantive appeal decision and costs decision. Both appeals were allowed with a full award of costs made against the Council for causing an unnecessary appeal.
3.5	A copy of the main appeal decision is provided at Appendix 1 . A copy of the costs decision is provided at Appendix 2 .
3.6	<p><u>Appeal Decision</u></p> <p>In the preliminary matters, the Commissioner confirmed that the Giant's Park Belfast Ltd's (GPBL) status as "preferred developer" in commercial negotiations with the Council as landowner confers little weight on a proposal that has yet to be subject to a formal planning application; nor does it create any presumption in favour of any such proposed development (par. 13).</p>
3.7	The Commissioner first dealt with the Council's second reason for refusal, noting inconsistency in the Council's determination of the application for the proposed CAD facility compared to its handling of applications for Phases 1 and 2 of the film studios on the adjacent land. The Council's consideration of the applications for the film studios demonstrated a more flexible approach to the status of the North Foreshore Comprehensive Master Plan (CMP) in that the film studios conformed in principle with Policy BHA 05 of draft BMAP (v2014). Moreover, the CMP did not stipulate the need for waste management facilities within the site, it was merely deemed an acceptable location in principle. Draft BMAP does not identify waste management facilities and recycling as suitable uses within Zoning BHA 05 only if promoted by Arc21; they are considered acceptable in principle. The Commissioner was not persuaded by the Council's case that the proposed CAD facility would displace other economic uses envisaged for the North Foreshore lands and that the appeal proposal would therefore displace much needed jobs for this part of the city. The Commissioner also gave little weight to the provisions of the <i>Belfast Agenda</i> pending adoption of the LDP. The Commissioner therefore rejected the Council's second reason for refusal.

3.8	Turning to the first reason for refusal, the Commissioner noted that the Environmental Statement provided with the application did not demonstrate any significant incompatibility issues with adjacent land-uses. The Commissioner did not find the proposed CAD facility to be in conflict with either the SPPS, PPS 11 or PPS 4. The Commissioner found the proposed CAD facility to be acceptable in all other respects.
3.9	In the absence of technical evidence, the Council provided evidence of perception of harm to the GPBL proposals resulting from the appeal proposal. It also provided evidence of the likely economic, environmental and social benefits of the respective proposals. However, the Commissioner stressed that it was not their role to make a binary choice between the two proposals, but to assess the proposed CAD facility on its own merits. Whilst the perception of harm can be a material planning consideration, the Commissioner noted that in deciding the weight to attach to it, the decision-maker is entitled to have regard to the extent which perceived risks have objective justification. The Commissioner noted that the Council was unable to demonstrate actual harm resulting from the CAD facility and therefore the degree of concern in respect of actual or perceived impacts is limited. The Commissioner was not persuaded that the appeal proposal would significantly prejudice development of the North Foreshore Giant's Park for leisure-led, mixed use development; or that it would be detrimental to the attractiveness of the film studios to end users and/or investors.
3.10	<p><u>Appeal Costs Decision</u></p> <p>In terms of the first refusal reason, the Commissioner did not find the Council's consideration of the impact of the proposal on the GPBL proposals to be unreasonable of itself. However, it was critical of there being no technical or scientific-based reasons underpinning the refusal reason. The Commissioner referred to the additional note from Environmental Health appended to the final report to the August Planning Committee and the advice from officers that 'there are no technical reasons why the proposed CAD facility would be incompatible with either the film studios or GPBL proposals.' The Commissioner observed that much of the Council's evidence related to the perceived benefits/disadvantages of the appeal proposal when compared to the GPBL proposals. However, the Commissioner pointed out that the appellant was entitled to have their application determined on its own merits.</p>
3.11	Regarding the second refusal reason, the Commissioner was critical of the Council not weighing in the planning balance the environmental, social and economic benefits of the proposed CAD facility. The Commissioner also referred to the Council's inconsistency between its handling of the applications for the appeal proposal and the film studios on the adjacent land, particularly Phase 2 of the film studios which was being considered by the Council at the same time as the appeal proposal. It noted that a more liberal interpretation of the draft BMAP policy seems to have been applied to the film studios proposals.
3.12	The Commissioner commented that the Council did not ' <i>...undertake reasonable, objective assessment of the grounds on which it considered the policies in its first reason for refusal to be engaged; and did not demonstrate that a balancing exercise had been undertaken to show how the evidence before it had been weighed and assessed. The [Council] behaved unreasonably in terms of the process followed by the Planning Committee and the failure to provide persuasive evidence to support the stated refusal reasons before and at the time of reach its decision.</i> '
3.13	The Commissioner concluded that ' <i>Whilst disparity and disagreement are inherent and reasonable characteristics of the planning process, in this instance, the [Council] was unable to produce credible evidence to substantiate its reasons for refusing permission. On this basis of this unreasonable behaviour, it caused an unnecessary appeal and a full award of costs should be made to the claimant.</i> '

4.0	Financial & Resource Implications
4.1	A full award of costs has been made against the Council for causing an unnecessary appeal. The Council will be required to pay the appellant's costs including the appeal fee; senior counsel/legal fees; planning consultant fees; and environmental statement consultancy team.
4.2	The Council also has to pay for its own appeal related costs including officer time and appointing counsel to advise on the appeal and represent it at the hearing.
5.0	Equality or Good Relations Implications / Rural Needs Assessment
5.1	No adverse impacts identified.
6.0	Appendices – Documents Attached
	Appendix 1 – copy of main appeal decision (allowed)
	Appendix 2 – copy of costs decisions (allowed)

Appeal Reference:	2021/A0131
Appeal by:	Dargan Road Biogas Ltd. against the refusal of full planning permission
Development:	A centralised anaerobic digestion (CAD) plant to include a bunded tank farm, (6 no. digester tanks, 2 no. buffer tanks, 1 no. storage tank and associated pump rooms), biogas holder, biogas conditioning system, temperature control system, waste water treatment plant (WWTP), motor circuit control room building, hot/cold water recovery system, feedstock reception and digestate treatment building, product storage building, odour control system and associated tanks, emergency gas flare, back-up boiler, administration/office building, car parking, 3 no. weighbridges, fire water tank and pumphouse, pipelines to existing combined heat and power (CHP) plant engines, switchgear, earth bunding, 3 no. accesses to existing Giant's Park service road infrastructure and ancillary plant/site works
Location:	Lands to the north-west of existing Belfast City Council Waste Transfer Station at 2a Dargan Road, Belfast
Application Reference:	LA04/2019/1540/F
Procedure:	Informal Hearing on 12 th and 13 th January 2023
Decision by:	Commissioner Julie de-Courcey, dated 6 th March 2023

Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.
2. An Environmental Statement (ES) accompanied the planning application subject of this appeal. This was supplemented by addenda dated December 2019 and October 2020. As required by the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 [the Regulations], I have taken into consideration all environmental information presented in relation to the planning application and appeal proposal in reaching my conclusions.

Claim for Costs

3. The appellant made a claim for costs against Belfast City Council (BCC). That claim is the subject of a separate decision.

Preliminary Matters

4. Notwithstanding that that its Planning Officers recommended approval of the proposal on 4 occasions, the Local Planning Authority's (LPA) corporate stance on the planning application subject of this appeal is set out in the two reasons for refusal on the decision notice issued by BCC on 27 September 2021.
5. The 5.15 hectare (ha) appeal site is part of 138 ha site that is subject of the North Foreshore Giant's Park Comprehensive Masterplan (CMP). The CMP was prepared by BCC in anticipation of closure of this former landfill site and following designation of the wider area as a mixed-use zoning in the draft Belfast Metropolitan Area Plan (dBMAP). The Plan required preparation of a CMP to set out the concept for the site, identify objectives and priorities and set out an appropriate mix of land uses. The CMP was published in 2009, after dBMAP in 2004 and approved by the former Department of the Environment Planning in January 2010.
6. A third party (TP) asserted that an assessment of the cumulative effects of the proposed development combined with existing, approved, planned and "*reasonably foreseeable*" for the overall CMP site (whether or not the subject of a current planning application) should have been carried out.
7. There was no evidence that the CMP was or should have been subject to assessment under The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004. There was no indication that the planning applications in respect of either the existing Belfast Harbour Film Studios (BHFS) on the adjoining site or its approved phase 2 extension were required to consider the cumulative impact of existing, approved and development for which extant planning permission exists in addition to that planned within the overall site covered by the CMP but not yet subject of a planning application.
8. Reference was made to the Planning Inspectorate's (PINS) "*Advice Note Nine: Rochdale Envelope*" and "*Advice Note Seventeen: Cumulative effects assessment relevant to nationally significant infrastructure projects*" (NSIPs). Both publications are concerned with operation of the Planning Act 2008 that is intended to speed up the process for approving major new infrastructure developments. Aside from the issue of the weight to be given to that advice in this jurisdiction, the Planning Act 2008 as amended, identifies thresholds for what is considered a NSIP in England and Wales. The threshold for generating stations is lower in England than Wales but that is 50 megawatts (MW). At a generating capacity of 4.1 MW, the appeal proposal falls short of that so would not be considered a NSIP in that context. Accordingly, I am not persuaded that the guidance is applicable in this instance.
9. Pursuant to Regulation 11(2), Schedule 4 of the Regulations sets out matters for inclusion in an ES. Section 5 (e) requires a description of the likely significant effects of the development resulting from the cumulation of effects with other existing and/or approved development, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources. That statutory requirement does not support the contention that consideration of cumulative impact should include proposed development that is not subject of a current planning application or that is "*reasonably foreseeable*".

10. It would be reasonable to assess the cumulative environmental impact of future proposed development within the overall CMP site together with existing and/or approved development in the context of any subsequent planning applications. This is not an instance where concerns about “*project splitting*” reasonably engage.
11. There was no evidence that advertisement or notification requirements imposed by planning or environmental legislation were not observed in respect of the application subject of this appeal; no such deficiencies are perceived. In that context, the contention that consultation on and publicity for the proposed development should have, as a minimum, matched the scope of that associated with the CMP, does not weigh against the current proposal.
12. The appellant may be BCC’s “*development partner*” but the proposal must still be considered in the context of planning law, policy and guidance. Therefore, little weight is attached to that contractual relationship between those parties.
13. The appointment of Giant’s Park Belfast Limited (GPBL) as a “*preferred developer*” in commercial negotiations with BCC as landowners or any property rights afforded to that company, confers little weight on a proposal or proposals that have yet to be subject of a formal planning application; nor does it create any presumption in favour of any such proposed development.
14. That the proposed development allegedly clashes with the vision for the site set out in BCC’s “*Expression of Interest (Development Brief)*” to tenderers, where there was no mention of the proposed CAD, is not germane to my consideration of this appeal. Its compatibility with surrounding land uses and the character of the area are separate, valid considerations that are assessed in this decision.

Reasons

15. The main issues in this appeal are:
 - Whether the proposed development is acceptable in principle;
 - Impact on the area’s environmental quality, amenity, character and appearance;
 - Compatibility with surrounding land uses;
 - Adequacy of the submitted environmental information (EI) including further environmental information (FEI) in the addenda to the ES; and
 - Whether the proposed development is likely to have direct or indirect significant effects on environmental assets.

Site and area

16. The appeal site lies to the north of Dargan Road, on low-lying ground adjacent to Belfast Lough, on reclaimed lands that are that are part of the North Foreshore or “Giant’s Park”. It comprises a former landfill whose use as such by BCC ended in 2007 when the site was capped and landscaped. It is predominantly flat and open in character but levels rise to the north where the landscape has a more undulating profile across the wider North Foreshore lands.

17. The immediate site context is as follows:

- To the south-east of the site is Dargan Road Waste Transfer Station that the appellant advised is licensed to accept 165,000 tonnes per annum of non-hazardous waste. To its north is an existing combined heat and power (CHP) engine compound. The appellant advised that this was installed as part of a landfill gas management system that originally comprised 5 no. CHP engines. As the supply of landfill gas depleted, only 2 are now used to generate electricity. The proposed development will use the 3 remaining CHP engines to generate heat and electricity from biogas;
- To the north-east of the appeal site is Belfast Harbour Film Studios (BHFS) [phase 1]. Phase 2 of this development has been approved to the south of phase 1 and to the east of the appeal site;
- To the south of Dargan Road are a variety of industrial and commercial facilities;
- Dargan Road is the main access to Belfast Port and connects to the M2 motorway at Fortwilliam Roundabout. It comprises a 4-lane dual carriageway. Two “spine” roads lead northwards off Dargan Road with a link between the two. These roads adjoin 3 of the appeal site’s 4 boundaries; and
- The nearest residential properties are more than 0.5km from the appeal site in the Fortwilliam area to the west with the NI Railway line and M2 motorway located in the intervening landscape.

18. Chapter 2 of the ES provides a more detailed description of the site including plans for redevelopment of the remainder of Giant’s Park. All this evidence has been taken account of in assessing the proposal’s compatibility with its environs.

Proposal

19. The proposal is for a Centralised Anaerobic Digestion (CAD) plant that would power the 3 no. existing CHP engines with an installed capacity 4.1 MW. Allowing for annual maintenance, the gas engines are expected to export 4.1 MW of electricity for 8,000 hours per year (around 91% uptime) giving a total electricity exportation of 32,800 MWh/per annum (pa) from up to 99,999 tonnes pa of organic feedstock.
20. Chapter 3 of the ES sets out a detailed description of the proposal, the built elements of the proposed facility and how these integrate into the processes that would take place on site. It advises on: feedstock delivery; feedstock reception; pre-treatment; AD; biogas collection; piping of biogas to the 3 existing CHP engines located to the east of the site, across the internal access road; post-digestion; waste water treatment plant; odour control system; plant design and abatement systems; the individual elements of the proposed development; landfill gas extraction system; proposed plant operations; and plant construction. In addition to the brief description of the processes set out in the next paragraph, all of this evidence has been taken account of in assessing the proposal’s environmental impact.
21. The facility has primarily been designed to process two main feedstock types: organic fine fraction of Municipal Solid Waste (MSW) i.e. food waste; and Source Separated Organic Waste (SSO) i.e. brown bin (food/garden) waste. The feedstock types would be processed in physically separate process lines to ensure no cross-contamination between the waste streams, The plant would accept up to 49,999.5

tonnes pa per process line. During the AD process micro-organisms would break down the biodegradable material, in the absence of oxygen in an enclosed system. The process produces a methane-rich biogas and compost-like material known as digestate. The existing 3 no. CHP engines would convert the biogas into heat and electricity. Part of the generated electricity would be used to power the AD plant with the remainder exported to the national grid; the correspondent proportions were not available. An export meter is already in situ, adjacent to the existing CHP engines, to facilitate export to the grid. The heat would be captured and used within the plant for, amongst other things, heating the digestion tanks and drying the digestate.

22. The EI says that it is expected that each process line would produce between 5-8,000 tonnes pa of digestate. This would vary dependent on the quality of the input feedstock. However, the volume of output would be reduced by pre-treatment (screening out unsuitable materials) and drying after the AD process. Subject to the digestate being produced using only those source-segregated input materials listed within the Anaerobic Digestate Quality Protocol endorsed by Northern Ireland Environment Agency (NIEA), the appellant advised that outputs from AD would normally be regarded as having ceased to be waste. The dried digestate from SSO waste would be processed and bagged on site as a fertiliser. Following thermal drying, the digestate from MSW organic fines would be disposed to landfill off-site.

Scoping

23. Regulation 5 (2) of the Regulations requires that the environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case, the direct and indirect significant (*my emphasis*) effects of the proposed development. A TP highlighted that some of the topics identified by BCC in its scoping opinion, in accordance with Regulation 8 (1) (b) of the Regulations, had not be addressed by the EI as required by Regulation 11 (3) (c). Chapter 4 of the ES dealt with “*ES Screening and Scoping*”. At paragraphs 4.16 - 4.17 inclusive and 4.37 – 4.39 inclusive, the appellant persuasively explained why those issues were not considered further. This was supplemented in their letter to BCC of 20 April 2020. Therefore, although the full range of issues subject of the scoping opinion were not pursued in individual chapters, the appellant addressed them; and consideration of them was not omitted. For the reasons given in the appellant’s evidence, none of the matters cited by the TP could reasonably be argued to result in potential significant effects given the site’s context and its former use. Accordingly, the EI is not deficient in that respect.

Local Development Plans

24. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise.
25. In 2017, the purported adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal. Therefore, although past their stated

end date, the Belfast Urban Area Plan 2001 (BUAP) and the Belfast Harbour Local Plan 1990-2005 (BHLP) are the statutory development plans for the area in accordance with the Schedule to The Planning (Local Development Plan) Regulations (Northern Ireland) 2015 as amended. A further consequence of the judgement is that the draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, is a material consideration in the appeal.

26. In the BUAP the site is unzoned land within the development limit of Belfast. The BHLP includes the site within an extensive zoning for Industry and Commerce/ Nature Conservation/ Open Space (Map 4), as part of Proposal IC1. Proposal NC3 is that the North Foreshore will be developed for a mixture of nature conservation, open space, industry and commerce. What was meant by “*Industry and Commerce*” was not specified. The Plan was adopted in 1991 and Article 2 of The Planning (Northern Ireland) Order 1991 did not define the terms “*industry*”, “*industrial*” or “*commerce*”. The proposed use does not fall within any of the classes within the Schedule to the Planning (Use Classes) Order (Northern Ireland) 1989 nor was it included in Article 3(5) thereof as a *sui generis* use. In that context, the proposed use of the appeal site comes within the broad, undefined remit of “*Industry and Commerce*” as given their everyday meaning. The principle of the proposed development is consistent with both statutory development plans.
27. Policy IC3 of the BHLP says that the Department will endeavour to improve the quality of new industrial development through the encouragement of better design and finishes of buildings and the use of landscaping. Policy ENV1 requires landscape proposals to be appropriate to their location within the harbour area.
28. Map 3/001 – Belfast Harbour Area of the dBMAP shows the appeal site within the 47.4 ha Zoning BHA 07 Employment/Industry North Foreshore that is subject to 8 no. Key Site Requirements (KSRs). The first 2 of those relate to the principle of the proposed development. The first says that development shall only include 6 uses one of which is waste management facilities. The 2nd KSR says that development of the site shall only be permitted in accordance with an overall comprehensive masterplan to be agreed with the Department outlining the design concept, objectives and priorities for the site. The North Foreshore Giant’s Park Comprehensive Masterplan (CMP), referred to in paragraph 5 of this decision, was subsequently published. Pending the CMP, dBMAP gave no indication of where permitted uses would be accommodated within the overall site.
29. The CMP’s Location Map showed the site approximately occupied by BHFS, BCC Waste Transfer Station and the existing CHP engines as “*ARC 21 lands for waste management facilities*”. The remainder of the area to the west of that annotation was labelled “*Environmental Resource Recovery Park*” with “*Public Open Space*” to the north of both areas. The Zone Diagram and Schedule of Accommodation divide the overall site into 15 zones. The appeal site seemingly comprises Zones 6 and 8. The 3 ha Zone 6 is for logistical warehousing, depending on demand and the 1.2 ha within Zone 8, the southern end of the appeal site, for phased development initially temporary Roads Service Park & Ride (5 years) (phase 1), later logistical warehousing. The “*ARC 21 waste management facilities*” occupied Zone 15 comprising: the existing waste transfer station: proposed organic composting facility; and landfill gas generation facility.

30. The Commission's report on the Public Local Inquiry (PLI) into dBMAP recommended that Zoning BHA 07 and neighbouring BHA 19 – Open Space Lands on the North Foreshore adjacent to the M2 Motorway be deleted and replaced by a new mixed-use zoning with consequent amendments to the wording of the 1st and 2nd KSRs. BMAP included this recommendation; and the appeal site is part of the 127.2 ha Zoning BHA 05 Mixed Use Site North Foreshore, shown on Map No. 3/001 – Belfast Harbour Area. The uses permitted by the 1st KSR included waste management and recycling facilities and all 4 Class B industrial and business uses as specified in the Planning (Use Classes) Order (Northern Ireland) 2004. As with the 2004 draft, the 2nd KSR says that development of the site shall only be permitted in accordance with an overall comprehensive masterplan to be agreed with the Department outlining the design concept, objectives and priorities for the site. Whilst the CMP was published before the Commission's report issued, it post-dated close of the PLI. Given that BMAP had been subject to public consultation and PLI, more weight is attached to it than dBMAP.
31. The proposed use is consistent with the 1st KSR of BMAP Zoning BHA 05. In the intervening period since publication of the CMP, Arc 21 sought planning permission in respect of an alternate site and the portion of Zone 15 not occupied by the waste transfer station and CHP engines has been developed by BHFS, with phase 1 operational and phase 2 subject of extant planning permission. Thus there is no specifically earmarked provision for additional waste management within the CMP. Zone 4 to the north-east of the appeal site that is to be part of the 2nd phase of the "*resource recovery village*" was said to be a possible commercial waste management facility.
32. The first sentence of the wording of the 2nd KSR is permissive where the proposal is in accordance (*my emphasis*) with the CMP – not in general accordance/conformity or broad compliance. As the waste management and recycling use was shown on Zone 15 and not Zones 6 and/or 8, the proposal offends that KSR.
33. There is no indication that BMAP will be adopted; on the contrary there is no evidence that it will not. However, that: the Department for Infrastructure (DfI) has issued a Direction that BCC's draft Plan Strategy (dPS) be adopted subject to Modifications specified therein; and the report on the independent examination on the Lisburn & Castlereagh City Council dPS has been forwarded to DfI, suggests that it will not. However, given its advanced stage in the development plan process, significant weight is given to it.
34. BCC asserted that loss of this site for logistical warehousing and displacement of associated potential jobs would be at odds with BMAP's BMA Employment Strategy that seeks to sustain balanced economic growth and job creation. Apart from the fact that the proposed development would generate direct and indirect employment during both its construction and operational phases, no further precise detail was given as to how it would be offended other than those concerns about displacement. There was no indication of: a shortfall in provision of a generous and continuous supply of land for employment uses; an estimate of the likely number of jobs displaced etc that would make retention of this site for more labour-intensive use that the proposed CAD vital to realisation of the Employment Strategy. Indeed, BCC said that the latest evidence gathered as part of the LDP process did not identify an

undersupply of employment land. The evidence BCC tabled in this respect invited comparison to the GPBL pre-application proposal with reference to deprivation indices and statistics relating to demography and economic activity in North Belfast; but was not persuasive of the point being pursued. Moreover, the alternative use within Zone 4, for a possible commercial waste management facility, specifically provides for such displacement within the overall site subject of the CMP. At any rate, the consideration of displacement needs to be looked at in a more strategic context if the concern relating to the BMA Employment Strategy were to be persuasive; the site subject of the CMP and Zoning BHA 05 is only one element of that wider picture.

35. The CMP and BMAP identify waste management and recycling as acceptable within the overall site subject of Zoning BHA 05. The former did not stipulate that there was need for a waste management facility within the site subject of the CMP, it was merely deemed acceptable in principle. Neither was there a specified requirement that a location-specific case for need would have to be met over and above applicable regional policy. BMAP did not identify waste management and recycling as suitable uses within Zoning BHA 05 only if promoted by Arc 21; again, they are considered acceptable in principle. However, with the material change in circumstances regarding Zone 15 in the 13+ years since publication of the CMP, there is no definitively earmarked site on which that use could be accommodated.
36. Phases 1 and 2 of the BHFS were granted planning permission on Zone 15 of the CMP despite being a *sui generis* use that did not accord with either the 1st or 2nd KSR of BMAP Zoning BHA 05. BCC's Planning Officers addressed this in their report of 24 August 2021 to the Planning Committee in respect of the application subject of this appeal at paragraphs 3.4, 3.5 and 3.7. The following noteworthy points are taken directly from that report as opposed to being my analysis of the issues:
 - The agreed CMP is conceptual and it is unclear from the document how definitive the spatial configuration of uses across the zoning is. In any event, greater weight should be afforded to the Zoning BHA 05 itself as the CMP is a subordinate policy document. Moreover, it was published in 2009, does not reflect the planning permission granted for BHFS (phase 1) and is arguably outdated;
 - When planning permission was granted for BHFS phase 1, the Planning Committee accepted the Case Officer report that advised that the proposal "*conformed in principle*" with Zoning BHA 05 in recognition of the broad zoning of the land for employment uses;
 - The Planning Committee did not grant permission on the basis that there was no longer a requirement for waste management facilities; and
 - BCC's decision to grant planning permission for BHFS on land assigned for Arc 21 waste management facilities in the CMP establishes the principle of it taking a flexible approach to zoned uses under Zoning BHA 05. The planning process often has to be reactive to changing circumstances on the ground.

37. BCC said that the reason that BHFS were granted planning permission contrary to the CMP was based on the “*considerably compelling economic case around the significant investment and job creation that the film studios would bring to the city*”. In considers that the appeal proposal would have much less economic benefit in this regard. Albeit that no evidence was given as to the comparative value of the BHFS development, BCC makes the salient point that each proposal must be considered on its own merits. That said, apart from the relative weight attached to each proposal’s economic benefit, it is difficult to distinguish the analyses of the proposal for phase 2 of BHFS from the current scheme in terms of the provisions of the CMP and BMAP Zoning BHA 05; both were considered concurrently, yet a more liberal interpretation of BMAP policy seems to have been applied to the former.
38. The proposed development would make use of 3 of the existing CHP engines, secure redevelopment of the former landfill site and yield significant associated environmental, economic and social benefits, identified in paragraph 58 pf this decision. Account has also been taken of the regional policy and legislation set out below in paragraphs 36 – 38 inclusive. On those bases, even if primacy were accorded to BMAP rather than the statutory LDPs, the material considerations to which significant weight is attached would be sufficient to outweigh the presumption in favour of development in accordance with the LDP.
39. Whilst BCC’s dPS is a material consideration, it has limited weight until adopted. Its Policies W1 – Environmental impact of a waste management facility and W2 – Waste collection and treatment facilities largely reflect Polices WM1 Environmental Impact of a Waste Management Facility and WM2 Waste Collection and Treatment Facilities of Planning Policy Statement 11: “*Planning and Waste Management*” (PPS 11). BCC’s concern related specifically to criterion b. of Policy W1 of its dPS that mirrors the 2nd bullet point of Policy WM1 of PPS 11 “Planning and Waste Management (PPS 11), which will be considered in due course. It is noted that Policy EC1 – Delivering inclusive economic growth includes clean technology within the business sectors with strong growth potential whose development will be supported subject to normal planning considerations. BCC considered that the proposal fails that test given its concerns about incompatibility of the proposed development with land uses in the area.
40. BCC’s LDP will be the spatial articulation of its Community Plan “*The Belfast Agenda*” that, despite its statutory basis and fundamental relationship with the LDP is not, of itself, a yardstick against which to assess this proposal. Pending adoption of the LDP, little weight is accorded to its provisions.
41. For all the above reasons, BCC’s second reason for refusal is not sustained.

Regional Policy

42. The Regional Development Strategy sets out wider strategic policy relevant to the proposal in RG5: Deliver a sustainable and secure energy supply and RG 10: Manage our waste sustainably.

