

ADDENDUM REPORT

Committee Meeting Date:	27 th June 2022
Application ID:	LA04/2020/1959/F
Proposal: Proposed new parkland (Section 2 Forthmeadow Community Greenway) – foot and cycle pathways, lighting columns, new entrances and street furniture.	Location: Site to be developed includes vacant land bounded by the Forthriver Industrial Park in the east Springfield Road to the South and Paisley Park & West Circular Road & Crescent to the West. Area also includes links through the Forthriver Industrial Park to Woodvale Avenue land at Springfield Dam (Springfield Road) Paisley Park (West Circular Road) and the Junction of West circular Road & Ballygomartin Road.
Referral Route: Application for Major development. Belfast City Council as applicant.	
Recommendation: Approval subject to Conditions	
Applicant Name and Address: Belfast City Council Property and Projects Department 9 Adelaide Street Belfast BT2 8DJ	Agent Name and Address: McAdam Design 1c Montgomery House Castlereagh Business Park 478 Castlereagh Road Belfast BT5 6BQ
ADDENDUM REPORT This planning application was to be considered by the Planning Committee at its meeting on 14th June 2022. However, the Committee agreed to defer consideration to the Special Meeting on 27th June 2022 in order to allow the objectors more time to consider the Case officer's report and the Judicial Review findings. This addendum report should be read in conjunction with the report to the 14th June 2022 Committee and Late items report to that meeting, a copy of which are appended. The recommendation remains that planning permission should be granted for the reasons set out in the report to the 14th June 2022 Committee. Delegated authority is sought for the Director of Planning and Building Control to finalise the wording of conditions.	

Planning Committee Development Management Officer Report

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Background 1. This planning application was first considered by the Planning Committee at its meeting on 14th September 2021 following a Committee site visit on 9th September 2021. The Committee resolved to grant conditional planning permission with the final wording of conditions delegated to the Director of Planning and Building Control. 2. The Council issued the decision notice on 25th January 2022. The decision was subsequently subject to Judicial Review which the Council conceded. 3. The Judicial Review was conceded on one ground of illegality, which specifically related to the misinterpretation of Belfast Urban Area Plan 2001 (BUAP) and the erroneous introduction of “complementary” as a relevant planning test, where the BUAP uses only the term “ancillary.” 4. The Council’s decision to grant planning permission was quashed and the status of the application has reverted to “undetermined”. The application is reported back to the Committee so that it can make a new decision. 5. This report has considered the wider grounds of challenge contained in the judicial review. The judicial review raised a number of planning policy issues and, although the challenge was conceded on the narrow ground noted above, there were other grounds raised. In particular a detailed report was submitted by the challenger’s planning consultants that raised a number of policy issues. That report is attached to this report at Appendix 4 for ease of reference. Briefly the grounds of challenge were:	

- a) The approach to and interpretation of the BUAP, and in particular Policy IND6;
 - b) The approach to and interpretation of the draft BMAP;
 - c) The approach to and interpretation of Planning Policy Statement 4, Policy PED 7;
 - d) The approach to and interpretation of the Strategic Planning Policy Statement (“SPPS”) paragraph 6.39;
 - e) The parkland application and the scale of proposed development compared to the green way referenced in the draft Belfast Metropolitan Area Plan (“draft BMAP”);
 - f) Relatedly the approach to BUAP R3 and draft BMAP OS policy; and
 - g) the creation of parkland, as proposed, was the delivery of a community greenway misinterpreting BUAP Policy R3 and BMAP Policy OS 1.
6. This is a new case officer report which undertakes a fresh assessment of the application, having regard to the issues raised in the Judicial Review. Planning policies which are particularly relevant to consideration of the application are listed in full at **Appendix 1**.
 7. By way of background, a copy of the original case officer report to the 14th September 2022 Committee is provided at **Appendix 2**. A copy of the Late items report to the same Committee is provided at **Appendix 3**.

