

## Development Management Addendum Report 2

Summary	
<b>Application ID:</b> LA04/2020/0559/F	<b>Date of Committee:</b> 17 <sup>th</sup> May 2022
<b>Proposal:</b> Renovation and single storey rear extension to dwelling, construction of a new detached garage and new entrance gates and pillars, alterations to existing driveway and extension and upgrade of existing parking area (amended description to include extended driveway and new hardstanding area)	<b>Location:</b> 24 Malone Park Belfast BT9 6NJ
<b>Referral Route:</b> Paragraph 3.8.7 of the Scheme of Delegation, following legal advice	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Andras House Ltd 60 Great Victoria Street Belfast BT2 7BB	<b>Agent Name and Address:</b> Turley Hamilton House 3 Joy Street Belfast BT2 8LE
<b>ADDENDUM REPORT</b>  <p>This application for full planning permission was previously listed for Planning Committee on 15 February then 12 April 2022 (scheduled to be heard on 14 April). The application was withdrawn from the 15 February meeting to allow officers time to consider a speaking note provided on behalf of the objector at No. 26 Malone Park. The application was then deferred at the 14 April meeting for a Committee Site Visit.</p> <p>This Addendum report should be read in conjunction with the original report to the February Committee and Addendum Report 1 to the April Committee, which are appended.</p> <p>Since the April Planning Committee, the applicant has amended the description to include reference to the proposed extended driveway and hard surfacing area, which also require express planning permission by reason of removal of permitted development rights under the Article 4 Direction for the Malone Park Conservation Area. The application has been re-advertised and re-neighbour notified on 27 and 28 April respectively and no additional representations have been received to date.</p> <p>It is considered that the extended driveway and hardstanding area would have a limited visual impact and in this regard the character and appearance of the Conservation Area would be preserved.</p> <p>An email was received on the 05 May from Carson McDowell asking: 'if the Council could confirm by return which plans it has taken into account in reaching its recommendation to approve the planning application and provide a copy of same'. Officers have responded by advising that the plans that have been assessed are publicly available on the Planning Portal.</p> <p>In the interests of balance, the applicant's speaking note is appended to this report (the objector's speaking note has previously been appended).</p>	

An associated application for demolition consent is also to be considered by the Planning Committee at this same meeting (LA04/2020/0562/DCA).

**Recommendation**

Having regard to the assessment in this and the previous reports, the officer recommendation remains to grant planning permission. Delegated authority is sought for the Director of Planning and Building Control to finalise the wording of conditions.

## Development Management Addendum Report 1

Summary	
<b>Application ID:</b> LA04/2020/0559/F	<b>Date of Committee:</b> 12 <sup>th</sup> April 2022
<b>Proposal:</b> Renovation and single storey rear extension to dwelling, construction of a new detached garage and new entrance gates and pillars.	<b>Location:</b> 24 Malone Park Belfast BT9 6NJ
<b>Referral Route:</b> 3.8.7 Following legal advice	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Andras House Ltd 60 Great Victoria Street Belfast BT2 7BB	<b>Agent Name and Address:</b> Turley Hamilton House 3 Joy Street Belfast BT2 8LE
<p><b>ADDENDUM REPORT</b></p> <p>The full application was previously listed for Planning Committee on 15 February 2022. The application was withdrawn to allow officers time to consider a speaking note provided on behalf of the objector at No. 26 Malone Park.</p> <p>This Addendum report should be read in conjunction with the original report to the February Planning Committee, which is appended.</p> <p><u><i>Objector's speaking note to the February Planning Committee</i></u></p> <p>A copy of the speaking note is appended to this report. The speaking note refers to officers' interpretation of the Adelaide/Malone Park Conservation Guide (a copy of the Guide is also appended for ease of reference). Specifically, in relation to the guidance on page 23, which states in a fuller context:</p> <p><i>'Extensions should be designed in such a manner as to appear either as an integral part of the original dwelling or alternatively as a self-contained design statement which complements the original. The Department will be predisposed to refuse applications for extensions to property which it considers will detract from the character of the Area. This will include proposals which give rise to unsatisfactory proportions, or seriously infringe on the setting, or are considered overbearing in relation to the form of the original building...</i></p> <p><i>...In order 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.'</i></p> <p>It is alleged that analysis of the application is misconceived and in short that the garage, which is described as an outbuilding in the original Committee report, should not be included in calculating the amount of permitted building coverage.</p> <p>Officers do not necessarily accept that is the case for the reasons set out in the original report. Notwithstanding that position, the original report also assessed the application by excluding the garage. This assessment is set out at paragraphs 9.57-9.60.</p>	

It is also alleged that officers failed to explain that the Guide is underpinned by the statutory duty in Section 104 (11) of the 2011 Act. However, paragraph 9.35 of the original report advises that this duty is reflected within paragraph 6.18 of the SPPS and BH12 of PPS6, both of which are discussed in the original report. Section 104 of the Act is set out below:

- (11) Where any area is for the time being designated as a conservation area, special regard must be had, in the exercise, with respect to any buildings or other land in that area, of any powers under this Act, 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.*

Paragraph 6.18 of the SPPS states as follows:

*'In managing development within a designated Conservation Area the guiding principle is to afford special regard to the desirability of enhancing its character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. Accordingly, 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 considered to be outweighed by other material considerations grounded in the public interest. In the interests of protecting the setting of designated Conservation Areas, new development in proximity needs to be carefully managed so as to ensure it respects its overall character and appearance. Important views in and out of the Conservation Area should be retained.'*

Officers are of the view that the proposed extension and garage present a modest development which is sympathetic to both the existing site and the surrounding area which contains both larger extensions and garages. As can be seen, the rationale behind this provision within the Guide is to allow landscape to remain dominant by the reference to the relationship between the proposed building mass and gardens. While the permissible building coverage would be exceeded in this calculation, in officers' opinion, it remains the case that the landscaping would still remain dominant. The proposed building coverage makes up 17% of the site.

It is considered that the proposal would preserve the character of the site and wider Conservation Area. As set out in the original report, the proposed extension almost mirrors the extension of the neighbouring semi-detached property and therefore brings an element of symmetry to the rear of the dwellings. The garage has been set behind the building line of the existing dwelling and a sufficient distance from the dwelling to ensure that views of the dwelling are not impacted. The design of the garage, being single storey and of red brick with hardwood windows and doors, would integrate the garage with the existing dwelling and site.

Regard is had to the other guidance in this same section of the Adelaide/Malone Park Conservation Guide. It is considered that the extension has been designed as an integral part of the original dwelling. The extension and alterations would not detract from the character of the Conservation Area. The proposal would not give rise to unsatisfactory proportions, or seriously infringe on the setting, and would not be overbearing in relation to the form of the original building.

The proposed garage has been set behind the building line of the existing dwelling and a sufficient distance from the dwelling to ensure that views of the dwelling are not impacted. The planting and landscaping scheme will aid to soften any impact of the garage. The design of the garage, being single storey and of red brick with hardwood windows and doors will integrate the garage with the existing dwelling and site. There is also a comparable relationship between the location of the garage with the neighbouring site at No. 22 and the proposed location of the

garage within this application. It is clear that large garages to the side elevations are part of the character of the surrounding area. Most notably in the immediate surrounding area, garages in similar locations have been approved at Nos. 20, 21, 22 and 26 Malone Park.

The proposed pillars and gates to the front of the property are considered sympathetic, the design of the pillars is of a high standard and the railings would allow views of the dwelling to be retained. Given the proposed design, scale, materials, landscaping and the surrounding context, it is concluded that the character and appearance of the Conservation Area would be preserved.

Furthermore, having regard to this assessment, it is considered that the proposal complies with Section 104(11) of the 2011 Act in that the proposal would preserve the character or appearance of the Conservation Area where an opportunity for enhancing its character or appearance does not arise. By its nature, proposal for an extension and the garage gives limited opportunity for enhancement of the Conservation Area. However, given the considerations provided both in this addendum and the main report it is considered the proposal would preserve the character and appearance of the Conservation Area.

There are two listed buildings opposite the application site: Nos. 17 ( HB26/18/022) and 19 (HB26/18/023). Taking into account the advice from DfC Historic Environment Division, it is considered that the proposal would not adversely impact on the setting of the two listed buildings given the nature and design of the proposal, distance from the listed building and the landscaping that would screen the proposed garage. Their settings would be safeguarded. In this regard, the proposal is compliant with Policy BH 11 of PPS 6 and SPPS.

Officers also wish to clarify an error which has been identified at paragraph 9.28 of the original report. This states:

*The alterations and additions, will not on balance, adversely impact the character and appearance of the surrounding area.*

This is an assessment of the application under Policy EXT 1 of the Addendum to PPS 7. That sentence should be disregarded. It is considered that the alterations and additions will not detract from the character and appearance of the surrounding area and in that regard is compliant with that policy.

#### Further objection from Malone Park Residents Association

A further objection from the Malone Park Residents Association has also been received and is considered below.

The objection states that ‘*the approval of this application will allow more bigger developments negatively affecting the relationship of landscape and buildings and which would when combined decimate the character and appearance of the Malone Park Conservation Area.*’ Officers do not accept that assertion having regard to the strict policy context for development in this area. Each application is determined on its own merits. Officers consider that the proposal is a modest development when considered within the context of the surrounding area.

The objection repeats matters addressed earlier in this report and in the original report, particularly the paragraph relating to building coverage be more than one and a half times that of the original dwelling.

The objection states that building coverage relates to all proposed buildings while original dwelling is the original dwelling only and as it was built. As set out above and in the original report, officers do not necessarily accept that is the case but have also assessed the application on the basis of the objectors’ position in this regard and found to be acceptable.

**Recommendation**

Having regard to the above assessment, and that set out in the original report, the officer recommendation remains to grant planning permission. Delegated authority is sought for the Director of Planning and Building Control to finalise the wording of conditions.