43. In December 2021 the Department for the Economy (DfE) published the NI Energy Strategy “*The Path to Net Zero Energy*”. Of the three targets, two are particularly pertinent to this proposal:
- Renewables: Meet at least 70% of electricity consumption from a diverse mix of renewable sources by 2030; and
 - Green Economy: Double the size of our low carbon and renewable energy economy to a turnover of more than £2 billion by 2030.
44. Thereafter, Section 15 Climate Change Act (Northern Ireland) 2022 increased the renewables target for 2030 to 80%. There was no rebuttal of the appellant’s evidence that, for the 12 month period April 2021 to March 2022, 43.8% of total energy consumption in NI was generated from renewable sources.
45. The Strategic Planning Policy Statement for Northern Ireland “*Planning for Sustainable Development*” (SPPS) sets out the transitional arrangements that will operate until such times as the local Council adopts a Plan Strategy for the whole of the Council area. As no Plan Strategy has been adopted for the BCC area, the SPPS and the retained Planning Policy Statements (PPSs) apply. These include: PPS 2: “*Nature Conservation*”; PPS 11; and “PPS18 “*Renewable Energy*”. Although not cited in the SPPS, the Department’s update on extant planning guidance prepared by the Department of the Environment, published on 18 October 2019 included Draft Supplementary Planning Guidance to PPS 18 “*Renewable Energy*” Anaerobic Digestion (AD).

PPS 11

46. PPS 11 sets out the regional planning policies for the development of waste management facilities. Having considered the proposal in the context of Policy WM2 Waste Collection and Treatment Facilities, BCC had no issue with need for the proposed facility. However, as it remained a TP concern, it is material in determination of this appeal. Policy WM2 states that proposals for the development of a waste collection or treatment facility will be permitted where 4 criteria are met.
47. Criterion (a) requires that there is a need for the facility as established through the Waste Management Strategy (WMS) and the relevant Waste Management Plan (WMP). The proposal is consistent with the wider aims of waste management policy (established through the WMS and WMP) in that the AD process moves waste up the hierarchy from disposal to recycling and recovery, diverting organic waste from landfill. Noted is the appellant’s un rebutted verbal evidence that the need for the facility is made more acute by virtue of: Mullaghglass Quarry not taking municipal waste: the Arc 21 incinerator has been refused planning permission; and Kilroot waste incinerator is subject of an on-going judicial review.
48. By virtue of a November 2013 update on PPS 11 following publication of the revised WMS “*Delivering Resource Efficiency*”, Best Practicable Environmental option (BPEO) is no longer a material consideration in the planning process so criterion (b) of Policy WM 2 is not applicable.

49. Criterion (c) requires that the proposed facility complies with one or more of 5 locational criteria. The appeal site is a former landfill site and the proposal would bring previously developed, derelict or contaminated land back into productive use. Thereby it would satisfy two of the criteria. It is also located within an industrial or port area: whether it is of a character appropriate to the development remains to be considered. However, as at least 2 of the criteria are satisfied, the proposal complies with criterion (c).
50. Criterion (d) requires that 5 further criteria are satisfied. The proposed development would meet at least 4 of those for the following reasons:
- The appeal site adjoins the M2 motorway and Dargan Road is the main access route to the Port of Belfast;
 - As set out in Chapter 3 of the ES, the sorting and processing of waste would be carried out within a purpose-built facility;
 - On the basis of the EI and input of statutory consultees to the decision-making process, there is no persuasive evidence that the built development associated with the proposed methods of handling, storage, treatment and processing of waste is not appropriate to the nature and hazards of the waste(s) concerned; and
 - The proposal would generate heat and electricity.

The 5th criterion requires that the proposed development would not result in an unacceptable adverse impact that cannot be prevented to appropriately controlled by mitigating measures. This consideration is concluded on later in this decision.

51. There is no planning policy requirement that the decision-maker investigate: contractual surety of the supply of waste; or the proposal's commercial viability. Nevertheless, on the basis of the appellant's rebuttal of TP concerns raised in respect of a raft of such matters and BCC's Planning Officers' objective assessment of that evidence, I note that those concerns did not weigh against the proposal when recommendation to approve the planning application was made to their Planning Committee on 20 April 2021. I concur with that analysis, which was thorough, considered and robust. Accordingly, little weight attaches to the TP concerns in those respects.
52. Policy WM1 Environmental Impact of a Waste Management Facility of PPS 11 requires that proposals for their development of waste management facilities will be subject to a thorough examination of environmental effects and will only be permitted where it can be demonstrated that all of 12 listed criteria are met. BCC's concerns related to the 2nd and 9th criteria, in part, whereby the proposal is designed to be compatible with the character of the surrounding area and adjacent land uses; and the types of waste to be treated and the proposed method of disposal or treatment will not pose a serious environmental risk to air resources that cannot be prevented or appropriately controlled by mitigating measures. As TP concerns about impact on water and soil resources are no longer being pursued, in addition to the identified criteria, matters encompassed in the 1st and 3rd criteria must be considered. This shall be done in due course.

53. In the interim it is noted that, in respect of “*Compatibility with Adjacent Development*”, the justification and amplification text to Policy WM1 says that it is not always necessary or appropriate to separate waste management facilities from residential or other sensitive uses, provided that they will not cause detriment to amenity by reason of noise, dust or noxious emissions. It adds that development will not be restricted solely because it differs from the predominant land use in the locality. This echoes legacy BCC’s vision at page 17 of the CMP where it identified the North Foreshore Giant’s Park site as presenting it with a unique opportunity to transform a former landfill site into an area where economic development, waste management and open space can co-exist in a way that creates jobs, facilitates future waste management and provides a valuable open space resource to create a better Belfast.
54. In respect of the BCC Waste Transfer Station to the south-east of the appeal site, there was no suggestion that the proposed development would be at odds with Policy WM5 – Development in the vicinity of Waste Management Facilities. The submitted contention was that account should be taken of it in the context of the proposed leisure-led, mixed use development at North Foreshore. The appeal proposal may have implications for that planned development and, if Policy WM5 still applicable when any future planning application is being considered, would be a material consideration in its determination if planning permission for the CAD is forthcoming. However, it is beyond the remit of this appeal to consider the implications of Policy WM5 for that pre-application proposal in the context of the development currently being considered.

PPS 18

55. PPS18’s aim (consistent with that of the SPPS) is to facilitate the siting of renewable energy generating facilities in appropriate locations in order to achieve renewable energy targets and to realise the benefits of such energy. Both documents set out a qualified presumption in favour of renewable energy development unless they would have unacceptable adverse effects which are not outweighed by the wider environmental, economic and social benefits of the development. In relation to such benefits, Policy RE1 of PPS18 advises that they be given “*significant*” weight in determining an application. However, paragraph 6.225 of the SPPS says that they be given “*appropriate*” weight. In accordance with paragraph 1.12 of the SPPS, appropriate weight will be given to those considerations.
56. Policy RE 1 Renewable Energy Development says that development that generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on: (a) public safety, human health, or residential amenity; (b) visual amenity and landscape character; (c) biodiversity, nature conservation or built heritage interests; (d) local natural resources, such as air quality or water quality; and (e) public access to the countryside. Of those, BCC’s and TP concerns relate to: the public safety and human health elements of criterion (a); criterion (b); and local natural resources, such as air quality that is the bailiwick of criterion (d). These considerations shall be weighed in due course.

57. In respect of a CHP scheme, Policy RE 1 says that proposals need to demonstrate that the benefits of the scheme outweigh the need for transportation and an end user is identified. The Best Practice Guidance (BPG) to PPS 18 says at paragraph 3.3.2 that acceptable sites for CAD facilities handling large quantities of MSW are likely to include those in close proximity to a waste transfer station. As already set out, the proposal would utilise existing infrastructure in the form of the 3 no. CHP engines within the appeal site, which is located within an industrial/commercial area that includes the BCC Waste Transfer Station to the south-east. Given the site's location within an established industrial/commercial area, it could be advantageous from both an environmental and commercial point of view to locate close to potential customers. This element of policy is satisfied.

Environmental, Economic and Social Benefits

58. The appellant's evidence, principally at Chapters 13 and 14 of the ES, is that the proposed development would yield environmental, economic and social benefits including:
- With a capital spend of around £40m, it would create employment during the construction phase (213 direct per month & 141 indirect jobs over an assumed 24 month period) and its operation (22 direct & 40 indirect jobs);
 - Generation of £34.4m of Gross Value Added during the construction phase (direct & indirect) and £7.7m pa during operation (direct & indirect);
 - An annual rates payment of up to £121,000;
 - Contribution to climate change measures required in energy and waste management policy;
 - The generation of low-carbon, renewable energy (see "Proposal" section above) and production of fertiliser from local organic waste material;
 - Contribution to renewable energy targets and reduction in reliance on fossil fuels over an operating life-time of approximately 25 years;
 - Reduction in greenhouse gas emissions and pathogens;
 - Redevelopment of the former landfill site; and
 - Potential to attract other industrial/business uses to the North Foreshore who seek to avail of the renewable heat and energy that the facility will generate.
59. A Statement of Authority is contained within both chapters identifying the author(s), their credentials, membership of professional bodies and experience. There is no reason to doubt their objectivity. BCC's Economic Development Unit advised that the approach and methodology that were applied in determining the proposal's economic impacts are robust, having employed well-recognised models and assessment tools. Having objectively considered the EI and this opinion, there is no persuasive evidence that the forecasts are over-optimistic.
60. When taking into account the wider environmental, economic and social benefits presented, it is considered appropriate to attach significant weight to these considerations.

PPS 4

61. By virtue of Article 3 (4) (o) of The Planning (Use Classes) Order (Northern Ireland) 2015 the proposed use is *sui generis*. The Preamble to Planning Policy Statement 4: “*Planning and Economic Development*” (PPS 4) says that it does not provide policy for waste disposal or waste management facilities, which are dealt with in other PPSs. However, it adds that the policy approach and associated guidance contained within PPS 4 may (*my emphasis*) be useful in assessing proposals for other *sui generis* employment uses. The first reason for refusal refers to Policies PED 8 and PED 9 (a) of PPS4.
62. Criterion (a) of Policy PED 9 General Criteria for Economic Development of PPS 4 is concerned with the compatibility of a proposal for economic development with surrounding land uses. Although specifically concerned with waste management facilities, the second criterion of Policy WM 1 of PPS 11, addresses the same concern. Policy PED 8 Development Incompatible with Economic Development Uses gives rise to largely the same considerations as the 2nd bullet point of Policy WM1 of PPS 11 save for the former including approved as well as economic development uses and including the issue of prejudice to their future operation. The policy is subject to Supplementary Planning Guidance that requires 3 tests to be met instances involving “*sensitive industrial enterprises*”.
63. Paragraph 1.2 of the SPG to Policy PED 8 of PPS 4 refers to the “higher end” of the economic development spectrum offering employment in specialised jobs, significant sales in markets outside Northern Ireland and that may be significant to the regional economy. However, this description of businesses that might be considered “*sensitive industrial enterprises*” must be read in the round not only with the previous sentence but also paragraphs 1.1 and 1.2 thereof. Although the cited examples of industries that the SPG might apply to is not exhaustive, there is no persuasive evidence that the business conducted by BHFS requires a “*particularly contaminant free environment*”. In that context, I am not persuaded that the additional protection for existing “*sensitive industrial enterprises*” that the SPG to Policy PED 8 is applicable in this instance whether regardless of the weight attached to PPS 4.
64. BCC referred to BHFS (phases 1 and 2) as “*environmentally sensitive uses in a commercial context*”. In oral evidence clarification was given that, unlike the TP, reliance was not being placed on the SPG to Policy PED 8. Its concern was general incompatibility with BHFS and the proposed leisure-led, mixed-use development of the North Shore. There is no such definition in PPS 4 or associated policy provisions that might apply to uses considered to be “*environmentally sensitive uses in a commercial context*”.
65. If the proposal complies with the contended provisions of PPS 11 and PPS 18, then it would not be inappropriate to return to PPS 4 to see what, if any, further consideration it merits in the context of what is said in its Preamble.

Visual Impact and landscape character

66. The proposed development's landscape and visual impacts were assessed at Chapter 12 of the ES, updated in Chapter 3 of the first addendum and Chapter 6 of the second addendum. The updated information took account of the cumulative impact of the proposed development, that existing and the approved phase 2 of BHFS. The TP objection in this respect related not to the adequacy of the associated EI but the proposed development's impact on character.
67. Existing mature trees limit views from sections of Dargan Road looking northwards over the North Foreshore and appeal site. At gaps in the vegetation or the junctions with the two spine roads leading to the North Foreshore, the site is seen in the context of the existing BHFS. The site presents itself as a vacant, degraded, brownfield, poor quality landscape that is of low importance in landscape and visual amenity terms.
68. The tallest proposed tank within the appeal development would be 23.7m. A single circular chimney would extend to 30m high. The photomontages at Appendix 3.2 of the first addendum to the ES show the existing views from 5 locations on the spine roads leading north from Dargan Road that extend along the west and east sides of the appeal site. The views are between 5 – 266m from the site. From close range views from the easternmost spine road, looking westwards, the proposed development would block view of the Belfast Hills, be visually dominant by virtue of its scale, massing and extent and have significant visual effects. From views of up to 266m, the proposed complex would be visually dominant, albeit less so with distance, and seen as industrial in character.
69. Development along Dargan Road is industrial and commercial in appearance, scale and character. Travelling westwards along it, the Film Studios are visually predominant in the foreground with the Belfast Hills providing a backdrop. Phase 1 of the BHFS comprises: 2 film studios and sound stages approximately 33,000 sq.ft each; two workshop buildings approximately 11,000 sq.ft. each; and a 3 storey 37,000 sq.ft office and production building. The approved phase 2 development would have a more extensive built footprint than the existing premises. Due to their scale, massing, design and finish, the existing and approved BHFS buildings are industrial in character and appearance. The high magnitude of change that the proposed development would represent from shorter range views would be dissipated by the site context with adjacent large-scale industrial/commercial premises.
70. The photomontages at Appendix 6.2 of the second addendum to the ES are longer range views. That from Dargan Road, 246m away, shows both the proposed building/structures and those existing and approved at the BHFS seen on the skyline. From this vantage the proposed development would be consistent with the established character of the area. From Edgewater Road, 941m to the east, the existing and approved BHFS would visually predominate. From views from Belfast Castle Demense (2.3km to the north-west) and Cavehill County Park (2.6km to the north-west), the proposed development is consistent with the scale and extent of both phases of the BHFS and the wider setting of Dargan Road, West Bank Road and with the M2 motorway in the foreground. From these vantages, the proposed

development would not change the character from that of existing and approved development nor result in significant additional impact on landscape character and visual amenity.

71. The proposed development's form and design is reflective of its function. However, consistent with Policy IC3 of the BHLP, further consideration was given to its finishes to minimise visual impact. Whilst the proposed development would alter the view from the site's immediate environs, it would not unacceptably change the area's overall character when considered in context and in the round. The scale would be appropriate in the receiving landscape and compatible when considered with the existing and approved development in the area and the wider physical context.
72. The landscape and visual Impact assessment was predicated on: the proposed landscaping scheme in addition to retention of existing boundary vegetation; and revised proposals for the buildings' and tanks' finish. The latest version of the former is found at Appendix 3.1 of the 1st ES addendum. As it matures, the proposed landscaping scheme would make a valuable contribution to largely screening views of the proposed yard, operational areas and lower extent of the AD plant. Therefore, conditions are needed to ensure: the safeguarding of existing trees during the construction phase; implementation of the agreed landscaping proposals; maintenance of those provisions; and ensuring that the structures' finishes are in accordance with the approved plans.
73. Subject to imposition of those conditions, the proposal is consistent with Policies IC3 and ENV1 of the BHLP, the 3rd bullet point/criterion of Policy WM1 of PPS 11 and criterion (b) of Policy RE1 of PPS 18

Compatibility with neighbouring land uses

74. Evidence was submitted of the number of complaints that NIEA's Resource Efficiency Division (letter of 26 March 2021) received for the period 1 January 2020 to 5 March 2021 in respect of an AD facility at Granville Ecopark (Mid-Ulster District) in respect of noise, odour and noise & odour. Account has also been taken that a resident of the area local to that facility spoke to BCC's Planning Committee about his personal experience of associated nuisance. Other than a TP describing the facility as "*being located in the middle of a heavily industrialised business park, which includes a number of other industrial producers*", there is no evidence as to how it is perceived to be on all fours with the appeal proposal in terms of considerations such as: the nature of the proposal including feedstock; processing; volume of waste; whether it was the subject of EIA; what conditions were imposed on the planning permission; and whether these have been complied with. In that evidential context, limited weight is given to Granville Ecopark as a comparator to the appeal proposal. In contrast, there is specific EI relating to the potential impacts that the current proposal is likely to give rise to in respect of those considerations and it is on that basis that I shall consider whether the effects would be significant.

Noise & Vibration

75. The potential impact of noise and vibration from the proposed development, during both the construction and operational phases, were considered at Chapter 7 of the

ES in accordance with associated British Standards. BCC's EHD has no issue with the general methodology that was set out in paragraph 7.10 of Chapter 7 of the ES; it is comprehensive and robust. The assessment included:

- Undertaking a baseline noise survey and determining background sound pressure levels to establish appropriate and representative background noise levels for both day and night-time;
- Identification of 5 noise-sensitive receptors both on and off the North Foreshore site including phase 1 of the BHFS to the north-east of the site and residential properties on Shore Road separated from the appeal site by the M2 motorway and Fortwilliam Roundabout; and
- Noise modelling to predict the impact of the proposed development on identified receptors during both phases of the proposed development. This included consideration of: HGV movements associated with the proposed development; inter-relationships with transportation and ecology in relation to potential disturbance; and noise from the existing CHP engines that would remain the dominant noise source further to construction of the proposed development.

76. Subject to mitigation at the construction phase, the assessment concluded that there would generally be no significant noise impacts associated with the proposed development. The impacts of the construction and operational phases were therefore assessed as negative (slight): *“where impacts will be observable but where the scale of impact is unlikely to be of material significance in the locality”*. Nevertheless, there would be some noise impact on BHFS during the construction phase, particularly in respect of piling. BCC Planning Officers noted in one their reports to the Planning Committee that: best practice guidance does not safeguard commercial uses during the construction process; and that construction noise, including piling, would occur during the build for other built development proposals for the site including logistical warehousing. The associated potential impact in this respect from development of the appeal site would arise regardless of the use. This consideration must be balanced against the positive impacts of the site's regeneration. Assumptions underlying the construction phase assessment and associated mitigations could be subject of a condition on any forthcoming planning permission to secure implementation of an agreed Final Construction Noise and Vibration Management Plan in order to minimise impact on BHFS and require, as a minimum, the mitigation measures contained in the ES and addenda. This would strike an acceptable balance between safeguarding the established use and redeveloping the brownfield appeal site.

77. The updated noise and vibration impact assessment at Chapter 4 of ES II considered the impact of the proposed development on the phase 2 of BHFS that was approved in August 2020, subsequent to submission of the planning application subject of this appeal. It identified two additional receptors namely the BHFS phase 2 building and its amenity area. Notwithstanding that: The Phase 2 development site is located in a non-residential area and commercial in nature; and that the noise impact assessment submitted with the planning application for phase 2 of BHFS said that *“The majority of the proposed operational activities will be undertaken within the relevant buildings”*, consistent with the conservative approach to assessment of the potential impact of noise and vibration on the existing BHFS in

the original ES assessment, the stricter limits applicable to residential receptors were applied to these additional receptors to ensure a “worst case” scenario. At any rate, the noise assessment for the two additional receptors indicates that the predicted noise levels would be consistent with standards required for residential neighbours. Therefore, no additional mitigation would be required during either phase of the development; a stance that BCC’s EHD agreed with. On the basis of the EI, there is no persuasive evidence that noise from operation of the proposed development would preclude BHFS from outdoor filming of the frequency envisaged in its ES for its phase 2 development.

78. The planning consultancy who objected to the proposed development on behalf of the owners of BHFS (Belfast Harbour Commissioners) raised concerns in April 2020 about noise impact. Subsequent to submission of the 2nd addendum to the ES in October 2020, that addressed the impact of noise and vibration on the then current planning application for the phase 2 development and the issue of piling, this objection was not followed up on. With the FEI, those concerns have not been found to weigh against the development. The appellant gave un rebutted evidence that their baseline data on the prevailing noise environment was used by BHFS in that application; suggesting that its reliability was not disputed.
79. It is noted that based on advice from its EHD, BCC’s Planning Officers concluded in their final report to its Planning Committee that “*the film studios and proposed CAD facility would be compatible in terms of noise impacts*”. This was predicated on a comprehensive “note” from the EHD appended to the report, dated 7 May 2021. This is consistent with my conclusion on the issue based on the submitted EI.
80. In this evidential context, I am not persuaded that sensitive receptors further removed from the appeal site than either phase of the BHFS complex would experience an unacceptable adverse impact associated with noise and/or vibration during either the proposed development’s construction or operational phases.
81. Subject to imposition of the aforementioned condition, the proposal is consistent with criterion (a) of Policy RE1 of PPS 18 as it relates to human health or residential amenity.

Odour & Air Quality

82. The potential air quality impacts that could arise as a result of the proposed CAD plant to power the existing CHP engines, during the construction and operational phases, was considered at Chapter 6 of the ES in accordance with: guidance published by the Institute of Air Quality Management; the Air Quality Strategy for England, Scotland, Wales and Northern Ireland (2007); the Air Quality Standards Regulations 2010; guidance from the Department for Environment, Food & Rural Affairs (DEFRA) and Environment Agency; and guidance on using dispersion modelling and identifying target odour levels at the nearest sensitive locations published by the Environment Agency for England and Wales in consultation with Northern Ireland Environment Agency (NIEA). BCC’s EHD has no issue with the methodology that was set out in Chapter 6 of the ES; it is comprehensive and robust. The assessment considered:

- The construction process associated with the proposed development and the impact this would have on the surrounding sensitive receptors;
 - The impact on existing air quality at sensitive receptors within the vicinity of the proposed development during the operational phase; and
 - The impacts that the proposed development would have on ecologically sensitive receptors once operational. This included predicted nitrogen concentrations at designated sites within 2km of the proposed plant.
83. The ES contained a detailed description of proposed mitigation measures at both phases of the proposed development – paragraphs 6.147 and 6.148. If planning permission is forthcoming, conditions would be necessary in respect of submission of a Final Dust Management Plan and a Final Construction Environmental Management Plan. On that basis: no significant impacts would result as a consequence of the construction phase of the development; and existing and approved sensitive receptors would not experience a significant air quality impact as deduced from the results of the AERMOD air quality assessment, which predicts pollutant concentrations to be significantly lower than the appropriate guideline limits during the operational phase. Given the above, it can be concluded that residual effects from the construction and operation of the proposed development would be negative (slight) i.e. where impacts will be observable but where the scale of the impact is unlikely to be of material significance in the locality.
84. The existing BHFS complex was considered as a sensitive receptor in the original ES. This was a robust and conservative basis of assessment; and it was concluded that there would be no unacceptable impact. The updated air quality impact assessment at Chapter 3 of the ES 2nd addendum considered the impact of the proposed development on the phase 2 of BHFS. It identified two additional receptors namely its closest building and closest associated external area. The updated assessment of air quality and odour from the operational phase concluded that the additional receptor locations would meet the same criteria as is applicable to human receptor locations. As the updated assessment concluded that the air quality and odour impact would be below the relevant limits applicable to human receptors, no additional mitigation would be necessary as a result of the phase 2 permitted development.
85. BCC's Planning Officers concluded in their final report to its Planning Committee, based on advice from its EHD, that *"the film studios and proposed CAD facility would be compatible in terms of ambient air quality impacts"*. The same conclusion was reached in respect of odour impacts. This was predicated on a comprehensive "note" from the EHD appended to the report, dated 7 May 2021. This is consistent with my conclusion on the issue based on the submitted EI.
86. In this evidential context, I am not persuaded that that sensitive receptors further removed from the appeal site than either phase of BHFS would experience an unacceptable adverse impact associated with air quality and/or odour during either the proposed development's construction or operational phases.

87. As the assessment of the significance of the associated environmental impacts in respect of air quality, odour and the integrity of European Sites were predicated on the description of the proposal at Chapter 3 of the ES, planning conditions would be needed in respect of waste streams accepted at the facility and the annual quantum. As the permitted waste streams could be specified by condition, there is no need to stipulate that no other feedstock should be used or specify waste that should not be accepted.
88. The processing of digestate and its “end use” as described in the ES was set out earlier in this decision; spreading within the site is not proposed. In the absence of assurance that this would be covered by the separate permitting regime and to safeguard interests of acknowledged importance, the inclusion of an associated condition would not be inconsistent with the provisions of paragraph 5.65 of the SPPS.
89. Subject to imposition of conditions, the proposal is consistent with the 9th bullet point/ criterion of Policy WM1 of PPS 11 and criterion (d) of Policy RE1 of PPS 18.

Traffic, birds & vermin

90. TP remaining concerns relating to traffic related to the potential odour from waste being delivered to site and from its possible spillage. Measures for management and mitigation of these potential environmental impacts are set out at Chapters 3 and 15 of the ES. One of the considerations subject of the latter is airport safeguarding given the site’s relative proximity to George Best Belfast City Airport (GBBCA). Paragraph 15.52 of the ES acknowledges that waste management facilities have the potential to attract scavenging birds but mitigation to reduce the site’s attractiveness to them has been built into the process flow/design of the proposed development. The following paragraph states that all delivery/collection vehicles entering and leaving the site will be contractually obliged to be covered. Paragraph 15.54 adds that upon entering the site and passing through the weighbridge, drivers would be directed to enter the reception building via fast acting roller shutter doors that would immediately close on entry ensuring that all waste is unloaded within an enclosed, controlled environment. Provided such measures are implemented, the TP concerns would not be justified.
91. Execution of contractual obligation is a distinct matter from enforcement of planning control. Discussion as to whether this aspect of the process would be controlled by associated permitting was inconclusive. Appendix 4.2 of the ES 2nd addendum comprises a Service Management Plan that, as written, is aimed at achieving efficient freight operations to minimise congestion. It could be amended to require incorporation of the cited mitigation measures in the ES. Together with a condition specifying that there must be no external storage of waste at any time, associated TP concerns are addressed.

Adequacy of EI

92. The “*Rochdale Envelope*” referred to earlier arises from two cases: *R v Rochdale MBC ex parte Milne (no. 1)* and *R v Rochdale MBC ex parte Tew [1999]* and *R v Rochdale MBC ex parte Milne (no. 2) [2000]* (‘the judgement’). Whilst the ensuing

PINS guidance that those cases gave rise to is not applicable in this instance, the issue of precedent remains to be considered. The appeal proposal is for full planning permission. Other than the criticism that insufficient consideration has been given to proposed and “*reasonably foreseeable*” development within the scope of the 138ha subject of the CMP that is not yet subject of a current planning application, there was no specific indication as to how the proposal is perceived to be at odds with the *Rochdale* cases.

93. In considering whether the current proposal is consistent with that precedent, consideration has been given to:
- The appellant has given an adequate description of the project and their environmental assessment has taken a cautious approach to assessing likely significant effects that has fed through into the mitigation measures envisaged. They considered issues such as contamination, dust and construction noise and vibration and did not postpone proper assessment of the likely significant environmental impacts and requisite mitigation until after the grant of planning permission;
 - An Outline Construction Environmental Management Plan (OCEMP) was submitted as Appendix 3.2 of the ES. Its page 5 explains that it details the environmental monitoring and mitigation measures that are to be implemented during construction work to minimise the effects of site operations on sensitive receptors. The detailed mitigation and control mechanisms therein are informed by the associated environmental assessments. Any conditions requiring post-consent agreement of those matters with BCC would require, as a minimum, the mitigation measures identified in the ES and its addenda;
 - It is common practice that an outline Construction Environmental Management Plan (CEMP) provides a framework from which a final CEMP will be developed, post-consent. BCC’s associated draft conditions referring to post-consent agreement/approval or my endorsement of them is not acknowledgement that the EI and associated assessment is deficient or incomplete; and
 - The environmental information was updated to take account of submission and approval of the planning application for the BHFS phase 2 development during the life-time of the application subject of this appeal.
94. In all, the evidence on which my decision is based is “*sufficient information to enable ‘the main’, or the ‘likely significant’ effects on the environment to be assessed....and the mitigation measures to be described*” (paragraph 122 of the judgement). No inconsistency with the *Rochdale* cases or short-comings in the scope of the EI, including FEI, is perceived.