Description of the Site

8. The site location plan is reproduced below.

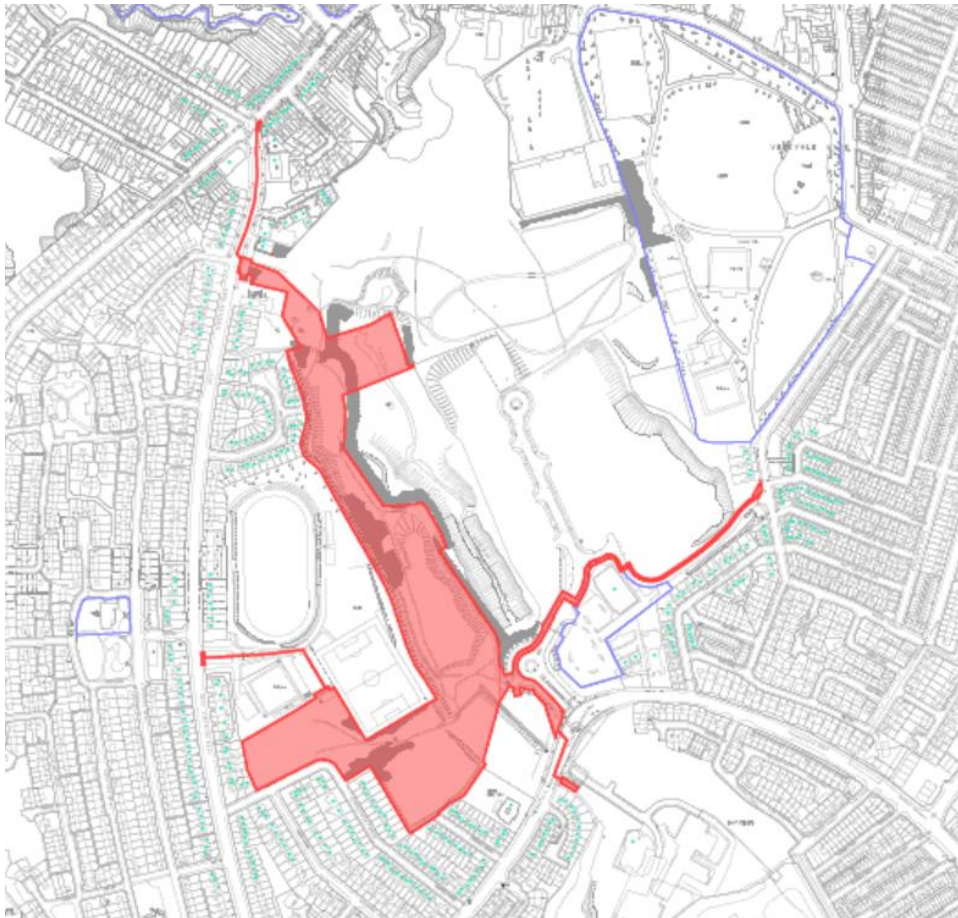


Figure 1: Site Location Plan

9. The application site comprises approximately 6 hectares (ha) of undeveloped land in the west of the city. The site is located to east of West Circular Road, south of Ballygomartin Road and north of Springfield Road.
10. The site is located to the west of the former industrial Mackies site and extends from West Circular Road to the north and Springfield Road to the south. It also connects to West Circular Road to the west and Woodvale Avenue to the east.
11. The site is a large area of open land, characterised by grassed areas, planting and a variety of trees, and includes the Forth River ravine to the east of the site. Paisley Park track and infield pitch and Albert Foundry Bowling Club are adjacent to the site curtilage to the west. There is a large area of flat open land to the east, which once formed the industrial Mackies site but has since been cleared. A new distributor road has been formed into that land to the east to provide access to this part of the employment zoning. The Innovation Factory which provides workspace and support to entrepreneurs, is situated immediately adjacent to the site, to the south east.
12. Further to the north, west, south and east of the site is housing. A Tesco supermarket is located off Ballygomartin Road further to the north east.