## Committee Report

Development Management Report	
<b>Application ID:</b> LA04/2020/0559/F	<b>Date of Committee:</b> 15 <sup>th</sup> February 2022
<b>Proposal:</b> Renovation and single storey rear extension to dwelling, construction of a new detached garage and new entrance gates and pillars.	<b>Location:</b> 24 Malone Park Belfast BT9 6NJ
<b>Referral Route:</b> 3.8.7 Following legal advice	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Andras House Ltd 60 Great Victoria Street Belfast Bt2 7BB	<b>Agent Name and Address:</b> Turley Hamilton House 3 Joy Street Belfast BT2 8LE
<b>Executive Summary:</b> <p>The site is located at 24 Malone Park. The site is a 2.5 storey semi-detached residential home finished in red brick on a large plot. The dwelling contains an existing two storey rear return. There is parking to the side elevation and extensive gardens forming the front, side and rear elevations.</p> <p>The surrounding area is residential comprised of large semi-detached and detached properties within large plots. The site is within the Malone/Adelaide Park Conservation Area.</p> <p>The proposed single storey rear extension measures 11.95m in length with a height of 5.75m. When the proposed demolition is taken into account the existing rear return of the property will be increased in length by 4.95m. The proposed garage measures 9.5m x 6.35m with a height of 4.49m. The proposed pillars measure a height of 2.02m with the gates a height of 1.8m.</p> <p>The key issues to be considered within the application are:</p> <ul style="list-style-type: none"> <li>Character and appearance</li> <li>Design</li> <li>Impact on amenity</li> <li>Impact on Conservation Area</li> <li>Objections</li> </ul> <p>The proposal is considered to be in compliance with the relevant legislation, policy and guides. The proposed extension, garage and gates/pillars are deemed to be of an acceptable scale and massing to not detract from the character and appearance of the surrounding area. The proposed footprint of the extension and garage are deemed to be within the 1.5 times limit as set out in the Adelaide/Malone Park Conservation Guide.</p> <p>The Conservation Officer was consulted and objected to the proposed ibex fencing, this has been amended and been removed from the drawings.</p> <p>8 objections and 2 letters of support were received and are addressed within the report.</p> <p><b>Recommendation</b></p> <p>The application is recommended for approval.</p>	

# Case Officer Report

## Site Location Plan



## Block Plan



<b>Elevations and Floor Plans</b>
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NORTH ELEVATION



FIRST FLOOR



FIRST FLOOR

[illegible]

<b>Garage Elevations and Floor Plans</b>
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REAR ELEVATION



SIDE ELEVATION TO 26 MALONE PARK

Materials	
Roof:	Natural slate to match existing
Walls:	Red clay brick facing to match existing dwelling
Windows:	Hardwood casement painted grey
Doors:	Hardwood sheeted painted grey
Rain Water Goods:	Aluminium half-round colour black


<b>Characteristics of the Site and Area</b>	
<b>1.0</b>	<b>Description of Proposed Development</b> Full planning permission is sought for Renovation and a single storey rear extension to the dwelling, construction of a new detached garage and new entrance gates, pillars and boundary fence.
<b>2.0</b>	<b>Description of Site</b> The site is located at 24 Malone Park. The site is a 2.5 storey semi-detached residential home finished in red brick on a large plot. The dwelling contains an existing two storey rear return. There is parking to the side elevation and extensive gardens forming the front, side and rear elevations.  The surrounding area is residential comprised of large semi-detached and detached properties within large plots. The site is within the Malone/Adelaide Park Conservation Area.
<b>Planning Assessment of Policy and other Material Considerations</b>	
<b>3.0</b>	<b>Site History</b> LA04/2019/0665/F, 24 Malone Park, Belfast, BT9 6NJ, Renovation and single storey rear extension to dwelling. Construction of a new detached garage. Decision Quashed  LA04/2019/0627/DCA, 24 Malone Park, Belfast, BT9 6NJ, Demolition of rear extension, partly single storey, partly one and a half storey. Decision Quashed.
<b>4.0</b>	<b>Policy Framework</b>
4.1	Belfast Urban Area Plan
4.2	Draft Belfast Metropolitan Area Plan 2015 Following the recent Court of Appeal decision on BMAP, the extant development plan is now the BUAP. However, given the stage at which the Draft BMAP had reached pre-adoption through a period of independent examination, the policies within the Draft BMAP still carry weight and are a material consideration in the determination of planning applications. The weight to be afforded is a matter of judgement for the decision maker.
4.3	Strategic Planning Policy Statement for Northern Ireland (SPPS)
4.4	Planning Policy Statement 6: Planning, Archaeology and The Built Heritage
4.5	Addendum to Planning Policy Statement 7: Residential Extensions and Alterations
<b>5.0</b>	<b>Statutory Consultees Responses</b> None
<b>6.0</b>	<b>Non Statutory Consultees Responses</b> Conservation Officer- Objected to proposed ibex fence, amendments received to remove fence
<b>7.0</b>	<b>Representations</b>  The application has been advertised and neighbour notified. 8 objections were received from 4 different objectors. 2 supporting letters were received