Habitats Regulation Assessment

95. Whilst the appeal site is not subject to environmental designation, it is within 0.5km of a number of national, European and international designated sites. Policy NH 1 - European and Ramsar Sites – International of Planning Policy Statement 2: “*Nature Conservation*” states that planning permission will only be granted for a

development proposal that, either individually or in combination with existing and/or proposed plans or projects is not likely to have a significant effect on a European Site. It adds that where a development is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the decision-maker shall make an appropriate assessment (AA) of the implications for the site in view of the its conservation objectives. This policy requirement derives from Article 6(3) of the Habitats Directive which establishes the requirement that any plan or project likely to have a significant effect on a SAC site shall be subject to an AA.

96. Shared Environmental Services (SES) carried out a HRA of the proposal on BCC's behalf. The Stage 1 Screening Assessment was carried out in accordance with the cautious approach required by *People over Wind & Sweetman* and concluded that any conceivable effect on any European site could not objectively be ruled out. In carrying out the Stage 2 AA, SES took account of responses from a range of statutory consultees in assessing mitigation measures, sites and features and in combination effects. It concluded that, provided the mitigation measures detailed in the assessment are conditioned in any planning approval, there would be no adverse effects on the sites' integrity.
97. Ecology was considered at Chapter 11 of the ES and a shadow Habitat Regulations Assessment (sHRA) carried out. The issue was reconsidered in Chapter 2 of the ES 2nd addendum and a revised sHRA submitted. Having also proceeded to Stage 2 AA, the appellant reached the same conclusion as SES.
98. Having objectively considered this evidence and subject to the imposition of associated planning conditions, the proposed development is not likely to have a significant effect on the integrity of the designated sites in view of their conservation objectives nor does reasonable scientific doubt remain in this respect. Accordingly, the proposal is consistent with associated legal and policy requirements.

Environmental impact

99. The totality of the submitted EI assessed the proposal's impact on the considerations, as appropriate, set out in paragraph 6.321 of the SPPS. The remaining environmental concerns being pursued have all been considered and, for all of the foregoing reasons, there is no persuasive evidence that the proposal would could cause demonstrable harm to human health or result in an unacceptable adverse environmental impact that cannot be prevented or appropriately controlled by mitigating measures. As there is no persuasive evidence that the proposed development would give rise to significant risk of damage to the environment, the precautionary principle, referred to at paragraph 6.322 of the SPPS, does not engage. Therefore, the proposal is consistent with: the 5th bullet point of Policy WM2 of PPS 11 and that policy in the round; and the 1st and 2nd bullet points of Policy WM1 of PPS 11 and also that policy as a whole. As the proposal is compatible with the 2nd bullet point of Policy WM1, it is also consistent with criterion (a) of Policy PED 9 of PPS 4.
100. Irrespective of the disputed weight that should be given to a proposed development not yet subject of a planning application and to PPS 4 in light of its Preamble, the SPG to its Policy PED 8 is concerned with "*sensitive industrial enterprises*". Whilst

the leisure-led, mixed-use development earmarked for the North Foreshore includes a research and development hub, there is no evidence that this would include “*sensitive industrial enterprises*”. As required by paragraph 6.317 of the SPPS, particular attention has been given to the proposal’s potential impact on neighbouring areas and the need to separate incompatible land uses. Having concluded on a range of potential environmental impacts that the proposed development would give rise to, none are considered inconsistent with law or regional policy. On that basis Policy PED 8 does not weigh against the proposal. Accordingly, whatever the weight given to the provisions of PPS 4, the proposal is consistent with them.

Perception of Harm

101. Evidence was submitted on the likely economic, environmental and social benefits that would be associated with this proposal and also the planned leisure-led mixed-use development of the North Foreshore area that is subject of a Proposal of Application Notice (PAN) and Pre-Application Discussion (PAD). The proposal relates to indoor and outdoor leisure and recreation use, hotels, food and beverage units, petrol filling station and research and development hub. It is not for me to make a binary choice between the two or undertake a cost-benefit analysis of their relative economic worth; rather to consider the current proposal on its own merits.
102. Perception of harm arising from the proposed development is a material consideration. However, in deciding the weight to attach to it, the decision-maker is entitled to have regard to the extent which perceived risks have objective justification.
103. The proposal would not give rise to significant environmental effects in respect of the parties’ concerns about: noise and vibration; odour and air quality; the identified issues about traffic, birds and vermin; compatibility with existing and approved land uses in the vicinity and it would be consistent with associated regional policy in those respects. Given the outcome of the HRA, there is no persuasive evidence that the proposed development would be incompatible with plans to establish “*an exemplar RSPB nature reserve*” on the northern 200 acres of North Foreshore Giant’s Park. Reference was made to RSPB’s Window on Wildlife at Airport Road West as a comparator. That it is in the vicinity of GBBCA bolsters that conclusion. In that evidential context, the degree of concern that is objectively justified is limited both in respect of actual or perceived impacts.
104. On the issue of proposed development’s compatibility with nearby economic development enterprises, paragraph 6.90 of the SPPS refers to operational/ established or approved economic development use/enterprises. Irrespective of the weight that should attach to a pre-application proposal, subject of a PAN and PAD, having objectively assessed the totality of the evidence before me, I am not persuaded that the proposal would: significantly prejudice development of the North Foreshore Giant’s Park for leisure-led, mixed-use development; or be detrimental to the attractiveness of BHFS to end users and/or investors.
105. Having found the proposal to be consistent with Policy WM1 of PPS 11 and Policies PED 8 and PED 9 (a) of PPS 4, I am not persuaded by BCC’s stance that although

not having advance technical based or scientific evidence of incompatibility between the appeal proposal, BHFS and the pre-application proposal, that determining weight should be given to its concern “*around the environmentally sensitive nature of those uses in a commercial context*”. In all, BCC’s first reason for refusal is not sustained.

Further planning conditions

106. The magnitude of the proposed development’s likely impact on hydrology and drainage was considered in Chapter 8 of the ES and in the Outline CEMP. Paragraphs 8.74 – 8.91 of the latter sets out associated mitigation measures to be employed during the proposed development’s construction and operational phases. Associated planning conditions are necessary to ensure implementation of those measures.
107. In light of the site’s previous use for landfill, EI on land contamination was submitted as Chapter 9 of the ES and Chapter 2 of the 1st addendum, which included a Remediation Strategy and Landfill Gas Extraction System Report as Appendices 2.1 and 2.2 respectively. On the basis of that FEI, in its advice of 7 May 2021, BCC’s EHD was satisfied that outstanding matters could be dealt with by way of suggested conditions on any forthcoming planning permission. Having considered the totality of the EI and this expert opinion, I am satisfied that the imposition of associated conditions would be necessary in order to mitigate significant environmental impact in respect of land contamination.
108. Transportation impacts of the proposed development were considered in Chapter 10 of the ES and Chapter 7 its 2nd addendum. To ensure that the forecast impacts are not significant, conditions are needed to ensure that: access to the site is constructed as approved; parking, turning and manoeuvring areas within it are provided and kept free for those purposes; and implementation of the agreed Travel Plan.

Conclusion

109. BCC has not sustained either of its reasons for refusal. Having considered there to be no likely significant environmental impacts and concluded that the weight given to the perception of harm to proposals for further development of the North Foreshore Giant’s Park is not determining, concerns about blight of the area’s regeneration do not weigh against this proposal. Remaining TP concerns have been assessed and do not attract determining weight. Accordingly, the appeal is allowed subject to the conditions set out below.

Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
2. The Anaerobic Digester shall not exceed a maximum of 99,999 tonnes of permitted waste per annum in accordance with written records that must be made available to the Local Planning Authority upon request.

3. The feedstock accepted at the facility shall be limited to MSW organic fines (European Waste Catalogue code 19 12 12) and the Codes set out in the Environmental Statement at Appendix 3.1.
4. No digestate from the facility shall be spread within the site. It shall only be disposed of in the manner set out in the Environmental Statement at Chapter 3.
5. There must be no external storage of waste at any time.
6. No works (including site preparation, clearance or construction works) shall commence on site until a Final Service Management Plan has been submitted to and approved in writing by the Local Planning Authority. As a minimum, this Plan must conform to the measures set out in Appendix 4.2 of the 1st addendum to the Environmental Statement dated December 2019. It must include details of the methods to be employed in order to avoid waste spillage noise in external areas and ensure opening of waste loads in internal areas behind closed doors. Site operations and management must be carried out in accordance with the Final Service Management Plan.
7. No works (including site preparation, clearance or construction works) shall commence on site until a Final Construction Noise and Vibration Management Plan has been submitted to and approved in writing by the Local Planning Authority. As a minimum, this Plan must conform to the measures set out in the Environmental Statement submitted to the Local Planning Authority in June 2019 and those set out in Chapter 4 of the 2nd addendum dated October 2020. It must outline the methods to be employed to minimise any noise and vibration impacts associated with site preparation and construction works, demonstrating the use of 'best practicable means'. The Plan must have regard to BS 5228:2009+A1:2014 Parts 1 and 2 Code of practice for noise and vibration control on construction and open sites (or successor publications) and demonstrate that site preparatory and construction works will achieve the BS5228 'ABC method' (or successor publication) Category A noise threshold value for daytime and Saturdays at relevant sensitive receptors. All site preparation and construction works must be carried out in accordance with the approved Final Construction Noise and Vibration Management Plan.
8. No works (including site preparation, clearance or construction works) shall commence on site until a Final Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. As a minimum this Plan must conform to the measures set out in the Outline Construction Environmental Management Plan (authored by RPS Group, dated June 2019). All site preparation and construction works thereafter must be carried out in accordance with the approved Construction Environmental Management Plan
9. Notwithstanding details submitted to date, no works (including site preparation, clearance or construction works) shall commence on site until a Final Dust Management Plan has been submitted to approved in writing by the Local Planning Authority. As a minimum this Plan must conform to the measures set out in the Outline Construction Environmental Management Plan (authored by RPS Group, dated June 2019). It must outline the methods to be employed to minimise any dust impacts associated with site preparation and construction works, demonstrating the

use of 'best practicable means'. The Plan must have regard to the Institute of Air Quality Management Guidance on the Assessment of dust from demolition and construction 2014. All site preparation and construction works thereafter must be carried out in accordance with the approved Final Dust Management Plan.

10. Prior to the commencement of any works hereby approved, an Arboricultural Impact Assessment in accordance with BS: 5837:2012 (or successor publication) shall be submitted to and agreed in writing by the Local Planning Authority. This will identify, evaluate and mitigate, where appropriate, the extent of any direct and indirect impacts on existing trees that may arise as a result of any site layout proposal. The development shall be carried out in accordance with the approved details.
11. Prior to any work commencing (including site preparation, clearance or construction works), protective barriers (fencing) and ground protection shall be erected/installed, as specified in BS 5837: 2012 (Section 6.2) or successor publication, to all trees to be retained within the site and must be in place before any materials or machinery are brought onto site for demolition, development or soil stripping. Protective fencing must remain in place until all work is completed and all associated materials and equipment are removed from the site. Within the fenced area, no activities associated with building operations shall take place, no storage of materials and the ground levels within those areas shall not be altered.
12. All trees within the site shall be retained unless shown on the approved drawings as being removed. Any existing or proposed trees or planting indicated on the approved plans which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged, diseased or are dying, shall be replaced during the next planting season with other trees or planting of a location, species and size to be first approved in writing by the Local Planning Authority.
13. No retained tree shall be cut down, uprooted or destroyed or have its roots damaged within the crown spread, nor shall arboricultural work or tree surgery take place or any retained tree be topped or lipped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any approved arboricultural work or tree surgery shall be carried out in accordance with BS 3998, 2010 or successor publication.
14. If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted in the same location and shall be of such a size, species and planted at such time as agreed with writing with the Local Planning Authority.
15. All soft landscaping works shall be carried out in accordance with the details on Dwg.no: 6448-L-001 A Proposed Landscape Works. The works shall be carried out prior to the commissioning of the development hereby approved or before the end of the first planting season thereafter, whichever is sooner, and shall be permanently retained thereafter. Any trees or plants shown on the approved scheme which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a similar species and size, details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

16. The development hereby permitted shall be constructed and finished in accordance with the approved details including the annotated finished colours for buildings and tanks.
17. No development (including site preparation, clearance or construction works) shall commence on site until details of the method of sewage disposal has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
18. No development (including site preparation, clearance or construction works) shall commence on site until details of the method of foul and surface water drainage, including calculations for surface water drainage of the site and a programme for implementation of those works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
19. No works (including site preparation, clearance or construction works) shall commence on site until a Detailed Remediation Strategy is submitted to and approved in writing by the Local Planning Authority. The Detailed Remediation Strategy must be based on the capping, landfill gas extraction infrastructure and building protection measures and proposals contained within the:
 - RPS Remedial Strategy Report at Appendix 2.1 of the 1st addendum to the Environmental Statement dated December 2019;
 - RPS Report at Appendix 2.2 of the 1st addendum to the Environmental Statement dated December 2019 entitled “*Dargan Road Biogas Limited - Gas Extraction System*”; and
 - Letter from RPS to Belfast City Council, referenced IBR1061, dated 24 February 2020 whose subject was “*Dargan Road Biogas Limited Centralised Anaerobic Digestion (CAD) Plant - Planning Application Ref: LA04/2019/1540/F*”.

The Detailed Remediation Strategy must demonstrate how the identified pollutant linkages are to be demonstrably broken and that they no longer pose a potential risk to human health. In particular, it must provide final detail on:

- The capping systems to be installed;
- The gas protection measures to be installed in all buildings requiring gas protection, which must be compliant with BS 8485:2015+A1:2019 and Belfast City Council’s North Foreshore Developer’s Guidance Note;
- The hydrocarbon vapour protection membrane to be installed in all buildings requiring protection:
- The gas abstraction system to be installed on the development site;
- How the proposed remedial works are to be verified.

The development shall be carried out in accordance with the approved Detailed Remediation Strategy.

20. In order to demonstrate that the agreed remedial measures have been incorporated into the development, prior to its operation, a Verification Report shall be submitted

to and agreed in writing by the Local Planning Authority. The Verification Report must be in accordance with relevant Environmental Agency guidance, British Standards, Construction Industry Research and Information Association and Land Contamination: Risk Management (LCRM) guidance or successor publications. It must demonstrate that the mitigation measures outlined in the agreed Detailed Remediation Strategy have been implemented and have broken the relevant pollutant linkages and that the site no longer poses a potential risk to human health.

21. If during the development works, new contamination risks are encountered on the site that have not previously been identified, works must cease and the Local Planning Authority shall be immediately notified in writing. The new contamination shall be fully investigated in accordance with best practice and Land Contamination: Risk Management (LCRM) guidance or successor publication. In the event of unacceptable risks being identified, a further remediation strategy shall be submitted to and approved in writing by the Local Planning Authority. That further remediation strategy must be implemented and the CAD facility shall not be commissioned until a further Verification Report shall be submitted to and agreed in writing by the Local Planning Authority.
22. The development hereby permitted shall not become operational until the vehicular accesses have been constructed in accordance with Drawing no. 3239 – PL03 Proposed Site Layout Plan.
23. The development hereby permitted shall not become operational until hard surfaced areas have been constructed in accordance with Drawing no. 3239 – PL03 Proposed Site Layout Plan. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.
24. The development hereby permitted shall not become operational until a minimum of 8 no. secure cycle parking spaces have been provided within the site. They shall be permanently retained as such.
25. The development hereby permitted shall not operate unless in accordance with the Travel Plan included as Appendix 4.1 of the 1st addendum to the Environmental Statement dated December 2019. The Site Operator shall provide those employed at the site will access to the Translink iLink Initiative and the Bike2Work Initiative or equivalent measures agreed in writing with DfI Roads.

This decision relates to:

3239 – PL01	Site Location Plan;
3239 – PL03	Proposed Site Layout Plan;
3239 – PL04	Proposed Site Drainage Plan;
3239 – PL05	Proposed Autotrack Plan;
3239 – PL06	Existing and proposed site sections;
3239 – PL07	Proposed Main Building, Pipe Bridges & Fire Water Tank floor plans, Carbon Filter and elevation;
3239 – PL08	Proposed Main Building Southern, Eastern & Western Elevations & Chemical Storage Tanks plan and elevations & Fire water tank elevations;

3239 – PL09	Proposed Buildings Northern elevation & Hot/cold recovery system and Fire pumphouse plans and elevations;
3239 – PL10	Biogas conditioning system Plant and tanks and Biogas flare Floor plans and elevations;
3239 – PL11	Proposed bund wall Floor plans and elevations;
3239 – PL12 Rev A	Proposed Digester Tanks, Buffer Tanks & Pump Rooms Floor plans and elevations;
3239 – PL13	Proposed Biogas Holder, Temperature Control System and AD Chemical Dosing Tank Floor plans and elevations;
3239 – PL14	Wastewater Treatment Plant, Tanks and Product Storage & MCC Building Floor plans and elevations;
3239 – PL15	Existing CHP's (<i>sic</i>) 1, 2 & 3, WEHB, Oil Store Switchgear Container and NIE Kiosk Floor plans and elevations;
3239 – PL16	Proposed gates, fence, Weighbridge, Weighbridge Kiosk & Smouldering Loads Bay Floor plans and elevations; and
Dwg.no: 6448-L-001 A	Proposed Landscape Works

COMMISSIONER JULIE DE-COURCEY

Note: The validity of this decision may be challenged by applying to the High Court for a judicial review. This must be done within three months of the date of the decision.

Attendance at Hearing

* Denotes participation by remote means

Belfast City Council:	Ms D Kiley BL, instructed by Ms N Largey, Belfast City Council Mr E Baker, Belfast City Council, Planning Mr R Nolan, Belfast City Council, Planning Ms N Largey, BCC Legal Services (observing only)
Third Party:	Mr K Carlin, Carlin Planning * Mr K Mc Kay, Giant's Park Belfast Ltd * Mr G Kennedy, Giant's Park Belfast Ltd * Mr G Hadley, Giant's Park Belfast Ltd *
Appellant:	Mr S Beattie KC instructed by Clyde Shanks Ms C Mc Parland, Clyde Shanks Mr S Carr, Irwin Carr Mr A Bunbury, Park Hood Mr R Dougan, Vision Design Mr T Bell, Clyde Shanks (observing only) Mr S Hegarty, Dargan Road Biogas (observing only) Mr R Agus, MRA Partnership Mr P Hull, Flood Risk Consulting * Mr J Mc Grath, RPS * Ms D Mayes, Barton Wilmore * Mr T Dearing, Savills * Dr J O'Neill, James O'Neill Associates * Mr T Bell, Clyde Shanks (observing only) Mr S Hegarty, Dargan Road Biogas (observing only)

List Of Documents

Belfast City Council:	'LPA1' 'LPA2' 'LPA3'	Statement of Case (SoC) Response to Appellant's SoC Response to Objector's SoC
Third Party:	'TP1'	SoC by Giants Park Belfast Limited
Appellants:	'APP1' 'APP2'	SoC by Clyde Shanks Ltd Composite response to BCC's and TP's SoCs

Appeal Reference:	2021/A0131
Appeal against:	The refusal of full planning permission for a copy from appeal decision] for [centralised anaerobic digestion (CAD) plant to include a bunded tank farm, (6 no. digester tanks, 2 no. buffer tanks, 1 no. storage tank and associated pump rooms), biogas holder, biogas conditioning system, temperature control system, waste water treatment plant (WWTP), motor circuit control room building, hot/cold water recovery system, feedstock reception and digestate treatment building, product storage building, odour control system and associated tanks, emergency gas flare, back-up boiler, administration/office building, car parking, 3 no. weighbridges, fire water tank and pumphouse, pipelines to existing combined heat and power (CHP) plant engines, switchgear, earth bunding, 3 no. accesses to existing Giant's Park service road infrastructure and ancillary plant/site works
Location:	Lands to the north-west of existing Belfast City Council Waste Transfer Station at 2a Dargan Road, Belfast
Claim by:	Dargan Road Biogas Ltd
Claim against:	Belfast City Council for a full award of costs
Decision by:	Commissioner Julie de-Courcey, dated 6 th March 2023

Decision

1. A full award of costs is made.

Reasons

2. In accordance with the Commission's publication "*Costs Award Guidance*" costs will normally only be awarded where all four of the following conditions are met:
 - The claim relates to a relevant type of appeal;
 - The claim is timely;
 - The party against whom the award is sought has acted unreasonably; and
 - The unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.

Eligibility

3. The planning application to which the appeal relates was determined under the Planning Act (Northern Ireland) 2011 [the Act]. An appeal was made in accordance with Section 58 thereof against the refusal of full planning permission. Therefore, the Commission has the power to make an order as to the costs of parties in accordance with Section 205 of the Act.

Timeliness

4. Paragraph 20 of the Commission's aforementioned publication states that where a hearing takes place, any costs claim should be made as soon as reasonably practicable after the behaviour that triggered that claim. If, for example, it is being argued that another party was responsible for causing an unnecessary appeal, the costs claim should accompany the claiming party's statement of case. As the claim for costs was submitted with the appellant's statement of case, it was made in a timely manner.

Unreasonable Behaviour

5. The claimant drew attention to paragraph 14 of the Commission's "*Costs Award Guidance*" that sets out examples of behaviours that may be found to be unreasonable and is relying on the first namely causing an unnecessary appeal as it considers the respondent "*unable to produce any credible evidence to substantiate its reasons for refusing planning permission*".
6. The claimant's point about additional speaking rights not being afforded to them at Belfast City Council's (BCC) Planning Committee's (PC) meeting of 24 August 2021 is a matter that needs to be raised directly with it if considered contrary to procedure or if the corporate protocol in that respect is deemed to be unfair. That issue aside, my reading of the costs claim is not disputing the PC's authority to depart from its Planning Officers' recommendations, the challenge is to the rationale and robustness of its reasons for doing so.
7. The claimant referred to the planning application being presented to the PC on four occasions and subject of one Pre-Determination Hearing. The length of time taken to issue a decision on the application subject of this appeal is not part of their case alleging unreasonable behaviour. Part of a quotation from the PC Minutes that the claimant included in support of that position included mention of the length of time the application has been in the planning system; that must be read in the round. My understanding of the purpose of the chronology, that comprises almost half of their costs claim, is that it is provided to illustrate and supplement their contention that the PC caused an unnecessary appeal as set out in paragraph 5 above.
8. The respondent commented on the respective roles of the Planning Officers and PC and the latter's entitlement to make a decision contrary to the recommendation of its officers. That is not part of the claimant's allegation of unreasonable behaviour; their evidence focuses on what they see as the PC's lack of any credible evidence to substantiate its reasons for refusing planning permission.

9. The first reason for refusal of the application subject of the appeal giving rise to this claim for costs cited non-compliance with, amongst other things, Policies PED 8 Development Incompatible with Economic Development Uses and PED 9 (a) General Criteria for Economic Development of Planning Policy Statement 4: *"Planning and Economic Development"* (PPS 4). Its Preamble says that it does not provide policy for waste disposal or waste management facilities, which are dealt with in other PPSs. However, it adds that the policy approach and associated guidance contained within PPS 4 may (*my emphasis*) be useful in assessing proposals for other *sui generis* employment uses. Uncertainty in interpreting and applying this discretionary provision could have been prevented had direction been given as to when it might be considered of utility; none was provided. Albeit that those policies largely replicate associated provisions of Policy WM1 - Environmental Impact of a Waste Management Facility of Planning Policy Statement 11: *"Planning and Waste Management"* (PPS 11), the respondent's reference to PPS 4 was not, of itself, unreasonable or misplaced.
10. None of the policy relied on it he first reason for refusal relate to planned or proposed development in the way that criterion (ii) of Policy RE 1 Renewable Energy Development of Planning Policy Statement 18: *"Renewable Energy"* provides for those subject of valid but undetermined applications let alone those at earlier stages in the process namely a Proposal of Application Notice (PAN) and Pre-Application Discussion (PAD). Notwithstanding that, the respondent did not act unreasonably in considering the proposal's impact on the proposed development by Giant's Park Belfast Limited (GBPL) as a material consideration for the purposes of application of Sections 6 (4) and 45 (1) of the Planning Act (Northern Ireland) 2011. Whether the weight attached to that consideration was commensurate with the evidence is an issue considered in the appeal decision.
11. Annex 1 – Additional Note from Environmental Health BCC was appended to the final report presented to the PC on 24 August 2021. This informed its Planning Officers' advice that *"there are no technical reasons why the proposed CAD facility would be incompatible with either the film studios or GBPL proposals"*. The respondent had no issue with the totality of the accompanying environmental information that showed, amongst other things, that the proposal would not be likely to give rise to significant effects in respect of: noise and vibration; air quality and dust; visual impact and landscape character; traffic; and birds or vermin subject to mitigation measures being secured by the imposition of conditions on any forthcoming planning permission.
12. There being no technical or scientific-based reasons underpinning the refusal reason, it was difficult to discern the substance of the respondent's case for how the proposed development would be incompatible with the character of the surrounding area and adjacent uses, including the GBPL proposal, and prejudice their future operation. Much of the evidence in this respect seemingly related to its perceived benefits/disadvantages when compared to the GBPL proposal whereas the claimant was entitled to have their application considered on its own merits irrespective of GPBL being BCC's preferred development partner. In its statement of case the respondent expanded on why its PC perceived there to be incompatibility and in its rebuttal of the claimant's statement of case in respect of the planning appeal said that it's argument was *"more nuanced around the environmentally sensitive nature of those uses in a commercial context"*. The respondent specifically

refers to the BCC statement of case in asserting that its first reason for refusal is reasonable. Albeit that its evidence has not been considered persuasive in allowing the appeal, it reads as a *post facto* justification for the PC's decision in the absence of scientific or technical evidence to support its approach.