Description of the Proposed Development

13. The application seeks full planning permission for a parkland including foot and cycle pathways, lighting columns, new entrances and street furniture.
14. The proposal forms Section 2 of the wider Forth Meadow Community Greenway, which is intended to provide connectivity through the west and north of the city, see Figure 1 below.

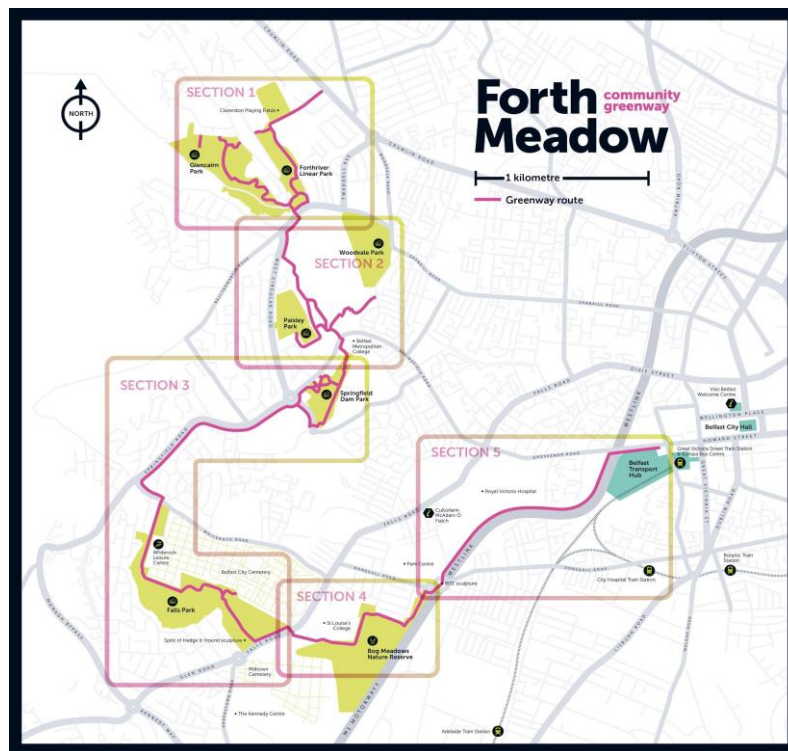


Figure 1: Location of Forth Meadow Community Greenway

Relevant Planning History

15. The application has been subject to a Proposal of Application Notice (PAN) as required by Section 27 of the Planning Act (Northern Ireland) 2011 and subsequent pre-application community consultation (reference LA04/2019/1869/PAN). The reassessment of the current substantive planning application is on the basis of the information and documentation originally submitted, taking account of the objections, which were part of the judicial review. It has been supplemented by a further site visit and consideration noted in this report.
16. In May 2017, planning permission was granted for provision of vehicular and pedestrian gates and fencing, street lighting and 10 no. columns along the access road to Woodvale Avenue (LA04/2016/2678/F). The permission was essentially for an alternative route for the link to Woodvale Avenue proposed by the current application.
17. To the south of the application site, adjacent Springfield Road, is a current undetermined application for a 24 space car park to serve Springfield Primary School (LA04/2021/1188/F).
18. In relation to the former industrial Mackies site to the east, planning permission was granted in February 2004 for infrastructure development comprising an access road and services linked to new Springfield Road junction and the formation of levelled site development plateaus (Z/2003/2058/F). A subsequent amended application for infrastructure development including access road, service links and levelling of development plateaus was approved in November 2004 (Z/2004/1997/F). The access road has subsequently been built out to facilitate future development of the former industrial Mackies site.
19. Planning permission was granted in April 2005 for the construction of 12 units in three separate blocks for light industrial use, associated car parking and a security hut (Z/2004/2845/F) on the land to the east. The permission was unimplemented.
20. Planning permission was granted in June 2012 on land to the north and north east for infilling of land and culverting works of Forth River (retrospective) and proposed erection of 247 residential units comprising 117 no. townhouses, 68 no. mews dwellings, 14 semi-detached dwellings and 48 no. apartments, new access and right turning lane at West Circular Road, associated car parking, open space and improvements to Woodvale Park. The permission was unimplemented.
21. Planning permission granted in June 2009 for demolition of existing structures and construction of 34 no. apartments and 4 no. townhouses with associated site works (Z/2008/0064/F). This permission has been implemented.