	Representations are dealt with in the body of this report
<b>8.0</b>	<b>Other Material Considerations</b> None
8.1	<b>Any other guidance</b> Malone Park/ Adelaide Park Conservation Area Guide (Dec 1993)
<b>9.0</b>	<b>Assessment</b>
9.1	The proposal is considered to be in compliance with BUAP and both versions of draft BMAP.  It is also considered that the proposal is in compliance with Policy and the Malone Park/ Adelaide Park Conservation Area Guide.
9.2	Assessment
9.21	With regards to development in Conservation Areas, Section 104(11) states that 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
9.22	The SPPS states that <i>"in managing development within a designated Conservation Area the guiding principal is to afford special regard to the desirability of enhancing its character or appearance when an opportunity to do so exists, or preserve its character or appearance where an opportunity to enhance does not exist"</i> .
9.23	Par. 6.19 of the SPPS sets out the criteria which should be applied when determining such development.
9.24	Planning Policy Statement 6 sets out the Department's planning policies for the protection and conservation of archaeological remains and features of the built heritage.
9.25	Planning Policy Statement 7 Addendum provides planning policy for the extension and/or alteration of a dwelling house or flat. Policy EXT 1 contains 4 criteria with which the proposal is assessed against below.  <b>Character and appearance</b>
9.26	The single storey rear extension measures 11.95m in length with a height of 5.75m. When the proposed demolition is taken into account the existing rear return of the property will be increased in length by 4.95m. The proposed garage measures 9.5m x 6.35m with a height of 4.49m.
9.27	In terms of the character of the area, the proposed single storey extension is set to the rear of the existing two storey rear return. There will be no public views of the rear extension. The height, scale and mass of the proposed built form it is considered to be subservient to the existing dwelling and will not impact the surrounding character.
9.28	The proposed garage is set behind the front building line and is of an acceptable size and scale when considering it within the context of the plot size. The garage is located in a similar location to the side of the neighbouring semi-detached property at no. 22. The proposed gates and pillars are sympathetic to the surrounding area and will allow views of

	<p>the dwelling to be predominant. Taking these factors into consideration, the proposal is considered to be in compliance with paragraphs 4.23 – 4.30 within the Strategic Planning Policy Statement for Northern Ireland. The alterations and additions, will not on balance, adversely impact the character and appearance of the surrounding area.</p>
9.29	<p><b>Design</b></p> <p>The design of the rear extension is a hipped roof with a projecting pitched roof to the east elevation. To the east elevation are to be three large windows with a vertical emphasis. To the rear is to be two smaller windows and a door providing access to the rear of the site. The garage also contains a hipped roof with two large doors providing vehicular access, to the elevation facing Malone Park is two windows while the opposite gable end features two smaller windows and a door. The materials are to match the existing dwelling utilising red brick for the walls, natural slate for the roof, hardwood sliding sash for the windows and hardwood for the doors. The proposal is considered to be compliant with paragraphs 4.23 – 4.30 within the Strategic Planning Policy Statement for Northern Ireland and Policy EXT1 of the Addendum to PPS7.</p> <p><b>Impact on amenity</b></p>
9.30	<p>The proposed extension will not unduly impact affect the privacy or amenity of neighbouring residents. The proposed extension is single storey and is positioned to the rear of the existing two storey rear return. The extension is located along the boundary with no. 22 at a height of 5.8m which matches the neighbouring extension. The proposed extension will extend 1.8m further to the rear than the neighbouring extension. An Angles test has been carried out as set out in the Addendum to PPS 7 and the extension complies with the angles test.</p>
9.31	<p>The position of the garage will also not unduly affect the privacy or amenity of neighbouring residents. While located close to the boundary with no. 26 there is sufficient distance between the boundary and the neighbouring dwelling (approximately 14.1m separation) to ensure there will not be an undue impact to the neighbouring property. The boundary hedge and trees will aid in screening the garage. It is not considered that the garage will cause dominance to the neighbouring property. Given the size of the dwelling and the plot the immediate outlook will not be unduly impacted, nor will the garage cause the occupants to feel hemmed in.</p>
9.32	<p>The proposal will not cause the unacceptable loss of, damage to, trees or other landscape features which contribute significantly to local environmental quality.</p>
9.33	<p>Sufficient space remains within the curtilage of the property for recreational and domestic purposes.</p>
9.34	<p>The proposed extension is considered to be in accordance with Policy EXT1 of the addendum to PPS7 in that the proposal will not unduly affect the privacy or amenity of neighbouring residents.</p>
9.35	<p><b>Impact on conservation Area</b></p> <p>As the site is located within a Conservation Area, the proposed development must comply with Section 104 of the Planning (NI) Act 2011. These statutory obligations are reflected</p>