13. The second reason for refusal of the planning application subject of the appeal to which this costs claim relates refers to the proposal's alleged incompatibility with Policy BHA 05 of the draft Belfast Metropolitan Area Plan (2015); the plan actually provides for Zoning BHA 05 Mixed Use Site North Foreshore. For the sake of consistency with the decision on the planning appeal, this 2014 version of the draft plan shall be referred to as BMAP.
14. BCC acknowledged that the statutory development plans for the area are the Belfast Urban Area Plan 2001 (BUAP) and the Belfast Harbour Local Plan 1990-2005 (BHLP). However, it considered that greater weight should be given to BMAP because of the advanced stage that it had reached in the development plan process. Of itself, that was not unreasonable but a matter of judgement.
15. When its Planning Officers' report was placed in front of the PC for the final time (24 August 2021), Members were reminded that:
 - There was a precedent of permitting uses on the overall site subject of the North Foreshore Giant's Park Comprehensive Masterplan (CMP) that did not accord with its provisions i.e. Belfast Harbour Film Studios (BHFS) had been built and planning permission granted for its phase 2 extension;
 - The CMP is conceptual and it is unclear from the document how definitive the spatial configuration of uses across the zoning is. In any event, greater weight should be afforded to the Zoning BHA 05 itself as the CMP is a subordinate policy document. Moreover it was published in 2009, does not reflect the planning permission granted for BHFS phase 1 and is arguably outdated;
 - When planning permission was granted for BHFS phase 1, the PC accepted the Case Officer report that advised that the proposal "*conformed in principle*" with Zoning BHA 05 in recognition of the broad zoning of the land for employment uses;
 - The PC did not grant permission on the basis that there was no longer a requirement for waste management facilities. There was no evidence that the granting of planning permission for BHFS meant that waste management facilities were no longer required on the wider lands comprised within Zoning BHA 05; and
 - BCC's decision to grant planning permission for BHFS on land assigned for Arc 21 waste management facilities in the CMP established the principle of it taking a flexible approach to uses prescribed by Zoning BHA 05.
16. As instructed at paragraph 1.1 of that final report to the PC, it has been read in conjunction with the cited items. However, it is reasonable to expect that the report would provide a clear, composite picture as to how all material considerations were weighed in informing the PC's decision on the proposal. However, there was no

indication of the weight that was given to the listed considerations in the preceding paragraph in distinguishing the approach taken in this case to that taken in determining the BHFS proposals in the context of the provisions of the CMP and BMAP Zoning BHA 05. The planning application for phase 2 of BHFS and that subject of the appeal to which this costs claim relates were under consideration at the same time. However, a more liberal interpretation of BMAP policy seems to have been applied the BHFS proposal. There was no indication of the weight given to the aforementioned considerations in this instance or on what basis the proposals were apparently distinguishable with regard to the application of BMAP policy.

17. The report said that planning permission was granted for BHFS contrary to the CMP due not only to recognition of the broad zoning of the overall lands for employment uses but also the contribution that the film studios would make to the local economy. No evidence was given as to the comparative value of the BHFS development to the proposal being determined. It was not apparent that evidence of this proposal's wider environmental, economic and social benefits (WEESB) were objectively assessed on their own merits in the final balancing exercise. Whilst the weight given to economic considerations may have tipped the balance in favour of BHFS, the applicant was nevertheless entitled to know what weight, if any, was given to: the divergent application of policy associated with BMAP Zoning BHA 05 in all three applications; and the WEESB associated with their proposal.
18. The respondent refers to relevant material considerations as including the Regional Development Strategy 2035, Strategic Planning Policy Statement for Northern Ireland (SPPS) Planning for Sustainable Development and various (unspecified) Planning Policy Statements. However, from the final report to the PC or the Minutes of that meeting, there is no indication what weight was given to them.
19. When the claimant's chronology of the PC's consideration of their proposal is considered in conjunction with the foregoing, is persuasive that the respondent did not: undertake reasonable, objective assessment of the grounds on which it considered the policies in its first reason for refusal to be engaged; and did not demonstrate that a balancing exercise had been undertaken to show how the evidence before it had been weighted and assessed. The respondent behaved unreasonably in terms of the process followed by the PC and the failure to provide persuasive evidence to support the stated refusal reasons before and at the time of reaching its decision.
20. The PC had several opportunities to assess and review the proposal with input from their professional and legal advisers. Where the PC departed from their advice, it should have observed its own "*Operating Protocol Belfast City Council Planning Committee*" whereby it is required to:
 - a. Fully explain the rationale for the decision, based on proper planning considerations;
 - b. Make a decision in accordance with the LDP and any other associated planning policy; and
 - c. Give clearly identified planning reasons for departing from the LDP and demonstrating how they justify that departure.

Minutes show that its decision was taken against advice from Planning Officers that moving to refuse was based on “*no technical objections*”, “*no technical reasons*” and was “*unreasonable*”. Whilst disparity and disagreement are inherent and reasonable characteristics of the planning process, in this instance, the respondent has been unable to produce credible evidence to substantiate its reasons for refusing permission. On this basis of this unreasonable behaviour it caused an unnecessary appeal and a full award of costs should be made to the claimant.

Unnecessary or Wasted expenses

21. In claiming for an award of costs, the claimant said the expenses incurred included:

- a. The appeal fee;
- b. Senior Counsel/Legal fees to provide advice, attend meetings, prepare written submission and attend and give evidence at the hearing;
- c. Planning consultant fees to provide advice, attend meetings, submit the appeal, prepare written submissions and attending and giving evidence at the hearing; and
- d. Environmental Statement consultant team to provide advice, attend meetings, prepare written submission and attending and giving evidence at the hearing.

Order

It is hereby ordered that Belfast City Council shall pay to Dargan Road Biogas Ltd the full costs of the appeal proceedings incurred in:

- a. The appeal fee;
- b. Senior Counsel/Legal fees to provide advice, attend meetings, prepare written submission and attend and give evidence at the hearing;
- c. Planning consultant fees to provide advice, attend meetings, submit the appeal, prepare written submissions and attending and giving evidence at the hearing; and
- d. Environmental Statement consultant team to provide advice, attend meetings, prepare written submission and attending and giving evidence at the hearing.

On receipt of this order Dargan Road Biogas Ltd may submit details of those costs to Belfast City Council with a view to reaching agreement on the amount. If the parties are unable to agree, the claimant may refer the matter to the Taxing Master of the High Court for a detailed assessment.

COMMISSIONER JULIE DE-COURCEY

Documents

Claimant: Costs claim dated 1st July 2022 by Clyde Shanks

Respondent: Response from Belfast City Council dated 8th August 2022

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Subject:	Delegation of Local applications with NI Water objections
Date:	18 April 2023
Reporting Officer(s):	Kate Bentley, Director of Planning and Building Control
Contact Officer(s):	Ed Baker, Planning Manager (Development Management) Ciara Reville, Principal Planning Officer

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of Main Issues
1.1	The Planning Committee will recall that at its meetings on 27 June 2022, 14 November 2022 14 February 2023 and 14 March 2023, it agreed to delegate authority to the Director of Planning and Building Control the determination of a number of Local applications to which NI Water had objected.
1.2	The Council continues to receive objections from NIW to some Local applications. The purpose of this report is to seek the Committee's agreement to delegate to officers those Local planning applications to which NI Water has objected as set out at Appendix 1 .
1.3	For the avoidance of doubt, it is only those applications which would have been delegated to officers under the Scheme of Delegation were it not for the objection from NI Water which are proposed to be delegated. Therefore, any of the Local applications listed at Appendix 1 which it may later transpire require to be referred to the Committee for other reason/s (other than the NI Water objection) will be reported to the Committee to determine. Individual

	Members can also still request that the applications at Appendix 1 are referred to the Committee under paragraph 3.8.1 of the Scheme of Delegation.
2.0	Recommendation
2.1	That the Committee agrees to delegate to the Director of Planning and Building Control those Local planning applications to which NI Water has objected set out at Appendix 1 .
3.0	Main Report
	<u>Background</u>
3.1	The Committee will be aware from the Committee Workshop on 18 November 2021 that NI Water has objected to a significant number of Local applications on grounds of insufficient waste-water infrastructure capacity.
3.2	As advised at the Committee Workshop, officers have been engaging with NI Water to try to resolve those objections. Whilst progress is being made, and NI Water is actively considering a threshold for the scale and nature of development above which they would like to be consulted on future planning application, the objections to these Local applications remain.
	<u>Scheme of Delegation</u>
3.3	Members will be aware that the Council operates a Scheme of Delegation for Planning which identifies which matters are to be determined by the Committee and which are delegated to officers.
3.4	Paragraph 3.8.5 (f) of the Scheme of Delegation (January 2020) states that planning applications are not delegated where <i>'There is an objection from a statutory consultee and the recommendation of the Planning Officer is to approve.'</i> This means that those applications are required to be determined by the Planning Committee.
3.5	The Planning (General Permitted Development) Order (Northern Ireland) 2016 identifies NI Water as a statutory consultee <i>'...where a development proposal is likely to significantly impact upon the availability of suitable water and sewerage infrastructure to service development proposals.'</i>
3.6	This means that where NI Water has lodged an objection to a Local application and the officer recommendation is to approve, the application cannot be delegated and must be determined by the Committee.
3.7	Therefore, at its meeting on 27 June 2022, 14 November 2022, 14 February 2023 and 14 March 2023, the Committee agreed to delegate 97, 25 and 18 Local applications respectively with NI Water objections to the Director of Planning and Building Control. This has avoided the potential need to report all 150 applications individually to the Committee. To have reported all those applications to the Committee would have been logistically extremely difficult, costly and would have resulted in further delays for applicants.
	<u>Nature of NI Water objections</u>
3.8	NI Water has lodged objections to Local applications for one or both of the following reasons. <ul style="list-style-type: none"> a) There is insufficient capacity at the local Waste Water Treatment Plant to support the proposed development; and/or b) There is insufficient network capacity within existing Combined Storm Overflows to support the development.

3.9	In broad terms, NI Water is concerned that a lack of infrastructure capacity would give rise to risk of environmental harm including pollution, flooding and adverse impact on existing property. In some cases, NI Water is concerned that the application site may be hydrologically linked to Belfast Lough and may harm its water quality.
3.10	However, despite requests, NI Water has to date not provided robust evidence to support individual objections including demonstration of actual specific impacts resulting from individual proposals that stems from their broad concerns outlined above.
3.11	Importantly, allowance must be made for existing significant committed development across the city including extant planning permissions. It is highly unlikely that all such development, which includes unimplemented permissions for over 20,000 houses and significant levels of commercial floor space across the city, will come forward at once, if at all. In practical terms it would be unreasonable for the Council to withhold planning permission given the fall-back of the need to connect those developments to existing waste water infrastructure.
3.12	In the case of Waste Water Treatment capacity, NI Water advises that there will be increased capacity from July 2023, albeit this will not be sufficient to address long term waste water treatment plant infrastructure requirements.
3.13	The Council must be mindful that were it to refuse planning permission based on NI Water's concerns, it would need to provide robust evidence to the Planning Appeals Commission in the event that the applicant appeals the decision. In the absence of robust evidence, it would be unreasonable to refuse planning permission. NIW have in recent months added further detail to their responses but sufficient robust evidence has not been provided..
	<u>Habitats Regulations Assessment</u>
3.14	Officers have met with Shared Environmental Services (SES). Belfast City Council is the Competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) for undertaking an Appropriate Assessment where a proposal is likely to have a significant environmental effect on Belfast Lough, an environmentally protected Special Protection Area (SPA), RAMSAR and Special Area of Conservation (SAC). Water quality of the lough is a key consideration. The Habitats Regulations are framed in such a way that it is not only the impacts of individual development proposals that need to be considered, but also "in combination" impacts with other development.
3.15	Whilst a precautionary approach applies to Habitats Regulations Assessment (HRA), SES confirms that the onus is on NIW to provide evidence of likely actual impacts, rather than hypothetical impacts. As Competent Authority, the Council may take its own objective view on whether a proposal is likely to have a "significant effect" on water quality of the Lough. However, having regard to the precautionary approach, where there is clear intensification the Council will consult SES and ask them to undertake a HRA Appropriate Assessment Screening to ascertain whether there would be a likely significant impact. This would also trigger statutory consultation with DAERA NI Environment Agency. The Planning Service will consult SES and DAERA on a case by case basis as required.
	<u>Local applications for which delegated authority is sought to determine</u>
3.16	The further Local applications to which NI Water has objected and which delegated authority is sought to determine are listed at Appendix 1 .
3.17	It should be noted that only those applications which would have been delegated to officers under the Scheme of Delegation were it not for the objection from NI Water are proposed to be delegated. Therefore, any of the Local applications listed at Appendix 1 which it

	transpires need to be referred to the Committee for other reason/s under the Scheme of Delegation will be reported to the Committee to determine. Individual Members can also still request that the applications at Appendix 1 are referred to the Committee under paragraph 3.8.1 of the Scheme of Delegation.
4.0	Financial & Resource Implications
4.1	Officers are aware of the infrastructure issues which NI Water are facing and have had regard to that in making this recommendation to Committee. However, each application must be assessed on its own merits and officers have sought detailed evidence to support the objections which have been provided by NI Water. That has not been forthcoming.
4.2	The cost and resources involved in individually reporting all Local applications to which NI Water has objected to the Planning Committee would be considerable. It would also require several additional sittings of the Committee.
4.3	Regard is also had to the considerable current pressures on the Planning Service and staff with an extremely high volume of live applications on hand due to the longer-term impacts of COVID-19 and ongoing technical issues with the new Planning Portal. The impacts of COVID-19 and other operational pressures were reported in detail to the 15 th February 2022 Planning Committee, item 12a . (hyperlink). In addition, technical issues with the new Planning Portal have reduced the rate of decisions. Combined with several key vacancies, total live applications have increased to around 1,100 application, an approximate 40% increase since pre-pandemic levels. It is very important that the Planning Service implements a range of measures to reduce live applications back down to more manageable levels. This includes securing delegated authority from the Committee for officers to deal with these Local applications subject to NI Water objections.
4.4	For the reasons set out above, officers are of the view that it would be appropriate to continue to delegate these applications.
5.0	Equality or Good Relations Implications / Rural Needs Assessment
5.1	No adverse impacts identified.
6.0	Appendices – Documents Attached
	Appendix 1 – List of Local applications which are proposed to be delegated to officers to determine.

Appendix 1 – Local applications with NIW objections (April 2023)

	DEA	REFERENCE	DATE RECEIVED	PROPOSED	ADDRESS
1	Botanic	LA04/2022/0679/F	07/12/2023	Change of use from retail unit to restaurant	3 BEDFORD SQUARE TOWN PARKS BELFAST ANTRIM BT2 7ES
2	Botanic	LA04/2022/2110/F	16/11/2023	3 Storey building. Ground floor retail, 1st floor 1 bedroom apartment and 2nd floor 2 bedroom apartment.	96 Donegall Pass, Belfast. BT7 1BX
3	Botanic	LA04/2023/2603/F	29/01/2023	Change of Use of Offices to 7 No. 1 Bedroom short-term private-rental apartments and alterations to rear return.	15 MALONE ROAD MALONE LOWER BELFAST ANTRIM BT9 6RT
4	Botanic	LA04/2023/2694/F	14/02/2023	Change of use from offices to 6no. short-term stay apartments including 3 storey rear extension and internal alterations.	139 UNIVERSITY STREET MALONE LOWER BELFAST ANTRIM BT7 1HP
5	Botanic	LA04/2023/2754/F	24/02/2023	Change of Use of 1st, 2nd 3rd and 4th floors of vacant office accommodation to 12 No. 1 bedroom short term serviced apartments with ancillary building works.	1-5 ROYAL AVENUE TOWN PARKS BELFAST ANTRIM BT1 1FB
6	Castle	LA04/2022/0988/F	29/03/2022	Change of use to café including awning, screening and seating to front and installation of extract duckwork	634-636 Antrim Road Belfast BT15 5GP
7	Botanic	LA04/2022/2268/F	9/12/2022	Conversion of Masonic Hall to provide 11 apartments including the demolition of rear return and erection of two-storey extension	13 Park Road, Belfast BT7 2FW
8	Titanic	LA04/2022/2319/F	16/12/2022	Demolition of existing property and redevelopment of site with 4 storey apt block comprising 8No 2 Bed Apartments	118-122 CASTLEREAGH ROAD BT5 5FS
9	Ormiston	LA04/2023/2709/F	03/02/2023	Demolition of existing buildings and erection of social housing development comprising 30 no. apartments across 3 buildings with amenity space, landscaping, car parking and associated site works	Lands at Apartment Blocks 1-3 Clonaver Drive Belfast BT4 2FB

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Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 18 April 2023	
Application ID: LA04/2022/1280/F	Target Date:
Proposal: Proposed social housing led, mixed tenure residential development comprising of 52 no. dwellinghouses and 87 no. apartments with public open space, children's play park, landscaping, car parking, associated site works and infrastructure and access arrangements from Blackstaff Road (139 no. units in total).	Location: Former Kennedy Enterprise Centre (north of Westwood Shopping Centre), Blackstaff Road, Belfast BT11 9DT.
Referral Route: Major development	
Recommendation:	Refusal
Applicant Name and Address: Johncorp (No.2) Ltd C/O Rushmere House Cadogan Park Belfast BT9	Agent Name and Address: Turley Hamilton House 3 Joy Street Belfast BT2 8LE
Executive Summary: This application seeks full planning permission for a proposed social housing led, mixed tenure residential development comprising of 52 no. dwellinghouses and 87 no. apartments with public open space, children's play park, landscaping, car parking, associated site works and infrastructure and access arrangements from Blackstaff Road (139 no. units in total). Further information is awaited from the applicant on the nature of the proposed tenure mix. The site comprises land last used for industrial purposes. The site benefits from an extant permission for retail use (extension to the Westwood Centre). The site is currently vacant and the majority of former industrial/employment buildings have been demolished. The key issues to be considered in the assessment of this application are: <ul style="list-style-type: none"> • The principle of the proposed residential use at this location • Loss of employment land last used as industrial • Loss of retail land within the designated Westwood District Centre • Compatibility of housing with adjacent uses • Design and layout • Housing need • Access, parking and traffic management • Other environmental considerations – Drainage, Contamination, Noise, Impact on Designated Sites/Natural Heritage Assets The application site is located in an industrial/employment and commercial area. The site is adjacent to the Westwood Shopping Centre and close to the Kennedy Centre. Surrounding lands	

in the immediate context are all in non-residential uses. Officers consider that the introduction of a residential development in this area would not be compatible with the surrounding existing land uses some of which operate 24/7. Furthermore, many of the existing businesses in the area operate unrestricted hours/noise levels and in addition would benefit from permitted development rights to expand or changes within their current Use Class. The development has the potential to adversely impact on existing businesses should it be approved.

In draft Belfast Metropolitan Area Plan (dBMAP) (v2004), the site is zoned as a Major Area of existing Employment/Industry (Ref: BT 011/30). In dBMAP (v2014), the site is designated as part of the Westwood District Centre (Ref: BT 010/5) following the granting of an extension to the Westwood Centre in the interim period between the publication of the Draft Plans. Within the Belfast Urban Area Plan 2001 (BUAP), the site is not zoned and is white-land within the settlement development limit. Whilst the zoning of the site has changed between the draft plans, a residential use on the site would not comply with either version of dBMAP.

NI Water has objected to the application on grounds that sufficient waste-water treatment capacity is not available at present for the proposed development and foul sewage network capacity issues. NIEA has raised concerns regarding foul sewage arrangements. These issues are dealt with in detail in the main report.

NIHE confirms that there is a need for affordable housing in the area. This is a material consideration. However, Officers advise that this housing need is not sufficient to override the serious concerns about the appropriateness of the site for any form of housing.

The Senior Urban Design Officer raises concerns regarding the suitability of the proposed residential use at this location, design concerns including the outlook from proposed units, pedestrian routes through the site, linear parking areas, boundary treatments and articulation of apartments/houses.

One representation has been received from an adjoining business, raising concerns regarding safety risk, traffic impact and impact on/of adjoining existing businesses.

The matters raised in the representations are considered in the main report.

Recommendation

Having regard to the development plan, relevant policy context and other material considerations, including the representation received, the proposed development is considered unacceptable. It is recommended that full planning permission is refused for the reasons set out in the report.

Delegated authority is sought for the Director of Planning and Building Control to finalise the wording of reasons for refusal and to deal with any other matters which may arise.

Drawings

[illegible]

Selection of Proposed Elevations - House Types



Proposed Elevations – Apartments
Block A – Blackstaff Road Elevation



Block B – Blackstaff Road Elevation



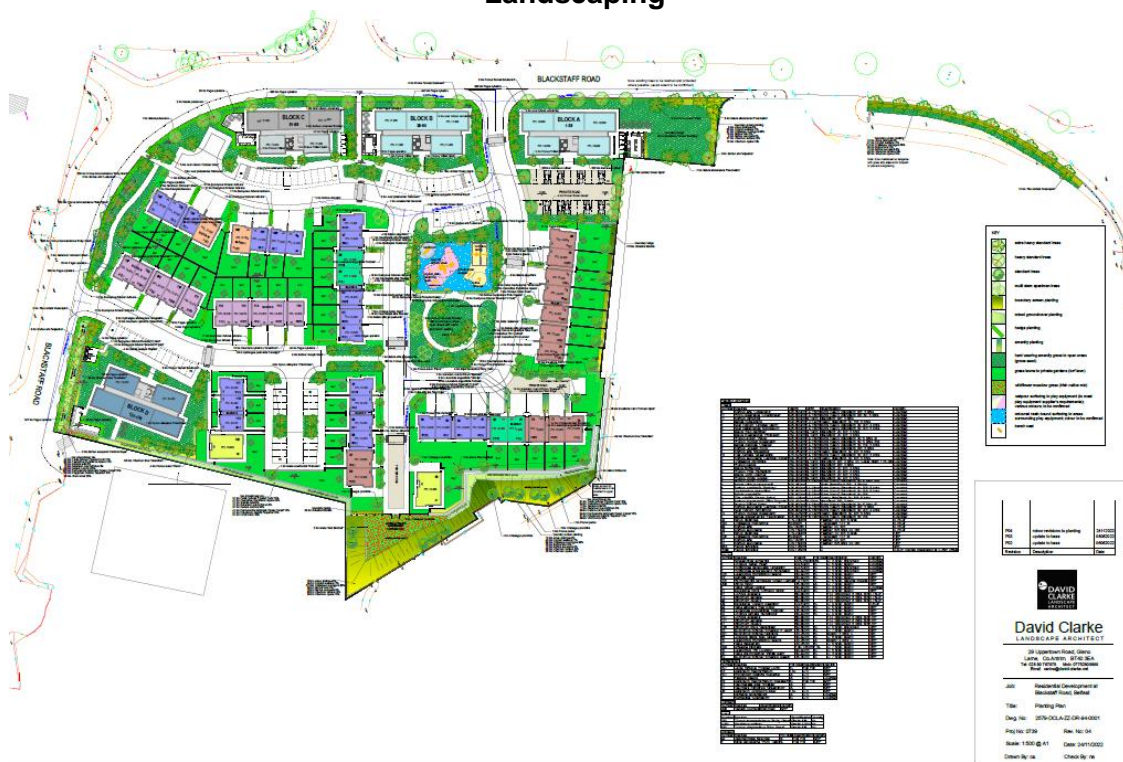
Block C – Blackstaff Road Elevation



Block D – Blackstaff Road Elevation





Landscaping



Proposed CGIs





	 
<p>2.0</p> <p>2.1</p>	<p>Characteristics of the Site and Area</p> <p>The site comprises a former industrial complex and is located in an existing commercial and industrial/employment area. The majority of the buildings on the site have been demolished or are in a state of poor disrepair. The Westwood Centre and associated car parking abuts the site to the immediate south. Lidl supermarket is located to the immediate west. There are significant level changes between ground levels/finished floor levels of the site and the abutting lands/ buildings to the south and west. The Kennedy Centre is situated to the north/north west. Existing industrial/employment premises are located to the north and east. Belfast City Council Civic Amenity Site is located opposite the site on the eastern side of the Blackstaff Road.</p>
<p>3.0</p> <p>3.1</p>	<p>Description of Proposal</p> <p>The application proposes a social housing led, mixed tenure residential development comprising of 52 no. dwellinghouses and 87 no. apartments with public open space, children's play park, landscaping, car parking, associated site works and infrastructure and access arrangements from Blackstaff Road (139 no. units in total). However, the application does not confirm what the tenure mix would be and this information is awaited. The Design and Access Statement indicates that the scheme will comprise of social and private houses and apartments but no further breakdown has been provided.</p>

3.2	The application follows a Pre-Application Discussion (PAD) with officers.
4.0	Planning Assessment of Policy and Other Material Considerations
4.1	<p>Policy Context</p> <p>Regional Planning Policy</p> <ul style="list-style-type: none"> • Regional Development Strategy 2035 (RDS) • Strategic Planning Policy Statement for Northern Ireland (SPPS) • Planning Policy Statement 3 (PPS 3) – Access, Parking and Movement • Planning Policy Statement 4 (PPS 4) – Planning and Economic Development • Planning Policy Statement 7 (PPS 7) – Quality Residential Environments • Planning Policy Statement 8 (PPS 8) – Open Space, Sport and Outdoor Recreation • Planning Policy Statement 12 (PPS 12) – Housing in Settlements • Planning Policy Statement 13 (PPS 13) – Transportation and Landuse • Planning Policy Statement 15 (PPS 15) – Flood Risk <p>Local Planning Policy Context</p> <ul style="list-style-type: none"> • Belfast Urban Area Plan (2001) BUAP • Draft Belfast Metropolitan Area Plan 2015 (v2004) • Draft Belfast Metropolitan Area Plan 2015 (v2014) • Belfast Local Development Plan Draft Plan Strategy 2035 <p>Other Material Considerations</p> <ul style="list-style-type: none"> • Developer Contribution Framework • Creating Places • Belfast Agenda
4.2	<p>Relevant Planning History</p> <p>On the site:-</p> <p>LA04/2020/0975/PAN - Proposed residential development with associated car parking and access, Lands to south and west of Blackstaff Road (north of Westwood Shopping Centre, Belfast. PAN acceptable 16.06.20.</p> <p>LA04/2020/0700/PAD - Proposed mixed tenure social and affordable residential development, Lands to the south and west of Blackstaff Road (north of Westwood Shopping Centre), Belfast.</p> <p>LA04/2018/0968/F - Application under Section 54 of the Planning Act (Northern Ireland) 2011 in respect to planning permission LA04/2017/1399/F for the variation of conditions 2, 3 and 4 to allow for the reallocation of approved convenience and comparison floorspace between Unit 11 and Unit H, Westwood Shopping Centre, Kennedy Way, Belfast, BT11 9BQ. Permission granted 07.08.2018</p> <p>Z/2011/1494/F - Proposed extension and alterations to existing Westwood Centre to provide new car parking, new retail and ancillary storage incorporating a 35,000 ft sq food store, Westwood Shopping Centre, Kennedy Way, Belfast, BT11 9BQ. Permission granted 29.11.2012</p>

	<p>Z/2004/2742/F - Proposed extension to existing Westwood Shopping Centre to provide new retail and storage units incorporating a 35,000 sq.ft foodstore along with additional carparking, Westwood Shopping Centre, Kennedy Way, Belfast. BT11 9BQ. Permission granted 03.12.2008.</p> <p>Adjacent to the site:-</p> <p>LA04/2022/1280/F - Partial redevelopment of former Kennedy Way Waste Water Treatment Works to include the development of new Mechanical & Electrical (M&E) workshops, storage, changing facilities and ancillary offices (development to include three new buildings 1) the main hub building; 2) a store to hold an alternative bottled water supply; and 3) a generator store), access improvements, parking, service yards, storage areas, contractors compound, boundary fencing, cesspool, solar PV panels and landscaping, Former NI Water Ltd Sewage Treatment Works Blackstaff Road Belfast BT11 9DT. Decision pending. This application is due to be considered at the April 2023 Planning Committee.</p>
4.3	Consultations
4.3.1	<p>Statutory Consultations</p> <p>Responses from statutory consultees are summarised below. Further detail concerning their feedback is provided in the main assessment section of the report, where appropriate.</p> <p>DFI Roads – Objection but further information received and being considered.</p> <p>DFI Rivers Agency – No objection subject to a condition.</p> <p>NI Water – Objection</p> <p>DAERA NIEA – <i>Water Management Unit</i> - potential to adversely affect the surface water environment, <i>Regulation Unit</i> – No objections subject to conditions, <i>Natural Environment Division</i> – No objection</p>
4.3.2	<p>Non-Statutory Consultations</p> <p>Responses from non-statutory consultees are summarised below. Further detail concerning their feedback is provided in the main assessment section of the report, where appropriate.</p> <p>BCC Environmental Health – Whilst not providing an objection, they raise concerns regarding noise impacts associated with existing adjacent commercial and industrial/employment uses and potential future conflicts that may evolve under permitted development rights.</p> <p>BCC Economic Development Unit - Employability and skills related Developer Contributions Section 76 clauses should be applied during the construction phase of the development.</p> <p>BCC Urban Design Officer – Whilst not providing an objection, raises concerns regarding the suitability of residential development at this location and design concerns including outlook from proposed units, pedestrian routes through the site, linear parking areas, boundary treatments, articulation of apartments/houses.</p> <p>BCC Waste Management Team – No objections.</p> <p>NIHE – Should the Council be minded to approve a residential development on the site and it is satisfied that a high quality attractive environment for households to live and work can be achieved, the Housing Executive would seek to impose the affordable</p>

	<p>housing in the emerging Draft Plan Strategy and ensure at least 20% of any housing proposals were affordable.</p> <p>Crown Estates – No objection.</p> <p>SES – Project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.</p> <p>NIE – No objection.</p> <p>BCC Plans and Policy Team – No objection – advises that prevailing regional policy applies including SPPS and PPS 4. Consideration should be given to the implications of introducing a residential use to this location and the long-term viability of the overall employment zoning.</p> <p>BCC Landscape Planning and Development Team – No objection.</p> <p>BCC Tree Officer – Recommends further tree and landscaping and suitable tree planting species.</p> <p>PSNI – Notable concern highlighted regarding pedestrian linkages to the surrounding area and the informal alleyway to the Kennedy Centre. General advice provided on designing out crime.</p>
4.4	Representations
4.4.1	<p>The application has been advertised and neighbours notified. One third-party objection has been received and raises the following issues:</p> <ul style="list-style-type: none"> • Safety risk <ul style="list-style-type: none"> ○ Housing families and young children on a busy industrial estate. ○ HGV traffic transiting adjacent (high frequency & 24 hours per day). ○ In the past there have been serious pedestrian/vehicle collisions at the bend where this housing estate is planned to be located. A previous employee was seriously injured with a broken pelvis. • Traffic <ul style="list-style-type: none"> ○ Currently only one way in and out of the industrial estate. ○ Intensification of existing access which is extremely congested and has had numerous road traffic accidents in the past. ○ The number of parking spaces for the planned development looks insufficient. This would lead to parking on the Blackstaff Road where HGVs are meeting frequently. Further congestion. ○ Traffic is already an issue leaving the estate and traffic lights / roundabout would be essential. ○ U-Store construction is nearing completion and would add to already heavily congested road. ○ Would need another separate entrance/exit if this was to go ahead. • Environment <ul style="list-style-type: none"> ○ Several industrial sites located within the industrial estate. ○ Noise issues/complaints from new residents. We operate 24 hours per day, 7 days per week and have waste extraction and compactors on our site that may disturb residents during the night. ○ Air quality/smell/pest complaints (e.g. Recycling centre, sewage treatment works, Keenan Seafoods and North Down Group).
4.4.2	The matters raised in the representation are considered in the report.