Planning Policy Framework

22. The planning policy framework relevant to the assessment of this application is summarised below.

Development Plan

Belfast Urban Area Plan 2001

Draft Development Plan

Belfast Metropolitan Area Plan 2015 (v2004)
Belfast Metropolitan Area Plan 2015 (v2014)

Belfast Local Development Plan 2035 Draft Plan Strategy

Regional Planning Policy

Regional Development Strategy 2035 (RDS)
Strategic Planning Policy Statement 2015 (SPPS)
Planning Policy Statement 2: Natural Heritage (PPS 2)
Planning Policy Statement 3: Access, Movement and Parking (PPS 3)
Planning Policy Statement 4: Planning and Economic Development (PPS 4)
Planning Policy Statement 6: Planning, Archaeology, and the Built Heritage (PPS 6)
Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation (PPS 8)
Planning Policy Statement 15: Planning and Flood Risk (PPS 15)

Local Planning Policy

Belfast City Council Developer Contributions Framework 2020

Consultation Responses

23. Consultation responses and representations are summarised below.

Statutory consultees

DfI Roads – No objection
DfI Rivers Agency – No objection
DAERA – No objection subject to conditions
DfC Historic Environment Division – No objection
NI Water – No objection

Non-statutory consultees

BCC Plans and Policy team – No objection
BCC Environmental Health – No objection subject to conditions
BCC Tree Officer – No objection subject to conditions
BCC Landscape, Planning and Development – No objection
Shared Environmental Services – No objection

Representations

24. The application has been neighbour notified, advertised in the local press and made available on the Planning Portal Public Access. Five representations have been received, including two letters in support and three objections.
25. The two representations in support of the proposal are from a neighbouring resident and Belfast Hills Partnership. They outline general support for the proposal but also bring to the Council's attention that there are invasive species on the site.
26. Three objections were received (one of which was addressed to Members of the Planning Committee at its September 2021 meeting). A summary of these objections is provided below.

Participation and the Practice of Rights (PPR)

- This section of the proposed community greenway is an anomaly as the other sections are in parkland whereas this is a brownfield site.
- The Council previously committed to resolving equality concerns but these have yet to be properly addressed. The previous screening for the wider community greenway project failed to acknowledge that the site is brownfield and capable of delivering development that will address equality at the site in line with the Council's obligations.
- People in Belfast are waiting on average 23 months for a home – the longest waiting time of any area. Nearly 3,000 people in West Belfast are in housing stress compared to only 401 homes allocated to new tenants. NIHE recognises that there is a supply issue. The proposal would set-aside a large windfall site in an area of the highest housing need.
- The potential use of brownfield land as parkland has potential equality impacts.
- The dimensions of the proposed site do not correspond with any specific need.
- The site has no surveillance by design and would be an unwelcoming and threatening space. A linear park with housing facing it would be preferable.
- The proposal violates regional policy including the SPPS and PPS 4 which seek to protect zoned employment land. The land is zoned for employment in both the BUAP 2001 and draft BMAP 2015. Only the LDP process can redesignate the land. The Planning Appeals Commission (PAC) recommended removal of the LLPA designation as it would compromise the employment zoning. The LLPA was subsequently dropped.
- According to the PAC, draft BMAP 2015 has no material relevance.
- The proposal is premature to the new Belfast LDP and growth strategy.
- The proposal is contrary to the Council's Green and Blue Infrastructure Plan. It deviates from the established route in draft BMAP 2015, GBIP and draft Belfast Plan Strategy. It would also prejudice delivery of employment land.