	<p>within paragraph 6.18 of the SPPS and policy BH 12 within PPS 6, which contains 7 criteria which are discussed below.</p> <p><b>Policy BH 12 – New Development in a Conservation Area</b></p>
9.36	<p>Criteria (a) of policy BH 12 provides that the development must preserve or enhance the character and appearance of the area. The proposed single storey extension replaces a single storey lean-to the two-storey rear return. The single storey lean-to is of no architectural merit and the proposal will modernise this section of the dwelling with a sympathetic and modest extension giving more useful space within the dwelling than is provided by the existing lean-to.</p>
9.37	<p>The proposed extension almost mirrors the extension of the neighbouring semi-detached property and therefore brings an element of symmetry to the rear of the dwellings, the proposal utilises red brick within the design which is sympathetic to the existing dwelling. For the reasons above the proposed extension will enhance, or at least preserve, the character of the site and by extension the conservation area.</p>
9.38	<p>The garage has been set behind the building line of the existing dwelling and a sufficient distance from the dwelling to ensure that views of the dwelling are not impacted. The planting and landscaping scheme will aid to soften any impact of the garage. The design of the garage, being single storey and of red brick with hardwood windows and doors will integrate the garage with the existing dwelling and site. There is also a comparable relationship between the location of the garage with the neighbouring site at no. 22 and the proposed location of the garage within this application. It is clear that large garages to the side elevations are part of the character of the surrounding area. Most notably in the immediate surrounding area, garages in similar locations have been approved at nos. 20, 21, 22 and 26 Malone Park.</p>
9.39	<p>Given the proposed scale, materials, landscaping and the surrounding area it can be concluded that the proposed garage will preserve the character of the conservation area. The proposed pillars and gates to the front of the property are considered sympathetic, the design of the pillars is of a high standard and the railings will allow views of the dwelling. Taking all these factors of the proposal into consideration it is considered that the proposal complies with criterion (a) of Policy BH12.</p>
9.40	<p>Criterion (b) requires the development to be sympathetic with the characteristic built form of the area. It has been demonstrated above that the single storey extension is sympathetic to the characteristic built form within the area. The proposed single storey extension replaces an existing lean-to. The surrounding area is comprised of extensions of a much greater size than being proposed within this application. The proposal is of a similar scale to the neighbouring semi-detached property and the materials used are to match the existing dwelling. It has been demonstrated previously that the surrounding character of the area is comprised of large garages to the side of dwellings. The proposed garage is sympathetic to those within the surrounding area both in scale and location. The materials are in keeping with the existing dwelling and it is considered the proposal is sympathetic to the characteristic built form within the area. The pillars and gates are sympathetic to the surrounding area which contains similar entrances.</p>
9.41	<p>Criterion (c) requires the scale, form, materials and detailing of the development to respect the characteristics of adjoining buildings in the area. It has been demonstrated above that</p>

	the scale and form of the proposed extension, garage, pillars and gates is in keeping with the surrounding area.
9.42	Criterion (d) requires the development to not cause environmental problems. As this is a relatively minor householder application no environmental problems or issues will be caused by the development.
9.43	Criterion (e) requires important views within the conservation area to be protected. The rear extension is situated wholly to the rear of the existing property thereby there will be limited public views. The garage is located to the side of the dwelling behind the front building line. This location is characteristic within the conservation area. Views up and down Malone Park will be protected. Any views of the proposed garage will be softened by the proposed landscaping while due to the separation distance, gable views of the dwelling will remain. The use of railings to the front will allow views of the property to remain. There will be no impact on views to the front of the semi-detached dwelling. The proposal complies with criterion (e).
9.44	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 and had no objections following amendments. Conditions will be attached which will protect any existing trees on site. The landscaping plan will enhance the landscaping within the site and aid in softening the appearance of the proposed development.
9.45	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. The guide contains a number of development guidelines. The guide requires extensions to be designed in such a manner that they appear as an integral part of the original dwelling. Guidance in relation to this area is discussed separately below.
9.46	The Conservation Officer was consulted and objected to the ibex fencing proposed to the boundary. The proposed site plan has been amended to remove this fence.
	<b>Malone Park/Adelaide Park Conservation Guide</b>
9.47	The Malone Park and Adelaide Park Conservation Area Development and Design Guidance ('the Guidance') was published in 2003. It was produced subsequent to the area being designated as a conservation area by the Department in accordance with the statutory procedure set out in Article 50 of the Planning (Northern Ireland) Order 1991. This requires the Council to attach great weight to the need for proposals for new development to accord with it.
9.48	The Guidance states that: <p>"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."</p>
9.49	It goes on to state that the townscape character derives from a number of features "which need to be protected in the overall character to be retained." The first feature is "large individually designed dwellings set well back from the road within generous gardens." In that respect, it states that "the Department will be predisposed to refuse applications for extensions to property which it considers will detract from the character of the area." Importantly, it states as follows:

	<p>“In order to allow landscape to remain dominant to the established relationships 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.”</p>
9.50	<p>The rationale for this provision appears to be that the relationship between the original building mass and gardens should be respected and retained. It is noted that the Guidance is silent in relation to outbuildings. Upon review of the case law, the Court found that it was unlawful to take into account later additions to a building into account when calculating the building coverage, which is not the case here. The Court did not find that it was unlawful to include an original outbuilding. To exclude the garage would be to ignore the original historic fabric which made up the site.</p>
9.51	<p>Further to this, there is no definition within the relevant planning policies or the Guidance of the term “dwelling”. The Council’s general position in interpreting this phrase is that the planning unit includes those structures which are ancillary and incidental to the main use of the dwelling house. This is reflected within the Section 23(3)(c) of the Planning Act (Northern Ireland) 2011, which provides that the use of any buildings within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such will not involve development of land.</p>
9.52	<p>For these reasons, Officers consider it appropriate and reasonable to include the original garage in its calculation.</p> <ul style="list-style-type: none"> <li>• <b>Calculation of the 1.5 times limit</b></li> </ul>
9.53	<p>In order to calculate this the Council have to establish the footprint of the original dwelling. The earliest historical mapping records are held within OSNI historical maps. The dwelling first appears on the OSNI third edition (1900-1907). The semi-detached dwelling is shown with the footprint projecting towards the boundary of no. 26. The fourth edition (1905-1957) and fifth edition (1919-1963) is consistent with the 3<sup>rd</sup> edition. The maps are provided within the appendix.</p>
9.54	<p>A building control application was submitted in 1947. The plans are more detailed showing the projection from the side of the footprint as a garage. Given the side attached projection in the OSNI maps it can be determined that the garage or extension formed part of the original building within the site. The 1947 map associated with the building control plans has been used to inform the extent of the original footprint which in turn allows an assessment of the proposed footprint, against the position set out in the Guide. The map is provided within the appendix.</p>
9.55	<p>The original dwelling (133.26 sq m) plus the original garage (40.5sq m) contains a building coverage of 173.26sq metres, approximately. In accordance with the 1.5 times set out in the Guidance, this allows a building coverage of 259.89 sq metres. The existing dwelling on site plus the proposed extension and proposed garage give a total of 252.3 sq metres. The proposal is therefore in compliance with the restriction contained within the Guidance.</p>
9.56	<p>While the Council are of the opinion that the original garage should be included in the definition of the dwelling, a further assessment considering the calculation of the 1.5 times the original dwelling excluding the garage is set out below.</p>
9.57	<p>The permissible building coverage would in this case be 199.89sq metres, the proposed garage and extension would therefore exceed the 1.5 times by approximately 60sq metres. It is considered that while the guidance is worded strongly stating “under no circumstances” it remains the case that planning policy is not a straitjacket for the planning</p>

	<p>authority (Carswell LCJ, Re Stewart's Application (2003) NICA 4). While paragraph 7.12 of PPS 6 states that the planning authority will attach "great weight" to the need for proposals for new development to accord with the specific guidance drawn up for each particular Conservation Area it is entitled to depart from said Guidance where material considerations indicate otherwise.</p>
9.58	<p>As previously discussed the proposed extension and garage presents a modest development which is sympathetic to both the existing site and the surrounding area which contains both larger extensions and garages. The rationale behind this provision within the Guidance is to allow landscape to remain dominant by the reference to the relationship between the proposed building mass and gardens. While the permissible building coverage would be exceeded in this calculation it remains the case that landscaping will remain dominant. The proposed building coverage makes up 17% of the site.</p>
9.59	<p>As set out above, it is considered that the proposal will enhance the character of the site and by extension the surrounding conservation area. The proposed extension almost mirrors the extension of the neighbouring semi-detached property and therefore brings an element of symmetry to the rear of the dwellings. The garage has been set behind the building line of the existing dwelling and a sufficient distance from the dwelling to ensure that views of the dwelling are not impacted. The design of the garage, being single storey and of red brick with hardwood windows and doors, will integrate the garage with the existing dwelling and site.</p>
9.60	<p>Officers therefore consider that even taking into account the great weight to be attached to the Guidance, that the application is considered acceptable if the garage were to be excluded from the calculation by reason of the other material considerations set out above.</p>
9.61	<p>The second development guideline within the Adelaide/Malone Park Conservation Area is "Mature landscaping in gardens." It states that visually significant trees and vegetation should be retained. The application retains the existing trees and vegetation and contains a high detailed landscaping plan which will enhance the existing landscaping.</p>
9.62	<p>The third development guideline is "Tree lined avenues with well-defined front boundaries to properties and unobtrusive access points." The existing boundary to the front of the property is to be retained as is the existing access.</p>
9.63	<p>The guide contains design guidelines "to provide advice which will encourage sympathetic change to the existing character of the conservation area." The guide contains a number of features to be considered within the proposal, those that are applicable to the proposed extension are considered below.</p>
9.64	<p>The windows proposed within the extension echo those in the existing dwelling. While the windows on the side elevation contain larger windows they have a vertical emphasis to ensure they are sympathetic to the existing dwelling. The roof contains natural slates to match the existing dwelling while the roof pitch and eaves are set below the existing dwelling and are similar to the neighbouring extension. The red brick proposed is to match the existing dwelling in compliance with the guidance.</p>

## Objections

### Pragma planning on behalf of Malone Park Resident's Association.

The points below have been raised in the objection and will be addressed.