	PLANNING ASSESSMENT
5.0	Key Issues
5.1	<p>The key issues to be considered in the assessment of this application are:</p> <ul style="list-style-type: none"> • The principle of the proposed residential use at this location • Loss of employment land last used as industrial • Loss of retail land within the designated Westwood District Centre • Compatibility of housing with adjacent uses • Design and layout • Housing need • Access, parking and traffic management • Other environmental considerations – Drainage, Contamination, Noise, Impact on Designated Sites/Natural Heritage Assets
5.2	Development Plan Context
5.2.1	Section 6(4) of the Planning Act (Northern Ireland) 2011 states that in making any determinations under the Act, regard is to be had to the local development plan, and the determination must be made in accordance with the plan unless material considerations indicate otherwise.
5.2.2	The adoption of the Belfast Metropolitan Area Plan (BMAP) in 2014 was declared unlawful as a result of a judgement in the court of appeal delivered on 18 May 2017. This means that the Belfast Urban Area Plan 2001 (BUAP) provides the statutory plan context for the area.
5.2.3	Both versions of dBMAP 2015 (v2004 and v2014) are material considerations. Draft BMAP 2015 (dBMAP 2014), in its most recent, post-examination form remains is considered to have significant weight. It was at the most advanced stage possible prior to adoption. However, in assessing this application regard is also had to the provisions of draft BMAP which was published in 2004 (dBMAP 2004).
5.2.4	<p><i>Belfast Urban Area Plan 2001 (BUAP)</i></p> <p>The site is located on un-zoned white-land within the development limits of Belfast. BUAP states that the Westwood Centre offers a major opportunity for enhancing shopping provision in the west of the city.</p>
5.2.5	<p><i>Draft BMAP (2004 and 2014) designations</i></p> <p>In dBMAP (v2004) the site is within settlement development limit and zoned as a Major Area of existing Employment/Industry (Ref: BT 011/30). In dBMAP (v2014) the site is also within the settlement development limit and designated as part of the Westwood District Centre (Ref: BT 010/5).</p>
5.2.6	The Belfast Local Development Plan Draft Plan Strategy 2035 will guide future planning application decision making to support the sustainable spatial growth of the city up to 2035. The draft Plan Strategy has been subject to examination by the Planning Appeals Commission and the Council has been provided with a copy of their Report, together with a Direction from the Department for Infrastructure in relation to additional required steps before it can be adopted. Paragraph 1.10 of the Strategic Planning Policy Statement (SPPS) states that a transitional period will operate until such times as a Council's Plan Strategy has been adopted. Accordingly, whilst the Draft Plan Strategy is now a material

	consideration it has limited weight until it is adopted and during this transitional period existing policies will be applied including the SPPS and relevant PPSs.
5.3	Principle of the proposed residential use at this location
5.3.1	Policy SFG2 of the RDS seeks to grow the population of the City of Belfast. Policy SFG3 of the RDS seeks to enhance the role of Belfast City Centre as the regional capital and focus of administration, commerce, specialised services and cultural amenities.
5.3.2	The SPPS sets out five core planning principles of the planning system, including improving health and well-being, supporting sustainable economic growth, creating and enhancing shared space, and supporting good design and place making. The SPPS states at paragraph 1.13 (page 7) that a number of policy statements, including PPS3, PPS4 and PPS7 remain applicable under 'transitional arrangements'.
5.3.3	Paragraphs 4.11 and 4.12 require the safeguarding of residential and work environs and the protection of amenity. Paragraphs 4.13-17 highlight the importance of creating shared space, paragraphs 4.18-22 details that sustainable economic growth will be supported. whilst paragraphs 4.23-27 stress the importance of good design.
5.3.4	The proposed residential development is proposed to be located on land last used for economic development purposes and therefore falls to be assessed under Policy PED 7 and PED 8 of PPS 4 – Planning and Economic Development. The assessment is set out in detail below. The proposal is also required to be assessed under retail policy set out in the SPPS and the residential proposal is assessed in accordance with relevant policy set out in the SPPS and Policy QD 1 of PPS 7 – Quality Residential Developments. The area within which the residential development is proposed to be located is an existing commercial and industrial/employment area and it is considered that the principle of residential development at this location would be incompatible with the surrounding context and would be unacceptable due to the potential conflict that could arise with existing adjacent commercial and industrial businesses. The assessment of Policy is set out below.
5.4	Policy Considerations
5.4.1	In dBMAP (v 2014) the site is zoned as a Major Area of existing Employment/Industry. Policy PED 7 - of PPS 4 states that in respect of 'Zoned' land that <i>'Development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses.'</i>
5.4.2	In this case planning permission was granted for an extension to the Westwood Centre (Z/2011/1494/F) on 29 November 2012. A previous permission (Z/2004/2742/F) for a similar development was approved on 03 December 2008. Planning approval Z/2011/1494/F has been enacted and although no development has been carried out on the application site the permission remains live.
5.4.3	Under the BUAP the site is un-zoned and therefore Policy PED 7 would apply insofar as it relates to un-zoned land. Policy PED 7 states that in respect of 'Un-zoned' land that <i>'On un-zoned land a development proposal that would result in the loss of an existing Class B2, B3 or B4 use, or land last used for these purposes, to other uses will only be permitted where it is demonstrated'</i> that the proposal complies with a number of criteria which are set out and considered below. The site was last used for economic development uses.

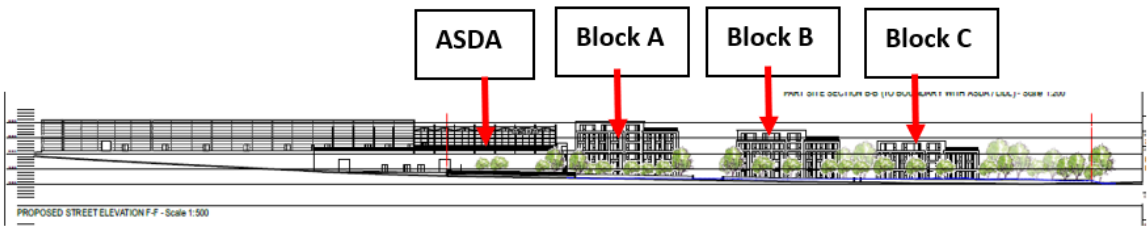
5.4.4	<p>The proposal is assessed below against the criteria set out in Policy PED 7.</p> <ul style="list-style-type: none"> • redevelopment for a Class B1 business use or other suitable employment use would make a significant contribution to the local economy; <i>Not applicable the proposed development is for a residential use.</i> • the proposal is a specific mixed-use regeneration initiative which contains a significant element of economic development use and may also include residential or community use, and which will bring substantial community benefits that outweigh the loss of land for economic development use; <i>The proposal is not for a mixed use and does not contain an element of economic development.</i> • the proposal is for the development of a compatible sui generis employment use of a scale, nature and form appropriate to the location; <i>The proposed development does not include any employment use.</i> • the present use has a significant adverse impact on the character or amenities of the surrounding area; <i>The present use of the site is currently vacant land which is capable of redevelopment.</i> • the site is unsuitable for modern industrial, storage or distribution purposes; <i>There is no evidence to suggest that the site could not be redeveloped for modern industrial, storage or distribution purposes.</i> • an alternative use would secure the long-term future of a building or buildings of architectural or historical interest or importance, whether statutorily listed or not; <i>There are no buildings of heritage value located on the site.</i> • there is a firm proposal to replicate existing economic benefits on an alternative site in the vicinity. <i>There is no associated proposals to replicate economic benefits on an alternative site in the vicinity.</i>
5.4.5	<p>The proposal does not meet the criteria set out in Policy PED 7. Notwithstanding, officers consider that greater weight should be attached to the more recent zoning as a designated District Centre given the advanced stage that dBMAP (v2014) had reached, as well as the planning permission for extension of the Westwood Centre, which remains extant (Z/2011/1494/F).</p>
5.4.6	<p>Policy PED 8 of PPS 4 states that ‘A proposal for development in the vicinity of an existing or approved economic development use that would be incompatible with this use or that would prejudice its future operation will be refused.’ The amplification text sets out a number of examples of where these circumstances could potentially arise and states that ‘new development, such as housing, could prejudice the continued existence of a particular economic development use.’</p>
5.4.7	<p>The amplification text further states that ‘The requirements of non-planning legislation, for example those relating to public health and environmental pollution, may result in costly new requirements and restrictions being imposed on such businesses as a consequence of new neighbouring development. In such circumstances, the Department may refuse planning permission for new development in order to avoid jeopardising employment in the existing enterprise.’</p>
5.4.8	<p>It is the view of officers that the introduction of a residential use in this commercial and industrial/employment area would be incompatible with surrounding land uses which do not have restrictions regarding hours of opening/operation, delivery times and noise levels. Furthermore, such businesses would benefit from permitted development rights</p>

	which could allow them to lawfully expand their operations without requiring planning permission or move within the Use Classes Order.
5.4.9	The objection received from a neighbouring business (Huhtamaki) advises that it operates 24/7 and that its waste extraction and compactors operate at night. The objection also states that HGV traffic pass through adjacent on a high frequency basis and 24 hours per day and have raised concerns regarding noise issues/complaints arising from new residents. Officers consider that the issues set out in the objection provides evidence that the proposed development would be incompatible with its immediate surrounding context.
5.4.10	The objection also raises concerns regarding air quality/small and pest complaints as a result if existing operators in the area. The proposal is considered to be incompatible with the existing surrounding context and fails to satisfy Policy PED 8 of PPS 4. Environmental Health has considered the Noise Impact Assessment and subsequent Addendums that have been submitted in support of the application and raise concerns regarding the potential risk due to the complexity of the location and future impacts that may reasonably be expected to occur given the predominantly commercial nature of the area
5.5	Loss of Land Designated as a District Centre
5.5.1	The SPPS states that ' <i>Planning Authorities should retain and consolidate existing district and local centres as a focus for local everyday shopping</i> '. The site is designated in the most recent development plan i.e. dBMAP (v2014) as part of the Westwood District Centre. The plan is silent on a residential use within this designation. District centres are essentially zoned as retail / commercial spaces within the city and the BUAP recognises that the Westwood Centre offers a major opportunity for enhancing shopping provision in the west of the city. The proposed use would limit potential further expansion of the retail function of the Westwood District Centre and could lead to additional retail development being relocated to less appropriate locations. As such, it is considered that the principle of housing at this location is unacceptable. The proposal is contrary to the designation in dBMAP (v2014) which designates the site as a District Centre and paragraph 6.276 of the SPPS, as it fails to retain and consolidate this existing district centre as a focus for local everyday shopping and it has the potential to undermine the function of the district centre. Refusal is also recommended on this basis.
5.5.2	Whilst the development plan context has changed from employment/industry zoning to a designated district centre in draft BMAP versions, this does not justify the proposed residential use on the site.
5.6	Compatibility of housing with adjacent uses
5.6.1	Environmental Health notes that the proposed housing is in a predominantly brownfield commercial/industrial area and is surrounded to the east and north by a busy road frequented by HGVs servicing the various commercial businesses in the area. The commercial premises nearby include: two supermarkets with service delivery yards immediately neighbouring the site, a refrigerator trailer park, a Council waste recycling site, a 24hr printing/packaging business, a wholesale distributor of fresh food produce, and a fish products premises. The neighbouring businesses have unrestricted operational times for access/activities. At least four of the neighbouring businesses currently operate at night as well as during the day. There are no restrictions in terms of noise levels that apply to these existing uses and as such the introduction of a sensitive use such as residential has the potential to adversely impact on existing businesses.

5.6.2	Environmental Health advises that the decision regarding the suitability of the site for residential end use should consider the risk of potential conflict in future with the existing other commercial uses/activities in terms of potential impacts that may evolve under permitted development rights and how any complaints associated with these would be effectively investigated and indeed resolved. An objection from an adjacent business raises concerns regarding potential noise complaints arising from new residents.
5.6.3	The Environmental Health response advises that the Noise Impact Assessments <i>'revealed high road traffic noise impacting some areas of the site closest to the Blackstaff Rd and low frequency noise activity impacting other areas of the site at night. It was advised by RSK [applicant's consultant] that the source of the low frequency noise was most likely from refrigerated vehicles in the area. There are also numerous pieces of plant and equipment mounted at rooftop and rear walls of neighbouring commercial premises which were identified as needing further consideration. RSK subsequently provided further information and assessment of plant and equipment impact using predictive noise modelling inputting noise measurements and/or data for the plant and equipment identified close to the development. The modelled predictions of plant noise at two of the worst-case receptor locations across the site was then used by RSK within detailed façade calculations to determine a sound reduction specification for windows and alternative means of ventilation and to demonstrate that internal noise levels within habitable rooms could be achieved against specific assessment criteria.'</i>
5.6.4	The Environmental Health response further advises that <i>'Noise associated with lower frequencies can be particularly problematic to mitigate.</i> The applicant's noise consultants have provided information on examples of glazing configurations which Environmental Health, whilst cautious regarding the methodology employed, consider that it may be possible to provide a window with the necessary sound reduction performance identified in the Noise Impact Assessment.
5.6.5	However, Environmental Health has raised concerns about the calculations submitted by the noise consultants which applied a relaxation of the low frequency noise <i>'Where there is a complex site location surrounded by many different types of noise sources such as road traffic and various commercial activities, the potential for and hence the significance of any uncertainty increases. For that reason, it was not considered appropriate to apply this relaxation of the noise impact.'</i> This uncertainty raises serious concerns for planning officers as to whether appropriate measures can mitigate against the high noise levels likely to occur on the site/surrounding area.
5.6.6	The applicant's Noise Impact Assessment (NIA) identifies two of the key noise sources as plant noise from a vent on the gable wall of ASDA and predicted refrigerated trailer noise associated with a potential worst-case scenario of 35 refrigerated HGVs located at the AGRO Merchant lorry park at Blackstaff Road immediately to the north of the site. The Environmental Health response advises that the NIA predicts a noise level which is significantly higher than the upper noise threshold limit within private amenity areas suggested in the WHO 1999 Community Guidelines on Noise as the level whereby there the potential for onset of serious annoyance.
5.6.7	The applicant's noise consultants have presented confirmation by email that the applicant has agreement, in principle from ASDA, to allow the applicant/developer to fit an in-line duct attenuator to this fan to significantly reduce the noise impact on the nearest proposed rear gardens. This would require works beyond the site boundary and could not be included as a condition. Officers note that no formal confirmation of agreement with ASDA/Westwood Centre to carry out such works has been forthcoming and that this mitigation measure would need to be secured by a Section 76 planning agreement.

5.6.8	<p>Officers have advised that the lorry park does not benefit from planning permission and Environmental Health response states that the NIA suggests that the low frequency noise impacting the site may be strongly associated with the operation of these trailers. However, it should be noted that the night-time noise measurement survey was unattended and did not definitively identify this site as the main and only source of low frequency noise activity. Other businesses operating nearby such as North Down group involve the loading and dispatch of refrigerated delivery trucks which commence operations as early as 4am and use the Blackstaff Rd access route in and out. In addition, Keenans Seafoods, also located along Blackstaff Road to the west and north of the site, require access by refrigerated vans/trucks at various times of the day including night-time. It would therefore be inappropriate to interpret that the absence of activities at the AGRO Merchant lorry park site would necessarily make a significant reduction to noise impacting the site. The NIA would have to be reviewed/revised to consider the extant approved use of that site as a waste facility and consider activity noise from North Down and Keenan Seafoods which the latest plant and equipment noise modelling assessment did not include (accepted by Environmental Health on the basis that a worst case had been factored in for the AGRO site).</p>
5.6.9	<p>With regard to the proposed amenity areas, the NIA states that noise in most external amenity areas will not exceed the 50-55 dBL_{Aeq,T} ideal range. However, Environmental Health stresses that the guidance does not refer to this is an “ideal range”, but lower and upper limits. Environmental Health advises that these limits at which the WHO has suggested have the potential to result in onset of annoyance (50dBL_{Aeq}) and potential for onset of serious annoyance (55dBL_{Aeq}).</p>
5.6.10	<p>Environmental Health advises that the applicant’s predicted noise levels for the communal area of Block A next to the ASDA service yard is based on noise from plant only. Whereas, the impact of road noise should also be taken into account, which were noted as high as 65dBL_{Aeq}. The communal amenity areas to the proposed blocks of apartments (including roof terrace areas) would be exposed to noise levels more than the WHO guidelines upper threshold limit of 55dBL_{Aeq}. Information remains outstanding in respect of noise impact from road traffic and plant on the terrace areas.</p>
5.6.11	<p>Environmental Health refers to the guidance which states that <i>‘the acoustic environment of external amenity areas that are an intrinsic part of the overall design should always be assessed and noise levels should ideally not be above the range 50-55dBL_{Aeq,16hr}.’</i> Development should be designed to achieve the lowest practicable noise levels in these external amenity spaces but should not be prohibited. In this case, the amenity areas are considered an intrinsic part of the overall scheme and necessary to provide a quality residential environment and planning officers consider that the proposal has failed to demonstrate that the noise impact on amenity areas across the development is satisfactory.</p>
5.6.12	<p>In conclusion, Environmental Health advises that the development location has been considered in terms of noise impact associated with existing neighbouring uses and activities operating during the day and over the assessment period. Environmental Health highlights that there is potential for other noise sources to impact on the proposed development that either were not or cannot be captured during the noise measurement survey. For example, there could be seasonal operational variations at other neighbouring sites as well as logistical variations on different days of the week) and potential for other noisy activities at some point in the future to commence at neighbouring sites through permitted development rights available to those neighbouring commercial/light industrial uses. The surrounding business premises would also be able to change activities in accordance with the Use Classes Order.</p>

5.6.13	Environmental Health is of the view that although the noise assessment has demonstrated that facades may mitigate against existing noise as measured and modelled on site, the location still presents a potential risk in terms of its complex location and future impacts that may reasonably be expected to occur given the predominantly commercial nature of the area. Whilst Environmental Health has provided draft conditions, these are on a without prejudice basis. They indicate that these are numerous and onerous which in itself demonstrates the complexities involved in deciding to develop this site for residential end use among an established commercial/ industrial area with numerous existing and potential future noise sources.
5.6.14	Officers conclude that the proposed housing is incompatible with its commercial surroundings. The site is not considered suitable for housing and the proposal is contrary to paragraphs 4.11, 4.25-27 and 4.34 of the Strategic Planning Policy Statement, Policy PED 8 of Planning Policy Statement 4, and criteria (a) and (h) of Policy QD 1 of Planning Policy Statement 7 – Quality Residential Environments. Refusal is recommended on this basis.
5.7.	Design and Layout
5.7.1	The proposal has been assessed against the SPPS and Policy QD1 of PPS 7 as follows.
5.7.2	<p>Policy QD1 of PPS7 states that <i>‘Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area’</i> Furthermore, <i>‘All proposals for residential development will be expected to conform to all of the following criteria:’</i></p> <p><i>a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;</i></p>
5.7.3	The proposal consists of a mix of 139 residential units with a density of 55.6 units per hectare. The Westwood Shopping Centre and Lidl Supermarket abut the site to the south and west and their floor levels sit at a much higher level than the application site. Belfast City Council Civic Amenity Site is located opposite the site to the east. NI Water Former Waste Water Treatment Works which is the subject of a separate planning application (LA04/2022/1479/F) is located to the south east. Existing established industrial/employment sites are located to the north, west and north east and include Huhtamaki, North Down Group, Keenan Seafoods and Virgin Media along with a number of other businesses located within Fern Business Park, Holly Business Park and within the wider Blackstaff industrial estate. The Kennedy Shopping Centre is located to the west/north west with a service yard accessed via Blackstaff Road. The surrounding area is characterised by commercial and industrial/employment development some of which operates 24 hours per day, 7 days a week without controls on hours of operation, delivery times, noise levels.
5.7.4	There are no residential units in the immediate surrounding context and the nearest housing is located off Kennedy Way (at Stockman’s Avenue/Drive) 275m to the south of the site and on Andersonstown Road 112m to the west of the site. Officers consider that, if approved, residential development at this location would result in the introduction of an incompatible use within the existing commercial and industrial/employment area and such a development would be out of keeping with the existing character and appearance

	<p>of the surrounding context. The Senior Urban Design Officer considers that the site would effectively be an island site surrounded by uses that would not be considered complementary or 'good neighbours' to residential use and has expressed serious reservations about the suitability of this site for residential use given the immediately surrounding industrial and commercial/retail context and the pressures these competing uses place on the site. The provision of housing in this industrial and commercial context would represent poor place-making.</p>
5.7.5	<p>In terms of house types, the development proposes a social led housing scheme comprising 139 units which comprise of 4 apartment blocks providing 87 apartments, and 52 houses including 46 two storey dwellings, 4 two and a half storey dwellings and 2 single storey dwellings. The Design and Access Statement indicates that the scheme will comprise of social and private houses and apartments but no further breakdown has been provided.</p>
5.7.6	<p>Three apartment blocks (Blocks A, B and C) are proposed to be located fronting onto Blackstaff Road (eastern boundary) and vary in height. The tallest most southerly block (Block A) is 6 storeys high (18.5m high) reducing to 5 storeys (16.25m high), the middle block (Block B) is 5 storeys (15.5m) reducing to four storeys (13.2m) and the northern block (Block C) is 4 storeys (12.5m) reducing to 3 storeys (10.15m) high. The fourth block located at the north-western portion of the site is similar in design to Block C albeit with a contrasting predominantly red brick finish as opposed to the buff brick finish on Block C. Block D is also 4 storeys high (12.5m high) reducing to 3 storeys (10.15m). Block A is proposed to sit adjacent to the adjoining ASDA store, part of the Westwood District Centre and the 6 storey element is comparable in height to that of the adjacent Asda store as illustrated in the contextual elevation below. The scale of apartment Blocks B and C reduce along Blackstaff Road from 5 storeys to 3 storeys. Adjoining development to the east, north is generally akin to 2 storeys in height. Taking account of the surrounding context i.e. predominantly large scale commercial and industrial buildings the height and scale of apartment blocks and proposed houses is considered acceptable.</p>  <p>Contextual Elevation – Blackstaff Road</p>
5.7.7	<p>The 52 houses are proposed to be laid out in a number of terraces some of which front onto a central communal amenity area. Other terraces are proposed back-to-back with garden or garden and parking to the rear of the properties. Two detached bungalows are provided to cater for residents with mobility needs. The design of the proposed dwellings includes a variety of contemporary house types/apartment blocks and a limited palette of materials/external finishes which include red and buff facing brick, dark grey cladding panels, dark coloured PPC aluminium doors and windows (to apartments), grey PVC windows and doors for houses and concrete roof tiles. The use of a limited palette of materials across the development would serve to provide a cohesive design approach and unify the development.</p>
5.7.8	<p>The Urban Design Officer considers that greater depth could be applied to the facades of the four apartment blocks by way of deeper window/door reveals and the potential for more vertical and horizontal shifts in the form including the insertion of terraces and</p>

5.7.9

variation in roof forms to enhance the residential character of these 4 blocks. The applicant has been provided with the opportunity to address this and in response has noted the suggestions but no amendments have been proposed. Whilst it is considered that the suggested improvements would improve the design quality, the design of the proposed apartments and houses is nevertheless considered acceptable.

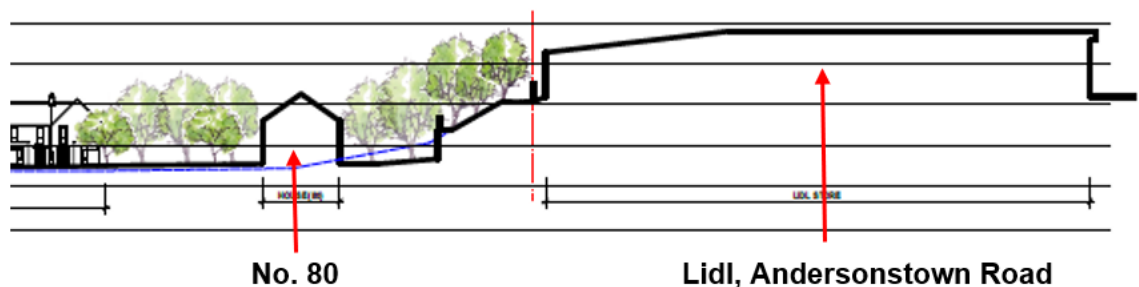
The change in levels between the finished floor levels of dwellings numbered 77-83 and 86 (which are located in the south-western part of the site) and the ground level of the Westwood Centre Car park / rear of Lidl ranges from between c.7.4 m and 8.1m. A new 4m high retaining wall is proposed along the rear boundary of these properties as set out on Drawing Nos. 4A – Proposed Site Plan and 05 – Proposed Site Plan – Boundary Treatments (see extract below). The retaining wall will be supported by an existing steep embankment along part of the site's western boundary. The embankment continues further along the site boundary enclosing a triangular portion of the site which is proposed to be gated. Trees and boundary screen planting are proposed on the existing embankment. The 4m high retaining wall supported by the existing embankment will be located within 8 – 11 metres of the rear wall of the aforementioned dwellings and would result in a poor outlook for prospective occupiers of these properties as illustrated in the section drawing below. The rear of Lidl Supermarket would sit in close proximity to the top of the embankment which is marginally lower than the ridge height of dwellings numbered 77- 83.