Solicitors acting on behalf of PPR also submitted a critique of the original case officer report to the 14th September 2021 Planning Committee, as summarised below. This new case officer report addresses the substantive points raised.

- The September 2021 Committee report refers to Policies IND4 and IND6 of the BUAP 2001. In relation to Policy IND4, the site is not a Simplified Planning Zone (SPZ). Policy SPZ states that the establishment of SPZs will be considered. The Planning Act 2011 permits the Council to make SPZs. No SPZ has ever been made for this site and it is unclear why it is being referenced in the Committee report.
- Policy IND6 seeks to reserve industrial and commercial and for appropriate types of development and protects such land from non-employment uses. Policy IND6 does state that it is necessary to be flexible but this is limited to industry and employment and does not support replacement with a park. Additional uses that would be acceptable include:
 - Light and general manufacturing
 - Warehousing and stockholding
 - Car and commercial vehicles sales
 - Repair businesses
 - Building suppliers and associated storage
 - Training centres, vehicle inspection and driving test centres
 - Ancillary local needs e.g. banks, cafes
- The September 2021 Committee report refers to the zonings in dBMAP 2015 (version 2004) and dBMAP 2015 (version 2014). Par. 9.10 of the report is misleading as it states that the employment zoning is overwritten by Policy BT162 of draft BMAP 2015 (v2014), however, this policy does not exist and is only present in draft BMAP 2015 (v2004).
- The greenway zoning is aligned with and is located on the Forth River Valley, not on the western side of zoning BT 004 in dBMAP 2015 (v2014). There are good planning

reasons for this which relate to ecology and topography. The community greenways are identified on Map Nos. 4/001 to 4/004.

- In any event dBMAP 2015 (v2014) cannot override regional planning policy and PPS 4 which seeks to protect employment land. Policy PED 7 of PPS 4 states:
'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.'
- Par. 9.10 of the Committee report ignores the key site requirement that the land shall only be used for employment purposes. Reference to development being excluded from the landscape corridor only relates to the housing zoning and not to the employment land.
- The proposal would result in the loss of 30% of the wider employment land and no consideration has been given to PPS 4 including Policy PED 7.
- The statement about prematurity at par. 9.12 of the Committee report is incorrect because the Belfast LDP Plan Strategy is entirely reliant on the conversion of a significant proportion of employment land to residential use. The letter disagrees with the assessment of prematurity and believes that the matter does go to the heart of the Plan Strategy. The loss of 30% of protected employment land would create a city-wide precedent with significant ramifications for the Development Plan process.
- The Committee is invited to adjourn consideration of the application so that fuller representations on the Committee report can be made.

Town and Country Planning Association

- Supports the principle of community greenways but objects to this application.
 - The land is zoned for employment in BUAP 2001 and draft BMAP 2015. The proposal is contrary to both the SPPS and PPS 4 which seek to protect employment land.
 - The PAC recommended removal of the LLPA from draft BMAP 2015 as it would compromise the employment zoning.
 - The proposal is premature as it would prejudice the outcome of the new Belfast Local Development Plan. The proposal would be prejudicial to the new LDP process.
 - The proposal would prejudice the Council's own growth strategy which seeks to confine new housing and employment to within the boundary of the city.
27. With reference to the equality concerns, the recommendation to grant planning permission has been the subject of an equality screening process as defined in the Council's Equality Scheme. The officer recommendation to grant planning permission has been screened out; with no adverse impacts identified.
28. In relation to the objection that the site and lands should instead be used for social housing, the Council must assess the proposal before it – the proposal is not for social housing. The Council cannot compel the landowner to bring forward an application for social housing. The Council's draft Plan Strategy includes specific planning policy provisions which seek to address social housing needs. The future zoning of land for housing will be addressed through the next stage of the development plan process, the Local Policies Plan.
29. The substantive points are considered within the main assessment below.