9.65

- Incorrect drawing within the Design and Access Statement

Paragraph 4.5 contains an axometric drawing of an aerial view of the proposals at no. 24 which does not reflect the site plan.

Case Officer Response: *The Design and Access Statement has been amended so that this drawing accurately reflects the proposed site plan.*

9.66

- Lack of rear boundary hedgerow on plans

The rear boundary hedge is not shown on the landscaping plan.

Case Officer Response: *This has been amended to accurately show that the rear boundary hedge has been removed. Hedgerows are not protected by legislation and therefore this is not a breach of planning control. The plans and information demonstrate that existing planting and trees will be retained and a condition will be attached for retention of such.*

9.67

- Failure to consider appeal references 2016/A0016 and A0017

Case Officer Response - *The Council recognise the dismissal of this application, however, there are key differences between the applications. It is the Council's opinion that the proposals unlike the appeal adhere to the 1.5 times limit set within the guide. The appeal related to a proposed dwelling which was over twice the size of the original, where there was no satisfactory landscape proposal. If the calculations used in this application were reduced to exclude the original garage the proposed extension and garage would be 1.76 times the original. The applicant in this application has shown that the landscaping will remain dominant, the retention of existing planting and trees with additional planting will ensure the rationale of the guide is retained. The proposed building coverage makes up 17% of the site.*

9.68

- Building Coverage

The applicant states that any calculations should exclude any original outbuildings.

Case Officer Response - *The Council disagree with this statement having previously set out the reasoning as to why the definition of dwelling includes ancillary structures. The representation from Alan Patterson Design goes into more detail regarding the calculation and this will be considered further. For clarity the council have calculated the footprint of the dwelling excluding the original garage and concluded that the landscaping within the site will still remain dominant.*

	<p>MBA Planning Objection</p>
9.69	<ul style="list-style-type: none"> <li>Inconsistencies within the application</li> </ul> <p>The objection highlights inconsistencies such as the rear hedgerow and an incorrect drawing within the Design and Access Statement.</p> <p><i>Case Officer Response: This has been corrected by the submission of an amended Landscaping Plan and a Design and Access Statement.</i></p>
9.70	<ul style="list-style-type: none"> <li>Negative impact on the character and appearance of the Conservation Area.</li> </ul> <p>The objection states that the proposal represents overdevelopment in the context of a reduction to the plot size and where visually significant vegetation has been removed.</p> <p><i>Case Officer Response: The application does not include a reduction in plot size and the removal of the hedgerow is not a breach of planning control.</i></p>
9.71	<ul style="list-style-type: none"> <li>Set a precedent for breaching the 1.5 times threshold</li> </ul> <p><i>Case Officer Response - The Council are of the opinion that the application will not breach the 1.5 threshold for the reasons set out in this report.</i></p>
9.72	<ul style="list-style-type: none"> <li>Interpretation of the guidance</li> </ul> <p>MBA planning have set out and argued their interpretation of previous court ruling and PAC decisions which have been set out previously in this report. The following points are of note from this section of the objector:</p> <ul style="list-style-type: none"> <li>The court have stated the importance of the Malone Park Conservation Guide and that it should have priority over PPS 6 and that great weight should be attached.</li> </ul> <p><i>Case Officer Response: The Council have considered in full the conservation guide giving great weight to such. The Council are of the opinion the proposal complies with the Guidance.</i></p> <ul style="list-style-type: none"> <li>PAC decisions have upheld the provision of building coverage.</li> <li><i>Case Officer Response: The Council recognise this has happened however, each application is determined on its own merits.</i></li> <li>The applicant team have failed to point out an example where the building coverage requirement has been breached.</li> </ul>