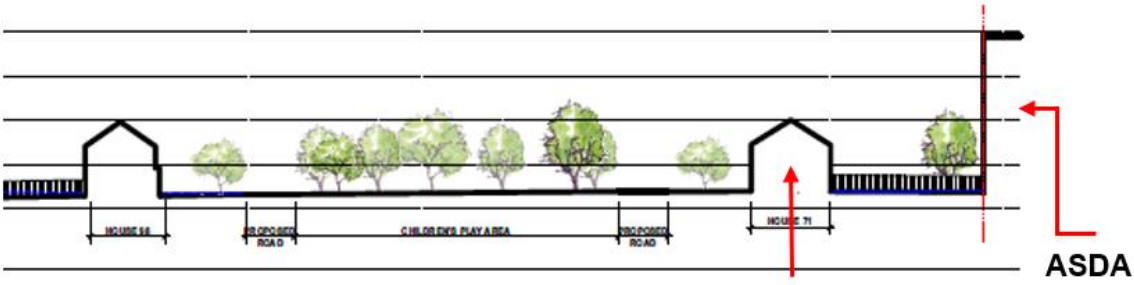
*Extract from Drawing No. 5 – Proposed Site Plan – Boundary Treatments
(4m high retaining wall coloured yellow)*



Lidl

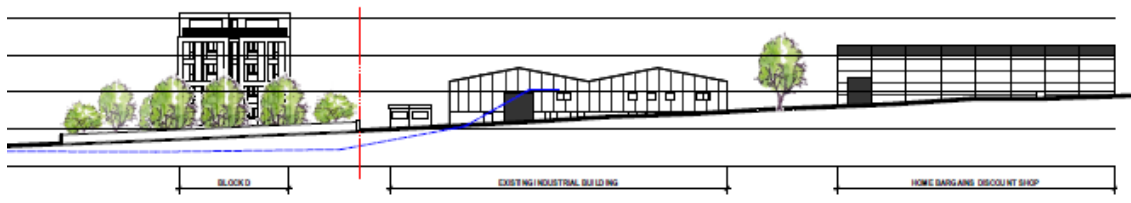
Extract from Drawing No. 83 – Site Sections (Section H-H)



5.7.10	<p>Boundary Treatments would vary across the site, however, there is a predominance of close boarded fences to delineate gardens particularly rear gardens and as a consequence, concerns arise regarding the resultant visual impact. The Urban Design and Tree Officers consider that there is further opportunity to include additional planting particularly in rear gardens to soften what would be large expanses of unbroken and continuous close boarded fencing particularly within gardens of numbers 93 - 117 in the northern central part of the site. The Tree Officer also considers there to be too much close boarded fencing to the rear of units numbered 93 – 117 and has raised concerns regarding the visual appearance of this fencing which will be viewed through the gaps between the housing blocks and along the Blackstaff Road to the north. The Tree Officer considers the proposal for 9 trees within rear gardens (dwellings numbered 70, 72, 74, 75, 76, 77, 82, 86, 87) to be inappropriate and advises that efforts should be made to secure additional suitable tree planting within private gardens. The applicant was provided with the opportunity to address the Tree Officer's comments. No amendments were proposed by the applicant's team to address this matter.</p>
5.7.11	<p>Boundary treatment along the Blackstaff Road is predominantly a low level brick wall with metal railings above (1.1m high) which is considered acceptable. Trees are also proposed along the boundary which will help soften the visual impact of the proposed development. The Tree Officer considers that it would be appropriate for a mix of trees to be planted along the Blackstaff Road rather than one variety which he considers is susceptible to fungal disease and shorter lifespans. Boundary treatment enclosing the amenity space adjacent to Block A comprises a low red brick wall with a close boarded acoustic fence above (2.5m high) fronting onto Blackstaff Road and a 2.5m solid timber fence along the southern boundary of the amenity area along with a 1.8m high hit and miss fence along the western boundary of the amenity area.</p>
5.7.12	<p>Dwellings numbered 70-76 located along the southern portion of the site would have a rear outlook onto the side wall of the adjoining Westwood Centre/Asda Supermarket (see section below). Whilst boundary treatments are proposed and include planting (boundary screen planting and 5 trees within individual gardens of dwellings numbered 70, 72, 74, 75, 76 on Drawing 04A – Site Layout) and a 2.5m timber close boarded fence the side wall of ASDA (c.18m high) located 16.6m from the rear of these dwellings would dominate views from the rear of these properties resulting in a poor outlook for prospective residents. Given the orientation of the site and the path of the sun it is considered that the proximity of the Westwood Centre/Asda Supermarket would give rise to overshadowing of a significant portion of the rear gardens of these properties resulting in a poor environment for prospective occupants.</p> <p><i>Extract from Drawing No. 83 – Site Sections (Section I-I)</i></p> 
5.7.13	<p>The primary view from apartments in Block D which face west would result in prospective occupants looking westwards into the existing adjacent warehouse building currently occupied by Virgin Media, the ground level of which sits c. 2.3m above the ground level and finished floor level of Block D. Four new trees are proposed along part of the</p>

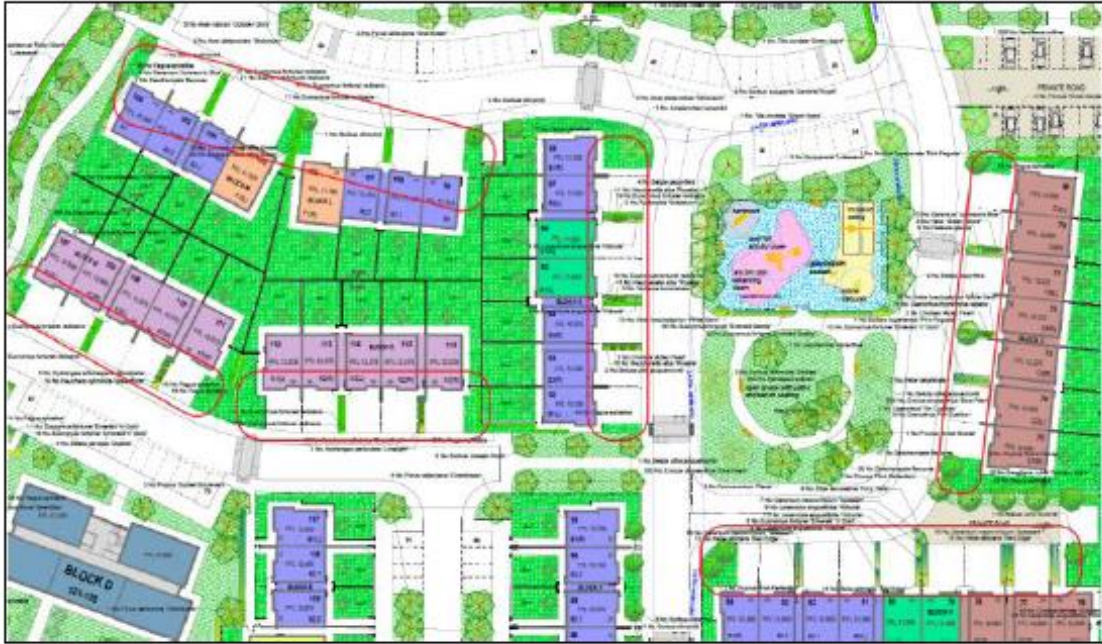
boundary. Notwithstanding, it is considered that landscaping along part of the boundary would not mitigate the poor outlook to the adjacent warehouse and commercial buildings beyond from this viewpoint as illustrated in the section drawing below. The Senior Urban Design Officer considers that residents of Block D would be subject to close range views west (c. 21m between Block D and the adjacent warehouse) onto a large two storey industrial building, yard and telecommunications tower and to the north views would be directed towards a mix of industrial units complete with large working yards, storage areas and loading/parking bays. It is noted that the parking of lorries/trailers on a site to the north, opposite the proposed Block D does not benefit from planning permission and an enforcement investigation has been opened regarding this issue and is ongoing.

Extract from Drawing No. 82b – Site Sections (Section G-G)



5.7.14 Views from the apartment Blocks A, B and C looking eastwards would overlook the Council's Civic Amenity Site, existing industrial development at Holly Business Park further east and the former NI Water Waste Water Treatment Works site. Outlook from the apartments in a north easterly direction will overlook Fern Business Park, the North Down Group premises, Huhtamaki premises as well as the industrial/employment units located beyond. Block A is also positioned within metres of the southern boundary of the site and the NE corner of the immediately adjacent Asda superstore, with its side elevation overlooking the flat roof of Asda and its roof top equipment. The resultant impact would provide a poor outlook for prospective occupants resulting in a poor quality residential environment. This opinion is shared by the Senior Urban Design Officer.

5.7.15 The outlook from houses looking onto the central public open space is welcomed. However, this does not apply to all units. Parking has been provided in the form of in-curtilage parking for 42 houses (numbered 70 – 117 excluding nos. 87-92), rear parking for 10 houses (numbered 87-92 and 118 – 121) and communal parking for the four apartment blocks (A, B, C and D). In curtilage parking is provided in the main to the front of the houses with a few located to the side and rear. The resultant impact is that the outlook from the front of many of the dwellings would be over areas dominated by car parking with little or no front gardens/open space and minimal landscaping proposed to soften these areas resulting in a layout which offers a poor quality outlook for prospective occupants. The Senior Urban Design Officer considers that linear parking to the front of apartment Block A, B and C would benefit from being broken up further to reduce their visual dominance. The Tree Officer considers that appropriate proposed planting and planted boundaries could be used to delineate public and private spaces particularly to the front of properties highlighted in red on the plan below to achieve a higher quality streetscape and reduce the visual impact of vehicle parking to the front of dwellings. The applicant was provided with the opportunity to address the Tree Officer's comments. However, no amendments were proposed by the applicant's team to address this matter.



5.7.16 In summary, it is the view of officers that the proposed residential development within an existing established commercial and industrial/employment area would be out of character with the surrounding context. In addition, the proposed poor outlook from apartments as demonstrated above would result in a poor quality environment for prospective officers and would fail to satisfy criterion (a) of Policy QD 1 of PPS 7. Refusal is recommended on this basis.

b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;

5.7.17 The site does not lie within an area of archaeological potential and there are no archaeological or built heritage on the site. There are no landscape features on the site which are worthy of retention and existing trees on site are to be removed.

c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;

5.7.18 Policy OS 2 of PPS 8 (Open Space, Sport and Recreation) states that 'The Department will only permit proposals for new residential development of 25 or more units, or on sites of one hectare or more, where public open space is provided as an integral part of the development' and that 'A normal expectation will be at least 10% of the total site area.' (residential developments of 300 units or more require 15% of the total site area).

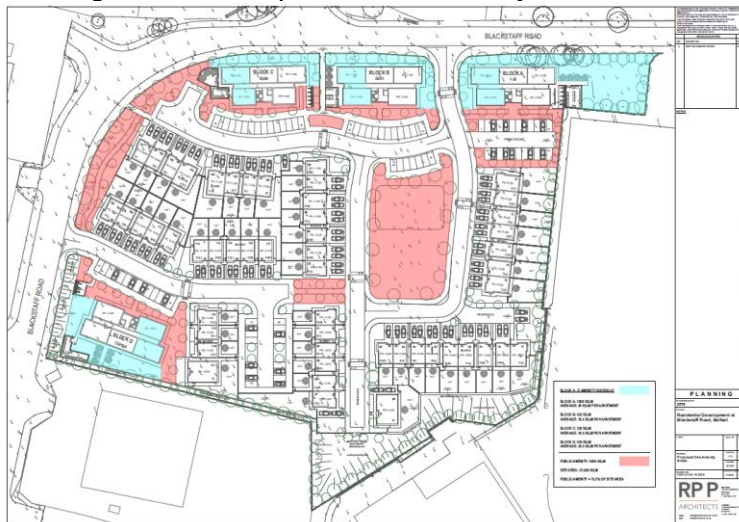
5.7.19 The applicant has provided the map below which sets out a breakdown of private (communal) amenity space (coloured blue) and public amenity space (coloured pink) within the development which states that public amenity space equates to 13.5% of the site area. BCC Landscape Planning and Development Team (LPDT) advise that they are satisfied that the overall provision of proposed amenity open space (13.5% of the total site area) for a development of this scale and consider it compliant with

recommendations set out in Policy OS 2 of PPS8 Open Space, Sport and Outdoor Recreation.

5.7.20

Officers consider that a number of areas which include narrow strips around the car parking areas associated with Blocks A, B and C do not satisfy the requirements of public open space and have not been included in the officers' calculations. Notwithstanding, the overall provision of public open space equates to 10.7% and the proposal is considered to satisfy this requirement of Policy OS 2.

Drawing No. 81 – Proposed Site Amenity Areas



5.7.21

Policy OS2 further states that *'For residential development of 100 units or more, or for development sites of 5 hectares or more, an equipped children's play area will be required as an integral part of the development.'* The largest public open space area provided for within the central part of the site includes a communal amenity area and the provision of an equipped children's play area which is welcomed by the Tree Officer. BCC LPDT consider that the proposed open space is integral to the overall design and layout of the development, especially in the creation of a green, central core and are supportive of the proposed equipped children's play area. An equipped children's play area is proposed within the communal open space area and therefore this policy requirement is satisfied.

5.7.22

In terms of private amenity, the proposal makes provision for a range of rear garden sizes and communal amenity areas at apartments for future residents. Creating Places states that *'a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70 sq m per house or greater.'* Individual gardens in the houses proposed range from 38 sqm to 171 sqm. The average amount of amenity provision per house is 70.96 sqm and therefore meets the recommended standard.

5.7.23

The long-term management of communal open space areas would normally be secured through the use of a Section 76 Planning Agreement.

5.7.24

Amenity space for the four apartment blocks is provided in the form of communal roof terraces for each apartment and communal amenity space around the buildings. This is calculated as an average of 40 sqm per unit for Block A, 18.5 sqm per unit for Block B, 19.5 sqm per unit for Block C and 29.5 sqm per unit for Block D. 'Creating Places' recommends that communal open space *'should range from a minimum of 10 sq m per unit to around 30 sq m per unit'*. The proposed level of amenity space per apartment are

	within or exceed the recommended ranges and are considered acceptable. The apartments would also benefit from the proximity to the central communal area of open space within the development.
5.7.25	Roof terraces are proposed on all for apartment blocks. Environmental Health response indicates that it has not been satisfactorily demonstrated that noise levels across the site would be acceptable.
5.7.26	A landscape plan and associated landscape management plan have been submitted which proposes planting within the development. LDPT welcome the inclusion of a range of soft landscaped areas, including tree, shrub, hedge and buffer planting and consider that landscape proposals will help improve amenity value for residents and enhance local biodiversity and that the proposed species mix and planting specifications are acceptable, and are also content with information submitted as part of the Landscape Management Plan. The Tree Officer considers the proposal for 9 trees within rear gardens to be inappropriate and advises that efforts should be made to secure additional suitable tree planting within private gardens.
5.7.27	In reference to Policy QD1 of PPS7 Quality Residential Environments, adequate provision has also been made for private and public open space with the inclusion of amenity areas within the development.
5.7.28	The proposal is considered to comply with the recommended standards set out in Creating Places and Policy OS 2 and complies with Policy QD1 criterion (c). <i>d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;</i>
5.7.29	The application site is located adjacent to two designated district centres (Westwood and Kennedy Centres) which provide a range of facilities to cater for the needs of prospective occupants. Notwithstanding, given the scale of the development no such facilities are required. <i>(e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;</i>
5.7.30	There are two proposed vehicular access points to the development site off Blackstaff Road although these access roads are not connected within the development and no traffic calming measures have been provided. The applicant has indicated that the current layout limits the potential for the site to be used as a rat-run. The Senior Urban Design Officer has raised concerns that the layout primarily caters for the needs of the private car over the needs of the pedestrian and considers that connecting both internal streets to provide a more permeable layout across the site and avoid a design approach that relies on a series of 'dead-ends' (four in total) would have been appropriate.
5.7.31	The PSNI response advises that <i>'This new development is located within a brown field site and this could have implications given that this is residential building amongst commercial space whereby there may be more activity during various hours of the day and the pedestrian access through the entire development could be a cause for concern.'</i>
5.7.32	No formal pedestrian linkages have been provided to link the site with surrounding amenities. There is an existing footpath along Blackstaff Road which links to Kennedy Way and the wider area. There is also an existing informal pedestrian route through to

	<p>the Kennedy Centre car park to the west from Blackstaff Way. This is not controlled by the applicant whose team advised that this pedestrian route is closed at night-time and is not relied upon to serve the development. In any event, the use of this link provides access to the car park of the Kennedy Centre with no direct/dedicated pedestrian link to the Andersonstown Road or surrounding amenities. Prospective occupants of the development, including children would be required to walk along the footpath which runs from the site along Blackstaff Road through the informal link to a car park serving the Kennedy Centre and would be required to navigate their way through the Kennedy Centre car park to the Andersonstown Road to access local amenities such as schools and public transport.</p>																																																		
5.7.33	<p>Accessing the bus service along Kennedy Way would potentially require residents to cross the busy 4 lane carriageway with the existing pedestrian crossing some distance away (c. 500m) from the junction of Blackstaff Road and Kennedy Way at the junction of Kennedy Way and the Andersonstown Road.</p>																																																		
5.7.34	<p>The PSNI was requested to provide a view on connectivity to the surrounding developments via the informal link. In response the PSNI advised that <i>‘The potential pedestrian linkages to the surrounding area and the alleyway which forms part of this would carry risk of notable concern.’</i> The PSNI response also states that in respect of vehicular traffic <i>‘Local Police suggest that there would be concerns with the infrastructure in respect of vehicle access via Kennedy Way. This is an extremely busy/congested junction and the additional 139 units will only increase vehicular footfall in the area.’</i></p>																																																		
5.7.35	<p>Notwithstanding the above concerns raised by the PSNI, DFI Roads has verbally advised that they have no objections on road safety grounds. However, officers consider that the proposal fails to provide adequate connectivity to surrounding amenities and no pedestrian linkages to surrounding amenities are proposed to serve prospective occupants of the proposed development. It is therefore considered that the proposal fails to meet criterion (e) of Policy QD 1.</p> <p><i>(f) adequate and appropriate provision is made for parking;</i></p>																																																		
5.7.36	<p>The Transport Assessment sets out the parking requirements in accordance with PPS 3 and Creating Places. The total number of spaces required is 253.</p> <p>Table 3-1: PPS3 Parking Requirements</p> <table><tr><th>Housing Type</th><th>No. of Bedrooms</th><th>In-curtilage Spaces</th><th>Parking Standards</th><th>No. of Units</th><th>Spaces Required</th></tr><tr><td rowspan="3">Terrace</td><td>2</td><td>2</td><td>2.25</td><td>28</td><td>63</td></tr><tr><td>3</td><td>2</td><td>2.5</td><td>12</td><td>30</td></tr><tr><td>4</td><td>2</td><td>2.75</td><td>4</td><td>11</td></tr><tr><td>Detached</td><td>2</td><td>2</td><td>2.75</td><td>6</td><td>17</td></tr><tr><td></td><td>3</td><td>2</td><td>2.75</td><td>2</td><td>6</td></tr><tr><td rowspan="2">Apartments</td><td>1</td><td rowspan="2">N/A</td><td>1.25</td><td>7</td><td>9</td></tr><tr><td>2</td><td>1.5</td><td>79</td><td>119</td></tr><tr><td colspan="4">Total</td><td>138</td><td>253</td></tr></table>	Housing Type	No. of Bedrooms	In-curtilage Spaces	Parking Standards	No. of Units	Spaces Required	Terrace	2	2	2.25	28	63	3	2	2.5	12	30	4	2	2.75	4	11	Detached	2	2	2.75	6	17		3	2	2.75	2	6	Apartments	1	N/A	1.25	7	9	2	1.5	79	119	Total				138	253
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5.7.37	<p>Policy AMP 7 of PPS 3 states that <i>‘Development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department’s published standards or any reduction provided for in an area of parking restraint designated in a development</i></p>																																																		

	<p><i>plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic'</i> The policy goes on to set out a number on instances where a reduced level of car parking may be acceptable which include <i>'where, through a Transport Assessment, it forms part of a package of measures to promote alternative transport modes; or where the development is in a highly accessible location well served by public transport;'</i> Parking is provided in the form of private in curtilage spaces (84) and communal spaces (86). In total 170 spaces are proposed to serve the development. Cycle parking is proposed at a number of locations throughout the development including adjacent to Apartment Blocks A, C and D providing 52 cycle parking spaces.</p>
5.7.38	<p>DFI Roads is expected to be satisfied with the level of car parking proposed and its arrangement given a commitment from the developer to enact a Travel Plan which sets out proposals for green travel measures to support the reduced level of parking, namely the provision of travel cards for the first three years of occupation of each dwelling and discounted membership of a car club for 3 years. Such measures would normally be secured through a Section 76 Agreement. The proposed development is considered to comply with PPS3 and criterion (f) of Policy QD 1.</p> <p><i>(g) the design of the development draws upon the best local traditions of form, materials and detailing;</i></p>
5.7.39	<p>The built form, predominantly characterised by proposed apartments blocks and rows of two storey terraced dwellings reflects the character of residential developments found in the wider area such as along and off the Andersonstown Road. The mix of red brick and buff brick finish reflects the finishes and materials of established dwellings within the wider vicinity of the site. The proposed design of the development is considered to comply criterion (g) of Policy QD 1.</p> <p><i>h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;</i></p>
5.7.40	<p>The concerns about the compatibility of the proposed housing with adjacent commercial uses is addressed in the previous section of the report.</p> <p>The proposal itself would not give rise to unacceptable overlooking, loss of light, overshadowing or adverse impacts on adjacent properties (the primary concern being the adverse impact of adjacent land-uses on the proposed housing). In this regard, the proposal is compliant with criterion h).</p> <p><i>i) the development is designed to deter crime and promote personal safety.</i></p>
5.7.41	<p>The Planning Statement accompanying the application states that <i>'The proposed development has been designed to Secured by Design standards with the site and individual properties adequately enclosed and defended by appropriate boundary treatments. Careful consideration has also been given to the site layout to ensure that there are no isolated areas of communal open space which are not overlooked and that could give rise to anti-social behaviour. The dwellings have been arranged to overlook the areas of open space within the site to allow passive surveillance for the safety and security of those using the areas. The communal areas will be appropriately and adequately lit by street-light at night.'</i></p>
5.7.42	<p>The applicant has indicated that <i>'As the development will be developed and managed by a social housing provider it will be subject to 'Designing Out Crime' design review. This post planning process will help mitigate against antisocial behaviour. The development</i></p>

	<p><i>will be registered by 'Secure by Design' and evaluated against their criteria. All social housing projects are required to meet these requirements.'</i></p> <p>The PSNI in their response provides advice on designing out crime. The Senior Urban Design Officer also highlights that such matters require to be considered early in the design and considers the site somewhat vulnerable given its isolated location in the middle of a retail/industrial park where the predominant surrounding uses cease operation in the early evening.</p>
5.7.43	<p>Notwithstanding, comments from the PSNI and the Senior Urban Design Officer it is considered that on balance the proposed development does not conflict with criterion i) of Policy QD 1. For the avoidance of doubt this section of the report deals with secure by design issues in respect of the internal layout of the development. The concerns regarding the informal link between Blackstaff Road and the Kennedy Centre remain.</p> <p>Space Standards</p>
5.7.44	<p>Eighty, 2 bed apartments (3 person) and seven, 1 bed (2 person) apartments are proposed within the apartment blocks and all meet the space standards set out in the addendum to PPS 7 and the draft LDP. The Planning Statement accompanying the application states that the <i>'development has been designed in its entirety to meet current requirements of the Housing Association Guide and LifeTime Homes.'</i></p>
5.8	Housing Need
5.8.1	<p>The consultation response from the Northern Ireland Housing Executive (NIHE) advises that: <i>'The wider context of the area reflects this industrial/ commercial designation and our initial viewed based on wider non-housing land uses in the immediate locality, the Council should satisfy themselves that any departure from a Major Area of Existing Employment/Industry use is justified and that any residential development in such a location would provide a high quality attractive environment for households to live and work.'</i> The response further states that <i>'Should the Council be minded to approve a residential development on the site and it is satisfied that a high quality attractive environment for households to live and work can be achieved, the Housing Executive would seek to impose the affordable housing in the emerging Draft Plan Strategy and ensure at least 20% of any housing proposals were affordable. Social need in West Belfast has traditionally been high. A high proportion of public stock is now privately owned, with tenants utilising the house sales scheme. The development is located within the Andersonstown Common Landlord Area and part of the Middle West Belfast Housing Need Area (HNA) where demand for social housing is high. The projected housing needs assessment for Middle West Belfast over the period 2021-2026 indicates that 889 new social housing starts are required to address waiting list demand for this catchment area.'</i></p>
5.8.2	<p>Whilst it is recognised that there is a significant need for social housing in this part of the city, there are fundamental issues about the suitability of the site for housing, as set out above. Officers consider that the proposal for social housing is not of itself sufficient to outweigh the concerns raised regarding the introduction of residential development within a predominantly commercial and industrial/employment area. Furthermore, the applicant's team has advised that discussions are ongoing with a number of Housing Associations who are aware of the surrounding development and consider the site appropriate for residential development. Confirmation has not been provided that a partnership has been established with a Housing Association to develop the site.</p>
5.8.3	<p>The provision of affordable housing, including the final level and mix of social and intermediate housing, would normally be secured through a Section 76 Agreement where there is planning justification for it.</p>