ASSESSMENT

30. The application site has been re-visited by officers and the proposal reconsidered.

31. It is apparent that a large portion of the application site is physically constrained. The Forth River ravine is located immediately to the east. From the river, there is a steep gradient up to a narrow plateau which forms the central part of the site. The site then narrows again further northwards. This is illustrated in the Google aerial image, photographs and topographical survey of the site shown overleaf. The site is topographically constrained and falls away towards the existing hardstanding pathway by approximately 6-7m before descending sharply towards the Forth River Ravine.

32. Beyond the proposal site to the east is a much more expansive and flatter area of land.

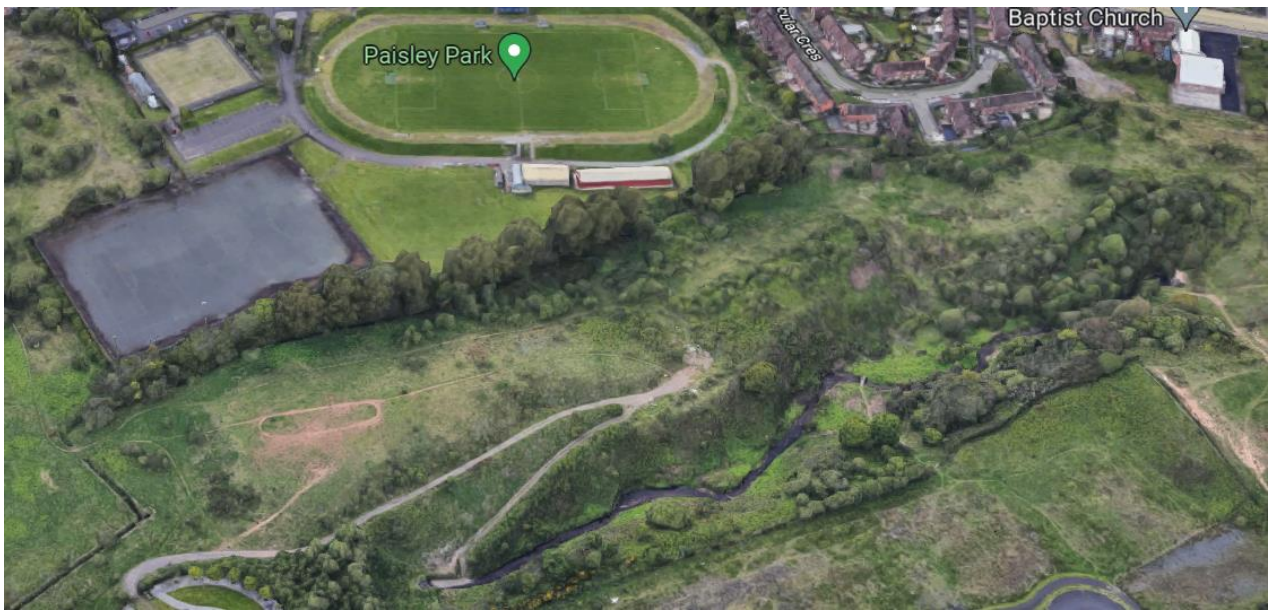


Figure 2a: Aerial Google image looking north west



Figure 2b: Aerial photograph looking north

34. The site is also situated in an elevated position and it is reasonable to expect that new development on the plateau would require additional landscaping on the eastern boundary to screen views from the east. This would further reduce the developable area within the proposal site. In short, the topographical and physical constraints limit the site's developability.
35. The catchment of the Forth River to the east is close to parts of the application site as shown in Figure 4.1 below.



Figure 4.1: River and Coasal Flood Maps

36. A review of the surface water maps shows that surface water flooding is predicted within part of the site during a Q100 rainfall event (including climate change). The affected area is in the northern part of the site as shown in Figure 4.2 below. According to the applicant's flood risk and drainage assessment, the site levels indicate that the northern part of the site is relatively flat and surface flow is not adequate to drain this area through the ravine to the River Forth.