9.73	<ul style="list-style-type: none"> <li>○ <i>Case Officer Response: The Council has not asked the applicant to provide that information as it does not consider it necessary. Each application must be considered on its own merits.</i></li> </ul> <ul style="list-style-type: none"> <li>• Assessment of building coverage</li> </ul> <p>The objection sets out the definition of the term “dwelling” and puts forward an assessment of what the building coverage is. The objection argues the definition of a dwelling has been dealt with in the appeal reference 2018/A0189.</p> <p><i>Case Officer Response: This issue is addressed in the report. Officers have considered this representation and agree that the summer house and shed should not be considered original given the lack of conclusive evidence. However the Council is of the opinion, based on the available evidence, that not only is the garage original but should be considered in calculations of the “dwelling”, the reasoning behind this has been set out previously. The appeal reference 2018/A0189 states that garages should be included in a description which contains four dwellings, this is due to the fact the garages in themselves do not meet permitted development. The appeal does not interpret or define the term dwelling and is therefore distinguishable to this case.</i></p> <p>Further objections were submitted by both Pragma and MBA following the submission of amended plans. These objections reaffirmed the position within their original objections as well as two new matters below</p>
9.74	<ul style="list-style-type: none"> <li>• Both objections recognise an amended Design and Access statement has been submitted however the cover letter provided by the agent refers to Revision E and the uploaded design and access statement is revision F.</li> </ul> <p><i>The Council confirmed with the agent that revision F is correct and emailed both objectors, subsequently the agent provided a further letter confirming this position.</i></p>
9.75	<ul style="list-style-type: none"> <li>• MBA Planning states that the removal of the rear hedgerow amends the boundary of the Conservation Area and it cannot be argued that the landscaping will remain dominant.</li> </ul> <p><i>Case Officer’s Response: As previously stated the hedgerow is not protected and therefore the applicant can remove it under permitted development. The red line provided in the site location map shows the boundary of the site within the applicant’s ownership. While the hedgerow has been removed it does not constitute an amendment to the boundary of the conservation area. The hedgerow in question was located to the rear of the site and given that there is an existing hedgerow further forward, the removal of the hedgerow will not impact public views into the site. The landscaping plan along with the existing vegetation allows landscaping to remain dominant.</i></p>

9.76	<p>An objection was received from Pragma Planning following the Conservation Officer's response. One new matter was raised within this objection that was not raised within Pragma's previous objection and is addressed below:</p> <ul style="list-style-type: none"> <li>Comparisons cannot be made between the neighbouring garage and the proposal as the neighbouring garage pre-dates the conservation area and modern planning system.</li> </ul> <p><i>Case Officer's response: The neighbouring garage forms a part of the fabric of the conservation area, the location is comparable being situated to the side of dwelling and therefore is a relevant consideration. While this garage was not approved by the council it has been demonstrated there are numerous approvals of garages to the land situated to the side elevation of dwellings in the immediate surrounding area. Numbers 20, 21, 22 and 26 Malone Park provide approved examples.</i></p>
	<p>Having regard for the policy context and the considerations above, the proposal is deemed acceptable.</p>
<b>10.0</b>	<b>Summary of Recommendation: Approve</b>
<b>11.0</b>	<p>Conditions</p> <ol style="list-style-type: none"> <li>The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</li> <li>All external facing and roofing materials shall be implemented as specified on the approved plans.  Reason: In the interests of the character and appearance of the area.</li> <li>All soft landscaping works shall be carried out in accordance with the approved details on Landscaping Plan, Drawing Number 10a, received on 12th Oct 2020. The works shall be carried out prior to the completion of the proposal unless otherwise agreed in writing by the Council. 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.  Reason: In the interests of the character and appearance of the area.</li> <li>Prior to any work commencing all protective measures, protective barriers (fencing) and ground protection is to be erected or installed as specified within the submitted Tree Survey and Report and in accordance with the British Standard 5837: 2012 (section 6.2) on any 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</li> </ol>

	<p>removed from site.</p> <p>5. If roots are accidentally damaged the tree council must be notified 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.</p> <p>6. No storage of materials, parking of vehicles or plant, temporary buildings, sheds, offices or fires within the RPA of trees within the site during the construction period.</p> <p>Reason: To avoid compaction within the RPA of existing trees to be retained.</p>

ANNEX	
<b>Valid</b>	13th May 2020
<b>Date First Advertised</b>	29th May 2020
<b>Date Last Advertised</b>	30th October 2020
<b>Details of Neighbour Notification</b> (all addresses)	
17 Malone Park,Belfast,Antrim,BT9 6NJ 19 Malone Park,Belfast,Antrim,BT9 6NJ 22 Malone Park,Belfast,Antrim,BT9 6NJ 25 Myrtlefield Park,Belfast,Antrim,BT9 6NE 26 Malone Park,Belfast,Antrim,BT9 6NJ 27 Myrtlefield Park,Belfast,Antrim,BT9 6NF	
<b>Date of Last Neighbour Notification</b>	21 <sup>st</sup> October 2020
<b>Notification to Department (if relevant) –</b> Response of Department: To be notified upon clearance of recommendation	
<b>Elected Representatives:</b> Kate Nicholl, Donal Lyons	

## Appendices

Appendix 1: OSNI 3<sup>rd</sup> edition map (1900-1907)

Appendix 2: OSNI 4<sup>th</sup> edition map (1905-1957)

Appendix 3: OSNI 5<sup>th</sup> edition map (1919-1983)

Appendix 4: Building Control Map (1947)

Appendix 1: OSNI 3<sup>rd</sup> edition map (1900-1907)



Appendix 2: OSNI 4<sup>th</sup> edition map (1905-1957)



Appendix 3: OSNI 5<sup>th</sup> edition map (1919-1983)



[illegible]