5.9	Traffic, Movement and Parking
5.9.1	The proposal has been assessed against the SPPS and Policies AMP1, AMP 2, AMP6, AMP7 and AMP8 of Planning Policy Statement 3 and general principles of Planning Policy Statement 13.
5.9.2	A total of 170 car parking spaces are proposed to serve the development along with 52 cycle parking spaces. The Transport assessment advises that 253 parking spaces would be required in accordance with the Parking Standards, but a reduced level of car parking is provided as various sustainable transport options are available as an alternative to the private car such as several bus stops, a Glider route and a nearby train station (Balmoral).
5.9.3	A Travel Plan and Transport Assessment have been submitted in support of the development. The Travel Plan sets out measures to reduce dependency on travel by car and promote sustainable travel modes. Green travel measures in the form of a implementation of a Travel Plan, Residential Travel Pack, 3-year residential Travel Card, discounted membership of a car club (50%) for a 3 year period car club scheme.
5.9.4	The Transport Assessment sets out an assessment of the traffic impact of the proposed development which has been considered by DFI Roads.
5.9.5	An objection on behalf of the adjacent existing business Huhtamaki, raised concerns regarding the traffic impact of the proposal and intensification of the existing access which is extremely congested and states that there have been numerous road traffic accidents in the past and the insufficiency of parking spaces. DFI Roads previously objected to the proposal however further information has been submitted and is being considered. DFI Road's latest position on the application will be subject to an update at the Planning Committee meeting.
5.9.6	Officers consider that the proposal complies with the SPPS, Policies AMP1, AMP 2, AMP6, AMP7 and AMP8 of PPS 3 and the general principles of Planning Policy Statement 13.
5.10	Environmental Considerations
5.10.1	Drainage
5.10.2	The application is supported by a Flood Risk Assessment. The proposal has been considered against policies FLD 1-5 of Revised PPS15. DFI Rivers have raised no objections under Policies FLD 1, 2, 3, 4 and 5 subject to a condition which relates to the submission of a Final Drainage Assessment.
5.10.3	NI Water has objected to the proposal on the basis that there is insufficient waste water treatment capacity available to service the proposed development. They have also advised that the foul sewer network cannot presently serve this development proposal without significant risk of environmental harm and detrimental impact on existing properties. Importantly, NI Water makes allowance for existing significant committed development across the city. Such development, which includes un-implemented permissions across the city, will not all come forward at once.
5.10.4	In practical terms it is considered unreasonable for the Council to refuse planning permission for the proposed development on the basis that NI Water's pre-existing commitments to connect to significant levels of un-implemented development across the city. Moreover, NI Water has not provided evidence that the proposed development

	would have a direct and detrimental impact on waste-water infrastructure or environment, particularly in the context of impacts over and above what has already been committed across the city.
5.10.5	NI Water confirms that it has a programme for WWTW improvements which will increase capacity over the coming years. Whilst NI Water advises that it cannot support the proposal at this time, some additional capacity will be available from July 2023 as a result of the completion of initial upgrade work, subject to an Impact Assessment. The development, if approved, would not come forward until after July 2023.
5.10.6	The Tree Officer welcomes the opportunity for Water butts proposed within dwellings and apartment blocks which will serve to promote SuDS.
5.11	Contamination
5.11.1	The application is supported by a Land Contamination Assessment and further addendums submitted in response to queries raised by Environmental Health. Environmental Health considers that a Detailed Remediation Strategy would be required and should address issues around potential vapour risk and identify the properties which require vapour protection measures. In addition, the remediation strategy would be required to incorporate a Materials Management Plan and set out how contaminated soils on the site are proposed to be moved and reused in a manner that would not pose a risk to end users and mitigation measures relating to the banked area in the western part of the site and details on the clean capping layer in all landscape areas. Furthermore, Environmental Health recommends a condition that the banked area located in the west part of the site is subject to a separate GQRA and that a verification report is submitted and approved by the Council prior to any occupation. NIEA has no objection to the proposed development subject to conditions/informatives if permission is granted. Officers are satisfied that the measures set out in the negative conditions recommended by Environmental Health and NIEA would, if implemented, not result in any adverse impact on prospective occupants.
5.12	Air Quality
5.12.1	The application is supported by an Air Quality Impact Assessment. An objection raises concerns regarding air quality complaints arising from potential occupants due to existing business/operators in the area. Environmental Health has reviewed the assessment and concludes in regard to traffic impact that estimated road transport emissions, as a result of the proposed development, are likely to have a 'negligible' impact on nitrogen dioxide and particulate matter concentrations in the local area. With regard to construction phase, subject to mitigation measures proposed, there would be no significant adverse dust effects arising from the construction phase of the proposed development. Environmental Health raises no objection on air quality grounds subject to conditions regarding the use of centralised combustion sources.
5.13	Impact on Protected Sites/Priority Species and Habitats
5.13.1	In accordance with Regulation 43(1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended) Shared Environmental Services (SES) on behalf of the Council has carried out an appropriate assessment and having considered the nature, scale, timing, duration and location of the project, SES advises that the development would not have an adverse effect on the integrity of any European site, either alone or in combination with other plans or projects. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including mitigation measures. This conclusion is subject to mitigation measures being conditioned

	in any approval which require agreement on the method of sewage disposal or granting of consent to discharge prior to commencement.
5.13.2	The Council, in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, should adopt the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 10/10/2022. This found that the project would not have an adverse effect on the integrity of any European site.
5.14	Developer Obligations
5.14.1	Para 5.69 of the SPPS states that ' <i>Planning authorities can require developers to bear the costs of work required to facilitate their development proposals.</i> ' Relevant further guidance is provided by the Council's Developer Contribution Framework, adopted in 2020.
5.14.2	<p>Were the application to be found to be acceptable by the Committee, the following measures would be required to be secured through a Section 76 planning agreement:</p> <ul style="list-style-type: none"> • Provision of affordable housing; • Green Travel Measures in the form of implementation of a Travel Plan, a travel card for each unit a period of 3 years and 50% subsidised membership of a car club for each unit for 3 years along with the implementation of a Travel Plan including a Travel Co-ordinator; • Employability and Skills interventions during the construction phase; • Long term management and maintenance of communal and public open space; a • Agreement with ASDA to fit an in-line duct attenuator to its gable wall to reduce the noise impact on the nearest proposed rear gardens.
5.15	Pre-Application Community Consultation
5.15.1	In accordance with the requirements of Section 27 of the Planning Act (NI) 2011, the applicant served a Proposal of Application Notice (PAN) on Belfast City Council on 02 August 2021 (LA04/2021/1830/PAN). Belfast City Council responded confirming that the PAN and associated approach met the requirements of Section 27 of the Planning Act and was acceptable subject to additional consultation with the West Belfast Partnership Board.
5.15.2	A Pre-Application Community Consultation Report has been produced to comply with the statutory requirement laid out in Section 28 of the Planning Act (Northern Ireland) 2011. The purpose of a PACC report is to confirm that pre-application community consultation has taken place in line with statutory minimum requirements. The report has confirmed advertising for the public (website) event and that the website event in lieu of the public event took place in accordance with section 5 of The Planning (Development Management) Regulations (Northern Ireland) 2015. The report also confirmed that information leaflets had been distributed to c. 650 properties in the surrounding area.
5.15.3	The report states that 20 comments were left via the online feedback form. The PACC report advises that the comments received fell into 4 categories i.e. traffic congestion, need for social housing, support for local businesses and need for additional schools and medical facilities.

5.15.4	The PACC report states that <i>'The Applicant has undertaken a comprehensive pre-application consultation exercise. Throughout this process the Applicant and project team has sought to directly engage with the general public and elected representatives for the area. All of the feedback received during the consultation has been fully analysed...The general concerns and issues that were raised by respondents focused mostly on concerns around traffic congestion & management, the need of housing (particularly social housing) along with provision of local services inclusion Schools & Hospitals. The design team has taken time to carefully consider the feedback and has provided a response to each of the key areas raised during the consultation feedback process. The proposals for new homes of the site were welcomed by those who fed back to the team during the consultation period.'</i>
5.15.3	The Pre-Community Consultation Report submitted satisfactorily demonstrates that the applicant has complied with the requirements of Sections 27 and 28 of the Planning Act (NI) 2011 and Section 5 of The Planning (Development Management) Regulations (Northern Ireland) 2015 and has adhered to Council recommendations during the PAN process. The PACC report is considered acceptable.
6.0	Summary of Recommendation
6.1	Having regard to the development plan, relevant policy context and other material considerations, including the consultation responses and representation received, the proposed development is considered unacceptable. It is recommended that full planning permission is refused for the reasons set out in the report.
6.2	Delegated authority is sought for the Director of Planning and Building Control to finalise the wording of reasons for refusal and to deal with any other matters which may arise

Draft Reasons for Refusal:

1. The proposed development is located within a designated District Centre as identified in the draft Belfast Metropolitan Area Plan 2015 (v2014). The proposal would reduce the land available within the District Centre to deliver retail and other appropriate commercial uses and would fail to retain and consolidate the District Centre as a focus for local everyday shopping. The proposal is contrary to paragraph 6.276 of the SPPS and Designation BT010/5 – Westwood Centre of the draft Belfast Metropolitan Area Plan 2015 (v2014).
2. The application site is surrounded by existing commercial uses and businesses, many of which are not subject to restrictions on hours of operation or other controls. The proposed housing would be a poor-quality living environment for residents who would be subject to unacceptable noise and environmental impacts, both from within the houses/apartments and the outdoor amenity space/open space. The application fails to demonstrate that the noise levels would be satisfactory. The site is not considered suitable for any form of housing and the proposal is contrary to paragraphs 4.11, 4.25-27 and 4.34 of the Strategic Planning Policy Statement, Policy PED 8 of Planning Policy Statement 4, and criteria (a) and (h) of Policy QD 1 of Planning Policy Statement 7 – Quality Residential Environments.
3. The application site is surrounded by existing commercial uses and businesses, many of which are not subject to restrictions on hours of operation or other controls. The proposed development has the potential to adversely affect the operations and viability of existing surrounding commercial uses and businesses and generally compromise the ability of the industrial estate to provide employment and economic growth. The proposal is contrary to paragraphs 4.20 – 4.21 of the Strategic Planning Policy Statement and Policy PED 8 of Planning Policy Statement 4.

4. The proposed development would be located on an existing commercial/industrial park, resulting in poor place making and an unsuitable residential living environment. Specifically, access to the development would be through an incongruous industrial estate/commercial park. Secondly, the proposed development would provide a poor quality residential environment for prospective occupants by reason of poor outlook from Blocks A, B, C and D onto the existing commercial and industrial/employment area. Thirdly, the overbearing impact of the retaining wall and embankment onto the dwellings and rear gardens numbered 77-83 and 86 on Drawing No. 04A – Site Layout. Fourthly, the overbearing nature of the Westwood Shopping Centre/ASDA on apartments within Block A and the dwellings and rear gardens numbered 70-76 on Drawing No. 4A – Site Layout. The proposal is contrary to paragraphs 4.12, 4.25-27 and 4.34 of the Strategic Planning Policy Statement and criteria (a) and (h) of Policy QD1 of Planning Policy Statement (PPS) 7 – Quality Residential Environments . and Policy PED 8 of Planning Policy Statement 4, and unacceptable.
5. The proposal fails to provide adequate connectivity to surrounding amenities and would result in an isolated housing development within an existing commercial and industrial/employment area and encourage use of an unsafe informal link to the Kennedy Centre. The proposal is contrary to paragraphs 4.12 and 4.24-27 of the Strategic Planning Policy Statement and criteria (e) of Policy QD 1 of Planning Policy Statement (PPS) 7 – Quality Residential Environments.
6. The application is not accompanied by a Section 76 planning agreement to secure the Green Travel Measures (Travel Plan, Travel Cards for each unit for a 3 year period, Discounted Membership of a Car Club), Employability and Skills interventions, long term management and maintenance of private communal and public open space areas which would be required to manage and mitigate the development. The proposal is contrary to paragraph 5.69 of the SPPS, Policy AMP 7 of Planning Policy Statement 3, Policy OS 2 of Planning Policy Statement 8 and Chapter 9 of the Developer Contributions Framework.

Notification to Department (if relevant): Not Required

Date of Notification to Department:

Response of Department:

Representations received from Elected Members: None

ANNEX	
Date Valid	14th July 2022
Date First Advertised	5th August 2022
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 1,6a ,Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 10 Blackstaff Road,Kennedy Way Industrial Estate,Belfast,Antrim,BT11 9DT The Owner/Occupier, 11 Blackstaff Road,Belfast,Antrim,BT11 9DT The Owner/Occupier, 14 Andersonstown Road,Andersonstown,Belfast,Antrim,BT11 9AJ The Owner/Occupier, 14a ,Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 16a ,Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 19 Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 19a ,Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 1c ,Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim, BT11 9DT The Owner/Occupier, 2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim, BT11 9DT The Owner/Occupier, 2 Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 3 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim, BT11 9DT The Owner/Occupier, 3 Blackstaff Way,Ballymurphy,Belfast,Antrim,BT11 9DS The Owner/Occupier, 3,3 Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 4,4-5 ,Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 45 Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 47 Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 5 Blackstaff Road,Belfast,Antrim,BT11 9DT The Owner/Occupier, 5 Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 5-8a Dc Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 5a ,Blackstaff Road,Kennedy Way Industrial Estate, Belfast,Antrim,BT11 9DT The Owner/Occupier, 6 Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 6,5 Kennedy Way,Belfast,Antrim,BT11 9AP The Owner/Occupier, 7 Blackstaff Road,Belfast,Antrim,BT11 9DT The Owner/Occupier, 9 Blackstaff Road,Belfast,Antrim,BT11 9DT The Owner/Occupier, Ess,Blackstaff Way,Ballymurphy,Antrim, The Owner/Occupier, Factory 7,Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT The Owner/Occupier, Fern Business Enterprise,Blackstaff Road,Kennedy Way Industrial Estate,Belfast,Antrim,BT11 9DT The Owner/Occupier, Holly Business Park,Blackstaff Way, Ballymurphy, Belfast, Antrim, BT11 9DS The Owner/Occupier, Kennedy Enterprise Centre,2 Blackstaff Road,Belfast,Antrim,BT11 9DT	

The Owner/Occupier, NI Water, Sewage Treatment Works,Blackstaff Road, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Office,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, The Managment, Westwood Shopping Centre,Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Tyre Depot,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 1,4 Blackstaff Way,Ballymurphy,Antrim,BT11 9DT

The Owner/Occupier, Unit 1,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 1,Westwood Shopping Centre,Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 1-2,Westwood Retail Park,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 10,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 10,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 10,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim, BT11 9BQ

The Owner/Occupier, Unit 11 ,Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim, BT11 9BL

The Owner/Occupier, Unit 11,5 Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier,
Unit 11,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 11,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim, BT11 9BQ

The Owner/Occupier, Unit 12,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 12,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 12,Kennedy Enterprise Centre,2 Blackstaff Road,Belfast,Antrim,BT11 9DT

The Owner/Occupier, Unit 12,Westwood Shopping Centre,51 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 13,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 14,2 Blackstaff Road,Kennedy Way Industrial Estate,Belfast,Antrim,BT11 9DT

The Owner/Occupier, Unit 14,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 14,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 14,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 15,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 15,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 15,Kennedy Enterprise Centre,2 Blackstaff Road,Belfast,Antrim,BT11 9DT

The Owner/Occupier, Unit 15a,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 16,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 16,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 16,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 16/17/18,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 17,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 17,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 17,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 17-18,Westwood Shopping Centre,Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 18,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 18,5 Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 18,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 18,Kennedy Enterprise Centre,2 Blackstaff Road, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 19,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 19,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 19a,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 19b,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 19b,Kennedy Enterprise Centre,2 Blackstaff Road, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 1a,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 1a,Kennedy Enterprise Centre,2 Blackstaff Road, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 2,3 Blackstaff Way,Ballymurphy,Belfast,Antrim,BT11 9DT

The Owner/Occupier, Unit 2,4 Blackstaff Way,Ballymurphy,Antrim,BT11 9DT

The Owner/Occupier, Unit 2,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 2,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 2,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 2,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 20,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 20,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 21,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 21,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 22,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 22,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 22,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 23,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 23,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 24,5 Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 24,Kennedy Enterprise Centre,2 Blackstaff Road, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 24,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 25,Kennedy Enterprise Centre,2 Blackstaff Road, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 25,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 26,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 27,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 28,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 29,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 3 ,Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 3,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 3,Kennedy Enterprise Centre,2 Blackstaff Road, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 3,Westwood Retail Park,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 3,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier,Unit 3,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 35,Kennedy Enterprise Centre,2 Blackstaff Road, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 36,Kennedy Enterprise Centre,2 Blackstaff Road, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 39,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 3a,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 4,48 Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 4,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 4,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 4,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 4-5,Westwood Retail Park,51 Kennedy Way, Belfast, Antrim, BT11 9BQ

The Owner/Occupier, Unit 4-5,Westwood Retail Park,51 Kennedy Way, Belfast, Antrim, BT11 9BQ

The Owner/Occupier, Unit 5 ,Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim, BT11 9DT

The Owner/Occupier, Unit 5,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 5,Blackstaff Road,Belfast,Antrim,BT11 9DT

The Owner/Occupier, Unit 5,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 5,Kennedy Enterprise Centre,2 Blackstaff Road, Belfast, Antrim, BT11 9DT

The Owner/Occupier, Unit 5,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 5/6,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 5a,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 6,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT

The Owner/Occupier, Unit 6,48 Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 6,5 Kennedy Way,Belfast,Antrim,BT11 9BQ

The Owner/Occupier, Unit 6,Westwood Retail Park,51 Kennedy Way,Belfast,Antrim,

The Owner/Occupier, Unit 6,Westwood Retail Park,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 6,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ

The Owner/Occupier, Unit 6/7,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 6/7,D C Silencers Complex,Kennedy Way, Belfast, Antrim, BT11 9AP

The Owner/Occupier, Unit 7,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim, BT11 9DT

The Owner/Occupier, Unit 7,48 Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 7,5 Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 7,D C Silencers Complex,Kennedy Way,Belfast,Antrim,BT11 9AP

The Owner/Occupier, Unit 7,Westwood Retail Park,51 Kennedy Way, Belfast, Antrim, BT11 9BQ

The Owner/Occupier, Unit 7,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim, BT11 9BQ

The Owner/Occupier, Unit 7,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim, BT11 9BQ

The Owner/Occupier, Unit 7-8,M1 Business Park,Blackstaff Way,Belfast,Antrim,BT11 9DS
 The Owner/Occupier, Unit 7b,2 Blackstaff Road,Kennedy Way Industrial Estate, Belfast, Antrim,BT11 9DT
 The Owner/Occupier, Unit 8,48 Kennedy Way,Belfast,Antrim,BT11 9AP
 The Owner/Occupier, Unit 8,5 Kennedy Way,Belfast,Antrim,BT11 9BQ
 The Owner/Occupier, Unit 8,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP
 The Owner/Occupier, Unit 8,Westwood Retail Park,51 Kennedy Way, Belfast, Antrim, BT11 9BQ
 The Owner/Occupier, Unit 8,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim, BT11 9BQ
 The Owner/Occupier, Unit 8,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ
 The Owner/Occupier, Unit 8a,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP
 The Owner/Occupier, Unit 9,D C Enterprise Centre,Kennedy Way,Belfast,Antrim,BT11 9AP
 The Owner/Occupier, Unit 9,Westwood Shopping Centre,51 Kennedy Way, Belfast, Antrim,BT11 9BQ
 The Owner/Occupier, Units 1,16,17 & 18,D C Enterprise Centre,Kennedy Way, Belfast, Antrim,BT11 9AP
 The Owner/Occupier, West Belfast Enterprise Centre,Blackstaff Road,Kennedy Way Industrial Estate,Belfast,Antrim,BT11 9DT

Date of Last Neighbour Notification	10th August 2022
Date of EIA Determination	21st July 2022
ES Requested	No

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Committee Application

Development Management Report	
Application ID: LA04/2021/0691/F and LA04/2021/0915/DCA	Date of Committee: 18 April 2023
Proposal: Demolition of existing dwelling and erection of a new detached dwelling and associated siteworks	Location: 1d Malone Park Belfast BT9 6NH
Referral Route: Par. 3.8.2 (i) of the Scheme of Delegation – full demolition of existing dwelling in the Conservation Area	
Recommendation:	Approval
Applicant Name and Address: Andrea McGarrity 1d Malone Park Belfast BT9 6NH	Agent Name and Address: RPP Architects Ltd 155-157 Donegall Pass Belfast BT1 1DT
<p>Executive Summary: This application relates to No. 1D Malone Park. The application seeks full planning permission for the demolition of the existing dwelling and the erection of a new detached dwelling with associated siteworks. An associated application for Conservation Area Consent for the demolition has been submitted and is also being considered by the Committee (LA04/2021/0915/DCA).</p> <p>The main issues to be considered in this case are:</p> <ul style="list-style-type: none"> • Principle of development • Impact on the character and appearance of the Malone Park Conservation Area • Impact on the setting of Listed Buildings • Trees and Landscaping • Impact on residential amenity • Access, Movement and Parking • Other environmental considerations <p>In the Belfast Urban Area Plan 2001, Draft Belfast Metropolitan Area Plan 2015 (v2004 and V2014), the site is un-zoned white-land within the development limits. The site is located within Malone Park Conservation Area.</p> <p>4 letters of objection have been received including a representation on behalf of Malone Park Residents Association. 3 letters of support have also been received. The objections are summarised below.</p> <ul style="list-style-type: none"> • Impact on Listed gate lodge 1a Malone Park • Overbearing on plot 1 Malone Park • Overlooking from first floor balconies • Loss of light to 1b & 1c Malone Park • No landscaping plan • Inappropriate scale • Cramming – inappropriate footprint for site • Car parking to front of dwelling 	

These matters are addressed in detail in the main report.
The supporting comments are summarised below.

- Proposal makes a positive contribution to Conservation Area
- Proposal improves the surrounding character

DFI Roads, DfC HED, NI Water, BCC Environmental Health, BCC Tree Officer and BCC Conservation Team were all consulted and have offered no objection to the proposal.

Having regard to the policy context and other material considerations including third party representations and previous appeal decision, the proposal is considered to be acceptable and approval is recommended for the reasons set out.

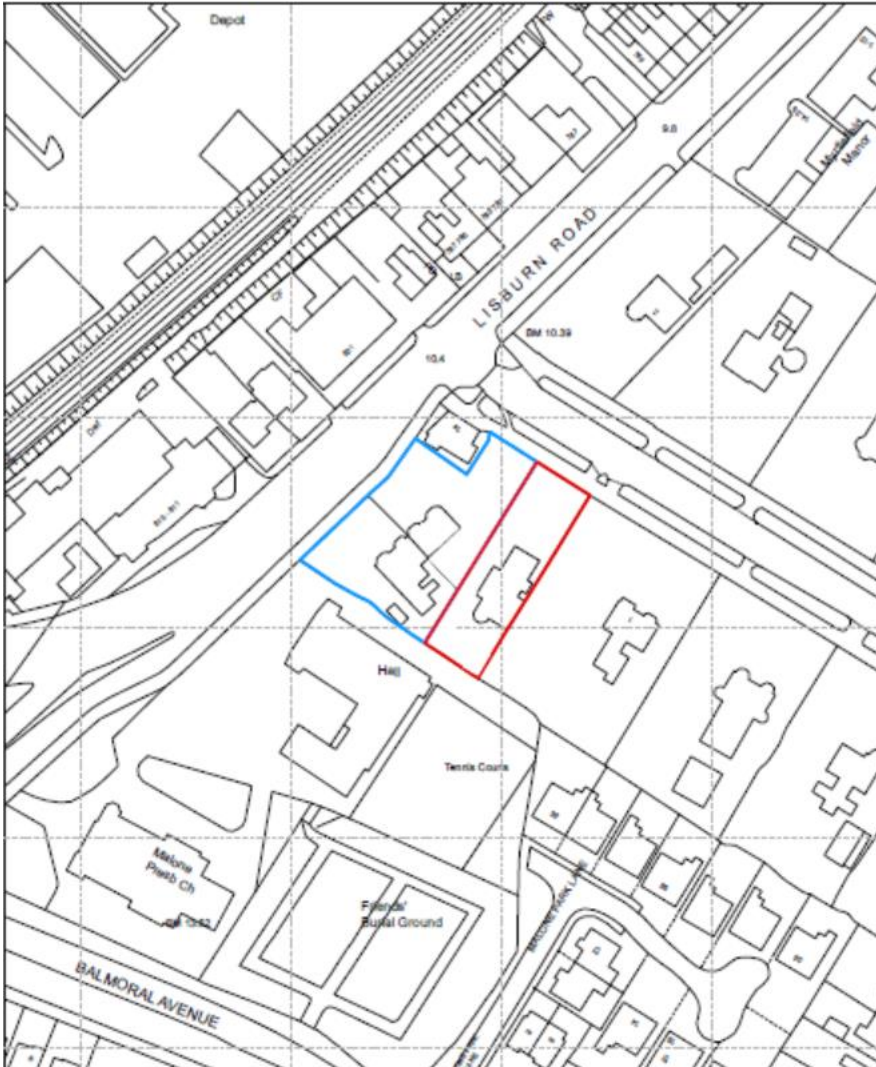
Recommendation

It is recommended that the application is approved subject to conditions. It is requested that delegated authority is given to the Director of Planning and Building Control to finalise the wording of conditions.

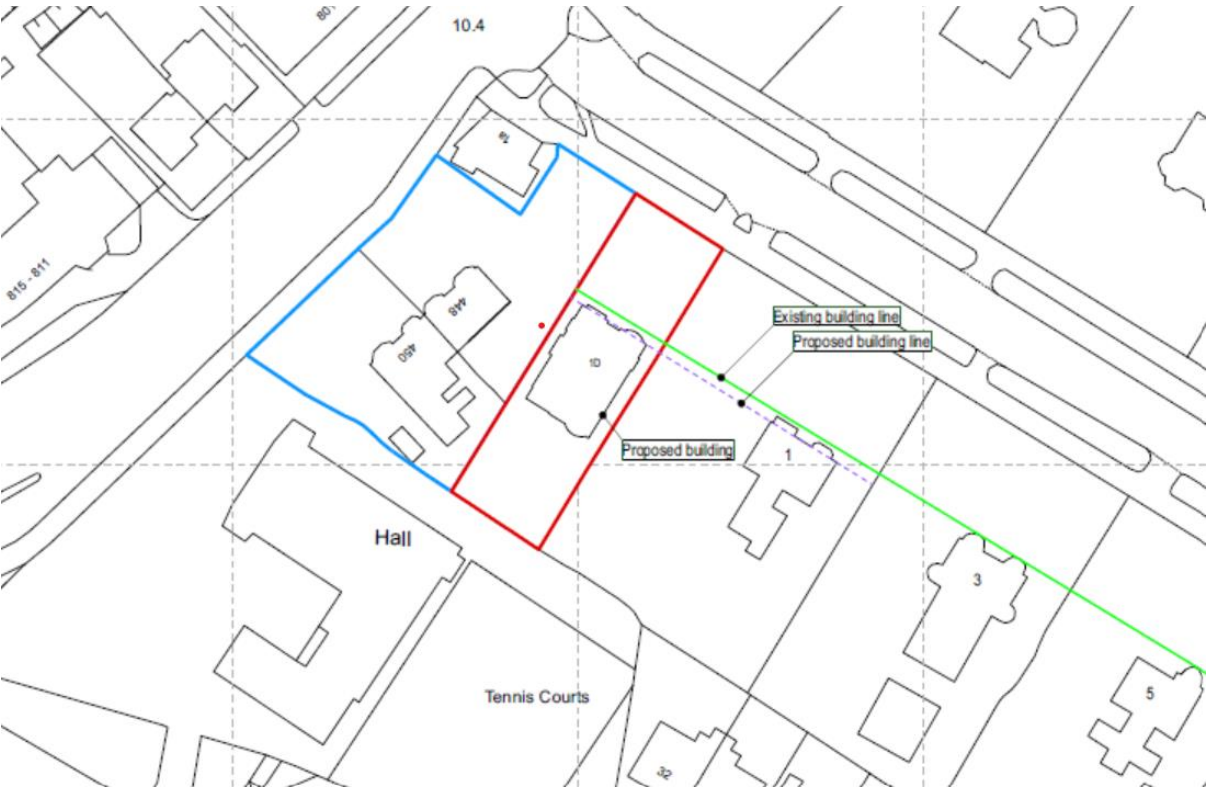
The Conservation Area Consent application (LA04/2021/0915/DCA) will have to be notified to the Department for Infrastructure under Section 29 of the Planning Act (Northern Ireland) 2011 before the decisions can be issued.