Figure 4.2: Surface Water Flood Map

Planning Policy Context

37. Section 6(4) of the Planning Act (Northern Ireland) 2011 (“the Act”) states that: *‘Where, in making any determination under this Act, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.’*
38. Section 45(1) of the Act states that the council must *‘...have regard to the local development plan, so far as material to the application, and to any other material considerations...’*.
39. In considering the elements of applicable policy, Officers have been mindful of the local and regional policy presumptions against the loss of industrial, commercial or employment lands.
40. The adopted local development plan for the area is the Belfast Urban Area Plan 2001 (BUAP).
41. It was originally intended that the Belfast Metropolitan Area Plan 2015 (BMAP) would replace the BUAP. Draft BMAP (version 2004) was first published in 2004 and subsequently subject to an Independent Examination presided over by the Planning Appeals Commission (“the PAC”). The PAC published its report in 2011 following the Independent Examination. Draft BMAP (version 2014) was subsequently amended and the (then) Minister for the Department for the Environment purported to adopt it. However, following a legal challenge, the purported adoption was held to be unlawful by the courts. Draft BMAP remains a draft plan and has retained this draft status ever since.
42. Following the reform of local government in April 2015 and most planning powers being devolved to councils, the Council began working on a new local development plan to replace the BUAP. The draft Plan Strategy has been subject to Independent Examination by the PAC and the Council has been provided with a copy of its 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 the Council’s draft 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 Planning Policy Statements.
43. The RDS, SPPS and PPSs are regional planning policies issued by central government and important material considerations.

Protection of Employment Land

Belfast Urban Area Plan 2001

44. In the BUAP, the majority of the proposed development site forms part of a wider zoning for Industry and Commerce land, shown in purple in the proposals map at Figure 5, overleaf. This diagram also shows the application site overlaid the proposals map as outlined in red. The black triangle indicates an Area of Business Development Potential. The black square indicates a potential Simplified Planning Zone.

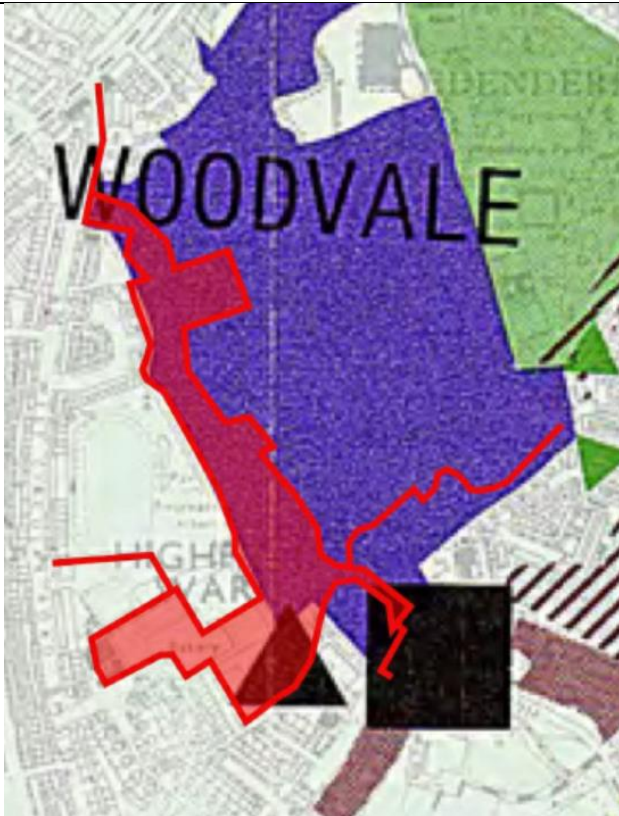


Figure 5: BUAP zoning of Industry and Commerce land (purple)