Proposed Drawings

Site location plan



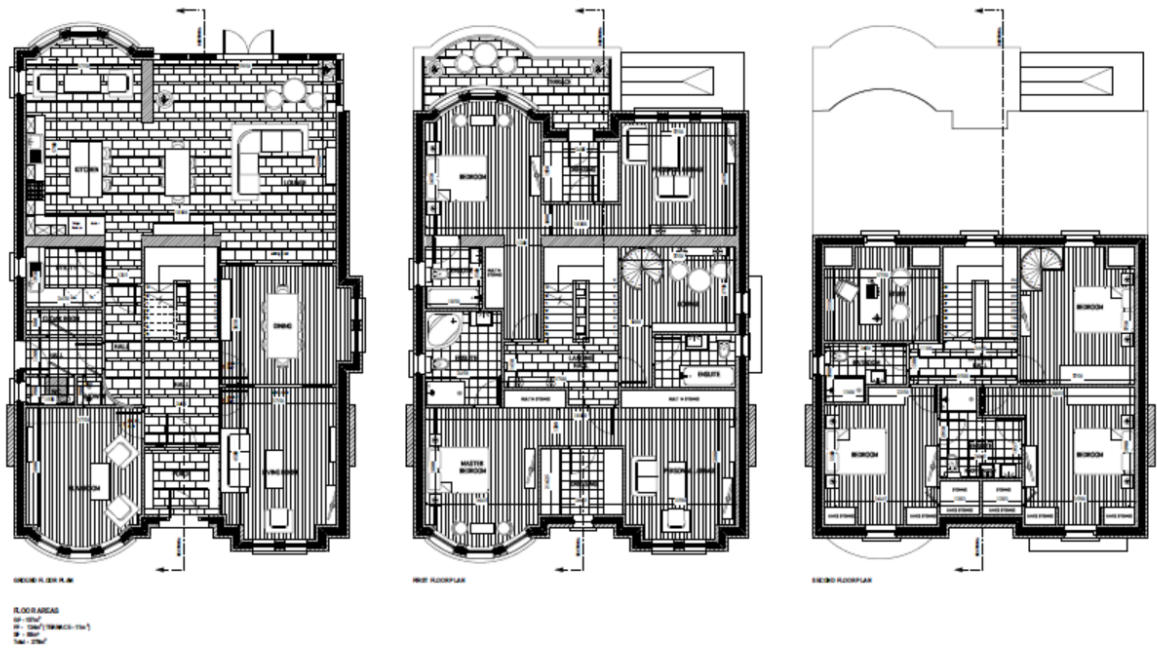
Building line plan



Elevations



Floor Plans



Characteristics of the Site and Area	
1.0	Description of Proposed Development
1.1	This application seeks full permission for the demolition of the existing dwelling and the erection of a new detached dwelling and associated siteworks. There is a related application for Conservation Area Consent application (LA04/2021/0915/DCA) that the Committee is also considering.
1.2	The proposal has been amended over the course of the application to include removal of the rear balconies, additional landscaping plan, building line and contextual plans.
2.0	Description of Site and Area
2.1	The application site is a common rectangular plot containing a single dwelling which is designed with a single storey element to the front and a two-storey element behind and detached garage. The dwelling has the appearance of dating from the 1960s being finished in a red/brown brick at ground floor level and slate cladding above. It is not follow the traditional vernacular design of the vast majority of houses in Malone Park Conservation Area. The plot is uncommon when compared to neighbouring sites being significantly narrower and the styling of the dwelling is significantly different from the neighbouring properties, these being large detached villas situated within substantial plots and mostly finished in red facing brick although there are several finished in painted render. The dwelling on site is a rather plain and modest construction when compared to the neighbouring dwellings which employ many architectural features that gives them a significant presence. The boundary to the site is a mix of brick walls and vegetation, the wall appears to date from before the house and the vegetation is mature.
2.2	The site is situation on Malone Park, which is a private road, and near a small detached bungalow. Its location at the gateway to the park would indicate that it was probably built for a gatekeeper. Adjacent to the site is two large vacant dwellings, fronting the Lisburn Road, which are in a rundown state of repair, these properties are within the ownership if the applicant. The site is situated within the Malone Park Conservation Area.
2.3	The character of the surrounding area is dominated by residential use. Malone Park is characterised by large detached houses set within large plots. The adjacent Lisburn Road is a mix of commercial and residential uses.
Planning Assessment of Policy and other Material Considerations	
3.0	Site History Application Site: LA04/2021/0915/DCA - Demolition of existing dwelling – to be considered by the Planning Committee at the same meeting. Z/1987/1354 - 448 Lisburn Road/1B Malone Park - Alterations and extension with change of use of existing coach house to dwelling unit and conversion of existing dwelling to 2 dwelling units and provision of domestic garage. Planning permission granted.
4.0	Policy Framework
4.1	Belfast Urban Area Plan 2001 (BUAP) – Housing Strategy, Policy H3, Conservation Strategy, Policies C2 and C4
4.2	Draft Belfast Metropolitan Area Plan (dBMAP) 2015 (v2004 and v2014)

	Following the Court of Appeal decision on BMAP, the extant development plan is the BUAP. BMAP reverted to a draft plan and both versions of dBMAP (v2004 and v2014) are material considerations. The weight to be afforded to dBMAP is a matter of judgement for the decision maker. Given the advanced stage in the Development Plan process, dBMAP (v2014) is considered to carry significant weight, save for retail policies relating to Sprucefield, which remain contentious.
	Draft BMAP 2015 (v2004)
4.2.1	Policy SETT2 Development with the Metropolitan Development Limit and Settlement Development Limits
4.2.2	Designation BT001 Metropolitan Development Limit
	Draft BMAP 2015 (v2014)
4.2.3	Policy SETT 2 Development within the Metropolitan Development Limits and Settlement Development Limits.
4.3	Regional Development Strategy 2035
4.4	Strategic Planning Policy Statement 2015
4.5	Planning Policy Statement 3: Access, Movement and Parking Planning Policy Statement 6: Planning, Archaeology and the Built Heritage Planning Policy Statement 7 (PPS7) Quality Residential Environments Planning Policy Statement 7 (PPS7) Addendum: Safeguarding the Character of Established Residential Areas Planning Policy Statement 12 (PPS12) Housing in Settlements
4.6	Section 91 of the Planning Act (Northern Ireland) 2011 “In considering whether to grant planning permission for development which affects a listed building or its setting, a Council must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.
4.7	Section 104 of the Planning Act (Northern Ireland) 2011 “Special regard must be had to the desirability of: (a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise; (b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise.
5.0	Statutory Consultees Responses
5.1	DFI Roads – No objection
5.2	NI Water – No objection
5.3	DFC Historic Environment Division (HED) – No objection subject to conditions
6.0	Non-Statutory Consultees Responses
6.1	BCC Environmental Health – No objection
6.2	BCC Tree and landscape Officer – No objection subject to recommended conditions
6.3	BCC Conservation Officer – No objection
7.0	Representations
7.1	The application was neighbour notified on the 22 nd April 2021. It was advertised in the local press on the 2 nd April 2021.
7.2	Following receipt of additional information and amended plans, the application was re-neighbour notified on the 13 th September 2021, and re-advertised 17 th September 2021
7.3	4 letters of objection have been including a representation on behalf of Malone Park Residents Association. Issues raised include: <ul style="list-style-type: none"> Impact on listed gate lodge 1a Malone Park

	<ul style="list-style-type: none"> • Overbearing on plot 1 Malone Park • Overlooking from first floor balconies – case officer: balconies removed • Loss of light to 1b & 1c Malone Park • No landscaping plans – case officer: additional plans and information received • Inappropriate scale • Cramming – inappropriate footprint for site • Car parking to front of dwelling – case officer: the existing house has parking to the front/side. The proposed dwelling would have parking at the front. The Conservation Guide states that ‘Where proposed, car parking must be accompanied by a detailed landscaping scheme which provides for adequate screening from the road and adjacent properties.’ The proposed landscaping scheme includes a hedgerow at the front which would screen the parking. Overall, it is considered that the proposal would be an enhancement of the character and appearance of the Conservation Area.
7.4	These matters are addressed in the main report.
8.0	Other Material Considerations
8.1	Belfast Agenda Malone Park / Adelaide Park Design Guide Creating Place Living Places DCAN 15 Vehicular Access Standards Parking Standards
9.0	Assessment
9.1	The key issues in the assessment of the proposal are: <ul style="list-style-type: none"> • Principle of development • Impact on the character and appearance of the Malone Park Conservation Area • Impact on the setting of Listed Buildings • Trees and Landscaping • Impact on residential amenity • Access, Movement and Parking • Other environmental considerations
9.2	<u>Principle of development</u> In the BUAP and dBMAP (v2004 and v2014), the site is unzoned whiteland within the settlement limits where the principle of a proposed replacement dwelling is considered acceptable. The principle of use is already established through the existing dwelling on the site. This is a sustainable location for a replacement dwelling with good access to shops, services, jobs and public transport. The principle of development is acceptable.
9.3	<u>Impact on the Malone Park Conservation Area</u> There is a statutory requirement under Section 104 of the Planning (NI) Act 2011 with respect to development within a conservation area, to have special regard to the desirability of: (a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise; or (b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise.

	<p>Demolition</p>
9.4	<p>The Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) in paragraph 6.18 contains a policy direction reflecting Section 104 of the 2011 Act. It states that there will be a general presumption against the grant of planning permission for development or conservation area consent for demolition of unlisted buildings where proposals would conflict with this principle. This general presumption should only be relaxed in exceptional circumstances where it is outweighed by other material considerations grounded in the public interest. A similar approach is taken in Policies BH12 and BH14 of PPS6.</p>
9.5	<p>Policy BH14 of PPS6 advises that permission will normally only be granted for the demolition of an unlisted building in a conservation area where the building makes no material contribution to the character and appearance of the area. It also advises that in assessing such proposals for demolition, regard will be had to the same broad criteria outlined for the demolition of listed buildings including the merits of the existing building, the building's condition, the adequacy of efforts to retain the building in use and the merits of alternative proposals.</p>
9.6	<p><i>Merits of the existing building:</i></p> <p>The Council's Conservation Officer has advised that the existing building makes no material contribution to the architectural and historic interest/character and appearance of the conservation area which mainly comprises dwellings 2 to 2.5 storeys with examples of prestigious Victorian and Edwardian architecture; it is those properties that form the primary character of the area. The existing dwelling on site is a of modern construction and employs materials contrary to the surroundings, it is also of an incohesive form that is not in keeping with the prevailing surrounding character. For these reasons it is considered that the existing dwelling makes no positive contribution to the conservation area and demolition therefore is acceptable in principle, provided that the proposed replacement dwelling is appropriate to the Conservation Area in terms of scale, design and materials.</p>
	<p>Suitability of the replacement dwelling</p>
9.7	<p>Policy BH12 of PPS6 sets out several criteria that new development is required to meet in the interests of preserving or enhancing the character and appearance of the conservation area. This is also cross referenced in paragraph 6.19 of the SPPS.</p>
9.8	<p>Criterion (a) requires the proposal to preserve or enhance the character and appearance of the Conservation Area. The proposal is considered to satisfy this requirement for the reasons set out below and in this report.</p>
9.9	<p>Criterion (b) requires the proposal to be sympathetic with the characteristic built form of the area. The proposal is considered to satisfy this requirement for the reasons set out below and in this report.</p>
9.10	<p>Criterion (c) requires the scale, form, materials and detailing of the development to respect the characteristics of adjoining buildings in the area. The form and design of the proposed replacement dwelling is like many of the Victorian/Edwardian dwelling of the Park in terms of scale and massing, being 2.5 storeys in height, and follows the more traditional vernacular. The materials to be employed in the construction are common to buildings of this period and is sympathetic to the surroundings: the walls will be constructed in red facing brick, natural slate to be used to the roof and the windows will be timber sliding sash. Officers are content that the scale, form, materials, detailing and design of the proposed replacement dwelling would be in keeping with the overall character of the conservation area. The proposed replacement dwelling is designed to maintain the building line for this section of the Park, although it will be forward of the existing location.</p>

9.11	Criterion (d) requires that the proposal does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area. The proposal, by reason of its use and design would not give rise to such impacts.
9.12	Criterion (e) requires important views within the conservation area to be protected. The proposed dwelling, although taller than the existing, will be comparable with neighbouring dwellings and would not detrimentally impact on the existing views into the conservation area. An increased separation distance to the side boundaries over the existing would allow views through the site and an appreciation of the gable depth. Views up and down Malone Park would be unaffected. The proposal is considered to comply with criterion (e).
9.13	Criterion (f) requires trees and other landscape features which contribute to the character and appearance of the area to be protected. The Tree Officer was consulted on the proposal. The submitted landscaping plan shows retention of existing trees and other vegetation on site which will be complimented with the planting of an additional 13 trees and shrubbery. The Tree Officer has stated that the proposed planting scheme is acceptable, with the inclusion of conditions to protect the existing trees on site. It is considered that this criterion is satisfied.
9.14	Criterion (g) requires the development to conform with the guidance set out in the conservation documents. The conservation guide is the Malone Park/ Adelaide Park Conservation Guide published in 2003. It was produced subsequent to the area being designated as a conservation area by the former Department of Environment in accordance with the statutory procedure set out in Article 50 of the Planning (Northern Ireland) Order 1991. The conservation guide is an important material consideration.
9.15	The Conservation Guide states that: <i>'Malone and Adelaide represent the best of what remains of the leafy middle-class suburbs which developed around the turn of the century in South Belfast. Individually designed residences combine with generous plots, mature landscapes and tree lined avenues to produce a distinctive townscape character.'</i>
9.16	The guide contains several development guidelines. The guide encourages the retention of existing buildings and emphasis will be placed on the protection and restoration of the individual architectural character of each building. In this case, it is considered that the form and design of the existing dwelling is inappropriate as explained in the demolition section of the report, above. It is not considered to display strong architectural characteristics and is generally out of keeping with the more traditional design of dwellings on Malone Park. Therefore, its retention and adaption would not be desirable. The guide also requires heights, building line and coverage to reflect those of the original dwelling on site and the design of new development to complement the existing architecture and townscape character. It also states that to allow landscape to remain dominant, the established relationship between building mass and gardens should be respected and retained where possible. In no circumstances should building coverage be more than one and a half times that of the original dwelling.
9.17	As discussed above, the proposed building height, building lines and design are considered respectful of the general form in the Conservation Area and are acceptable. In terms of building coverage and landscape relationship this is addressed in detail below.
9.18	The guide states that in no circumstances should building coverage be more than one and a half times that of the original dwelling. The rationale is to allow landscaping to remain a dominant feature. Officers advise that the 'original' dwelling is that present or existing from the beginning, when first constructed.

9.19	<p>To establish the original and proposed site coverage calculation, officers have referred to historic OSNI mapping. The table below shows the calculations.</p> <table border="1"> <tr> <th></th><th>Floorspace</th></tr> <tr> <td>Original dwelling</td><td>163m²</td></tr> <tr> <td>Existing site coverage</td><td>21%</td></tr> <tr> <td>Proposed dwelling</td><td>179m²</td></tr> <tr> <td>Footprint Increase</td><td>1.09 times the original dwelling</td></tr> <tr> <td>Proposed Site coverage</td><td>23%</td></tr> </table>		Floorspace	Original dwelling	163m ²	Existing site coverage	21%	Proposed dwelling	179m ²	Footprint Increase	1.09 times the original dwelling	Proposed Site coverage	23%
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Footprint Increase	1.09 times the original dwelling												
Proposed Site coverage	23%												
9.20	<p>As indicated in the table above, the proposed replacement dwelling complies with the Malone Park Conservation Guide as the proposed building coverage would be 1.09 times that of the original dwelling and is within the 1.5 limit. Whilst the proposed dwelling would take up much of the plot and landscaping would not be dominant, this is similarly true of the existing dwelling on the site. Overall, it is considered that the proposal would enhance the character and appearance of the Conservation Area.</p>												
9.21	<p>It is considered that an appropriate quality landscaping scheme has been submitted which includes retention of the existing landscape features. The Council's Tree and Landscaping Officer has reviewed the proposal and is content. It is considered that the landscaping scheme presented will ensure that landscaping will remain a dominant feature and will enhance the character and appearance of Malone Park Conservation Area.</p>												
9.22	<p>Conclusion</p> <p>The existing dwelling is considered to make no material contribution to the conservation area; its the scale and design is out of character with the surrounding properties that gives the Malone Park its distinct character. Its retention would not be desirable. The proposed dwelling is of a scale, form, design and materials that are more appropriate to the Conservation Area. The conservation officer is content that the proposal is an enhancement over the existing building.</p>												
9.23	<p>Having regard to these considerations, it is considered that the demolition of the existing dwelling and its replacement are acceptable. The character and appearance of the Conservation Area would be enhanced. A condition will be required that prevents demolition of the existing dwelling until a contract has been let to redevelop the site in accordance with this planning permission. The proposal accords with the relevant provisions of the BUAP, dBMAP, SPPS and PPS 6.</p>												
9.24	<p><u>Impact on the setting of Listed Buildings</u></p> <p>Within proximity to the site is a listed building and structure No.1a Malone Park (Grade B2), the original Gate-lodge and gateway pillars. The proposed application site falls within the setting of these listed structures. DfC HED has considered the effects of the proposal on this listed building and pillars and has advised that the proposal satisfies the policy tests of para 6.12 of the SPPS, Policy BH11 of PPS6 subject to conditions to ensure the use of high quality materials, landscaping and the implementation of the planting scheme. The proposal is considered not to adversely affect the setting of the listed building/structures and is in accordance with Section 91 of the Planning Act. It also complies with the relevant provisions of the BUAP, SPPS and PPS 6.</p>												

	<p><u>Impact on existing trees and landscaping</u></p>
9.25	<p>A mix of soft and hard landscaping is proposed, all existing trees on site will be retained and protected where necessary. It is also proposed that additional planting of 13 trees of various species as well as additional screen and shrub planting will help integrate the proposal and contribute to the existing character.</p>
9.26	<p>The hard landscaping to the site includes the driveway and parking space to the front of dwelling. Concerns were expressed in objections regarding this parking arrangement, however, the Council's conservation officer considered this point in their response and concluded that many dwellings within the Malone Park have parking to the front of the building line as does the existing dwelling. The response went on to state that it would therefore be difficult to conclude that the parking would be contrary to the existing site layout or character of neighbouring plots.</p>
9.27	<p>It is noted that the Malone Park guidance does not preclude parking within the original front garden area but requires adequate screening from the road and adjacent properties. Adequate screening will be achieved with the retention of the existing boundary treatment and the supplemental planting of trees and shrubbery between the parking area and front boundary.</p>
9.28	<p>The Council's Tree and Landscaping Officer has reviewed the information and offers no objection to the proposal. They advise that the proposed landscaping scheme would assist in the enhancement of the amenity value of the site and the character and appearance of Malone Park Conservation Area.</p>
	<p><u>Impact on residential amenity</u></p>
	<p><i>Dominance / Overshadowing:</i></p>
9.29	<p>The separation distance between proposal and No. 1 Malone Park is around 20m, which would ensure no significant harmful overshadowing of this dwelling. The additional scale and massing of the proposal and closeness to boundary (2.0m) will have an increase dominance on side garden area of No.1, however, the 20m separation distance between properties prevents domination of the dwelling or amenity.</p>
9.30	<p>However, the proposal will be in close proximity to two neighbouring dwellings at 448 and 450 Lisburn Road, (aka 1b & 1c Malone Park) each of these properties are in the ownership of the applicant, a planning application has been received to demolished and replace these dwellings with two new dwellings. It appears from historic maps that the application site was at one point the rear garden area to these two properties accounting for the closeness of the properties to the site and explains the narrowness of the site in comparison with neighbouring properties.</p>
9.31	<p>The properties of 448 and 450 are located generally to the north west of the site meaning that the proposal will have a potential to affect sunlight. It is noted that the proposed dwelling will not extend to the boundary with No. 450 therefore will have less impact in terms loss of sunlight to this property. The property at No. 448 has lost the rear return creating a new open space area between this property and the site. This new space creates an increase separation in distance between both properties. It is likely that the proposed dwelling will impact on this new open space area at early morning, but this will reduce due to sun travel direction and will have little impact from mid-morning onwards. On balance, the relationship is considered acceptable.</p>

<p>9.32</p> <p>9.33</p> <p>9.34</p> <p>9.35</p> <p>9.36</p>	<p><i>Overlooking/ Privacy:</i></p> <p>The proposal will not result in any unacceptable overlooking issues from windows, the main rooms will look onto the street frontage and over the rear garden, a normal domestic configuration. The proposal also contains windows to the side gables, these windows are to serve non-habitable rooms such as bathroom, en-suites, and landing; an appropriate condition can be imposed to ensure that these upper floor windows on both side gables are obscured. The proposal was originally designed with a first-floor terrace, which was an issue of concern raised in objections, with potential views to properties to either side. Following discussions, the balcony was removed from the proposal. The proposal conforms to Policy QD 1 criterion (h) in that it will not result in conflict on any neighbouring land uses.</p> <p><i>Internal living space:</i></p> <p>The proposal will provide circa 379sqm of floor space for the five bedrooms and associated lounges and bathrooms as well as the main reception rooms. The space standards are silent on five-bedroom accommodation but indicates that for a four-bedroom dwelling over three floors 115/120sqm is required. The proposal will therefore provide significant living space for the future occupants.</p> <p><i>External amenity provision:</i></p> <p>The level of private open amenity space is exceeding the 70sqm as recommended by Creating Places. The proposal will have an amenity space, set behind the dwelling, of circa 260sqm. Criterion (c) of QD1 is satisfied given the level of amenity space provided.</p> <p><u>Access, Movement and Parking</u></p> <p>The proposed replacement dwelling is to utilise the existing vehicular access. Adequate space is shown within the site to provide for on-site parking in accordance with the Parking Standards. The proposal would not generate significant additional traffic over the existing situation. DFI Roads have no objection. Accordingly, the proposal is considered to accord with PPS3 and PPS7 in this regard.</p> <p><u>Other Environmental Considerations</u></p> <p>There is no evidence that the proposal would give rise to significant or unacceptable harm to the other environmental considerations including ecology, land contamination, noise, drainage or pollution of the groundwater environment.</p>
<p>10.0</p> <p>10.1</p> <p>10.2</p>	<p>Summary of Recommendation:</p> <p>It is recommended that the application is approved subject to conditions. It is requested that delegated authority is given to the Director of Planning and Building Control to finalise the wording of conditions.</p> <p>The Conservation Area Consent application (LA04/2021/0915/DCA) will have to be notified to the Department for Infrastructure under Section 29 of the Planning Act (Northern Ireland) 2011 before the decisions can be issued.</p>
<p>11.0</p>	<p>DRAFT CONDITIONS:</p> <p>Planning permission (LA04/2021/0691/F)</p> <p>1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.</p> <p>Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</p>

	<p>2. The proposal, including materials and finishes shall be carried out in accordance with drawing numbers 6A, 9B, 10A, 12B and 14B published to the Planning Portal NI 10th Sept 2021 and 24th Sept. 2021. The materials shall be:</p> <p>Roof – Natural Slate Walls – Red brick (to be agreed in writing with Council) Windows/ Doors – Painted timber traditional sash Rainwater goods – cast aluminium.</p> <p>Reason: In the interests of Malone Park Conservation Area and the character and setting of the listed building.</p> <p>3. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015 (or any order revoking and/or re-enacting that order), the first and second floor windows on both side gables (north west and south east) shall at all times be glazed with obscure glass to at least Privacy Level 3 (or equivalent).</p> <p>Reason: To safeguard the privacy of adjacent properties.</p> <p>4. The dwelling shall not be occupied unless parking has been provided in accordance with the approved plans. The parking areas shall be retained as such at all times.</p> <p>Reason: To ensure appropriate parking provision for the replacement dwelling.</p> <p>5. All trees and planting within the site shall be retained unless shown on the approved drawings as being removed. Any retained trees or planting indicated on the approved drawing 09b published to the Planning Portal NI 24th September 2021 which become seriously damaged, diseased or dying, shall be replaced during the next planting season (October to March inclusive) with other trees or plants of a location, species and size to be first approved in writing by the Council.</p> <p>Reason: In the interests of visual amenity</p> <p>6. All soft landscaping works shall be carried out in accordance with the approved details on Landscaping Plan, Drawing Number 09b, published to the Planning Portal 24th September 2021. The works shall be carried out within six months of occupation. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council.</p> <p>Reason: In the interests of the character and appearance of the area.</p> <p>7. Prior to any work commencing all protective barriers (fencing) and ground protection is to be erected or installed as specified in British Standard 5837: 2012 (section 6.2) on any trees / hedging to be retained within the site, and must be in place before any materials or machinery are brought onto site for demolition, development or soil stripping. Protective fencing must remain in place until all work is completed and all associated materials and equipment are removed from site.</p> <p>Reason: To ensure the protection of, and to ensure the continuity of amenity afforded by any existing trees to be retained within the site and on adjacent lands.</p>
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	<p>8. If roots are accidentally damaged the tree council must be notified immediately in writing and given the opportunity to inspect the damage before it is covered over.</p> <p>Reason: To ensure the protection of, and to ensure the continuity of amenity afforded by existing trees / hedging.</p> <p>9. No storage of materials, parking of vehicles or plant, temporary buildings, sheds, offices or fires shall take place within the Root Protection Area of trees within the site during the construction period.</p> <p>Reason: To avoid compaction within the RPA.</p> <p>Conservation Area Consent (LA04/2021/0915/DCA)</p> <p>1. The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.</p> <p>Reason: As required by Section 105 of the Planning Act (Northern Ireland) 2011.</p> <p>2. No demolition shall commence on site unless a contract has been let for the redevelopment of the site in accordance with planning permission LA04/2021/0691/F and evidence of that contract has been submitted to and approved in writing by the Council. The development shall not be carried out unless in accordance with planning permission LA04/2021/0691/F.</p> <p>Reason: As required by Sections 91(6) and 105 of the Planning Act (Northern Ireland) 2011, to preserve or enhance the character or appearance of the Conservation Area. Approval is required upfront because if redevelopment of the site does not take place it could leave the vacant site unsightly and harmful to the Conservation Area.</p>
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Notification to Department (if relevant): Yes – referral of DCA application	
Representations from Elected members: None	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 1 Malone Park,Belfast,Antrim,BT9 6NJ</p> <p>The Owner/Occupier, 1a Malone Park,Belfast,Antrim,BT9 6NJ</p> <p>The Owner/Occupier, 2 Malone Park,Belfast,Antrim,BT9 6NJ</p> <p>The Owner/Occupier, 3,Malone Park,Belfast,Antrim,BT9 6NJ</p> <p>The Owner/Occupier, 6 ,Malone Park,Belfast,Antrim,BT9 6NJ</p> <p>The Owner/Occupier, 6 Malone Park,Belfast,Antrim,BT9 6NJ</p> <p>The Owner/Occupier, 452 Lisburn Road,Belfast,Antrim,BT9 6GT</p> <p>Donaldson Planning</p>	

50a High Street, Hollywood, BT18 9AE
Pragma,
7 Scottish Provident Building, Donegall Square West, Belfast, Antrim, BT1 6JH

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