45. Policy IND 1 of the BUAP zones approximately 375 acres of land across Belfast to meet the expansion needs of existing industry and commerce and to provide for new industries and enterprises. The BUAP states that this will provide employment land to help meet the Industrial Development Board's target-based job predictions up to 2001.
46. Policy IND 6 of the BUAP seeks '*To ensure that land zoned for Industrial and Commercial use is reserved for appropriate types of development.*'
47. Recognising that '*...it is necessary to allow flexibility in the use of industrial and commercial land...*', the policy states that the following additional uses will normally be acceptable in industrial estates:
 - light and industrial manufacturing;
 - warehousing or stock-housing;
 - car and commercial vehicle sales including showrooms, servicing, storage (stock-piling), but excluding breaking and scrap/dismantling;
 - repair businesses;
 - builders suppliers with their associated open storage;
 - training centres, vehicle inspection and driving test centres;
 - ancillary local needs, e.g. banks, cafes.
48. The proposal does not fall under an industrial or commercial use or uses listed above. It is therefore contrary to Policy IND 6 of the BUAP.
49. Policy IND 5 is entitled '**Environmental Treatment**' and states:

'An appropriate standard of environmental treatment will be required in new industrial and commercial areas and developments.'

Proposed Industrial Developments

Where industrial proposals involve the comprehensive development of new sites, an overall landscape framework plan will be required before development commences. Appropriate landscape conditions will be imposed on planning consents to ensure the implementation of landscape schemes. In the Inner City a combination of hard and soft landscaping schemes may be desirable and again appropriate landscaping conditions will be imposed on planning permissions.

Existing Industrial Estates and Developments

The environmental treatment of many existing industrial estates and other industrial developments is deficient by modern standards. The Industrial Development Board is pursuing a policy of upgrading by means of landscaping its existing publicly owned industrial sites and estates within the urban area. The Belfast City Council and Belfast Harbour Commissioners are also actively involved in similar schemes on their respective holdings. These combined public efforts will create new industrial images as the landscaping matures over the Plan period and may encourage private industrial landowners to carry out similar environmental improvements.'

50. The proposal sits substantially within an existing industrial and commercial zoning, which has been partially developed with the Innovation Factory to the south and a main spine road into the larger part of the zoning to the east. The policy notes the involvement of Belfast City Council in pursuing a policy of upgrading by means of landscaping its existing publicly owned industrial sites and estates within the urban area that may encourage private industrial landowners to carry out similar environmental improvements.
51. The application proposal provides a significant opportunity for environmental improvement of part of the broader industrial and commercial zoning in an area that:
- has significant physical constraints which limit the development potential of the site, whether for industry or commerce;
 - forms a useful buffer between the larger and flatter area of industrial and commercial zoning to the east and existing recreational and residential development to the west;
 - provides opportunity for enhancing the existing wider zoning, framing it in such a way that makes it more attractive, as developers may otherwise anticipate having to provide landscaping and improved connectivity; and
 - would provide an appropriate landscape setting, improved connectivity and environmental treatment that would support and potentially encourage continued development of the overall site.
52. These lands have been zoned for employment since 1990 when the BUAP was published but have yet to come forward for industrial or commercial development. It is considered that the environmental improvement brought about by the proposal could make industrial or commercial development of the larger lands to the east potentially more attractive. The use of the land as parkland would not preclude future development of the developable parts of the application site for industrial or commercial development having regard to Policy OS 1 of PPS 8 which seeks to protect open space since the site would remain an employment zoning.
53. Given the above analysis, the proposal is considered consistent with the objectives of Policy IND 5. The proposal does not comply with IND6. However, taking it account all of the above factors, weight is given to Policy IND 5.

54. In draft BMAP (version 2004), much of the central spine of the application site is zoned for employment land under Zoning BT 010, as indicated in the proposals map at Figures 6a and 6b below and overleaf. Key site requirements include that development of this land shall only include light industrial, general industrial and storage and distribution uses. In addition, development of the site shall only be permitted in accordance with an overall comprehensive masterplan for the site to be agreed with the Department. The full text to Zoning BT 010 is provided at **Appendix 1**.

55. The KSR under this draft policy also includes:

'A comprehensive landscaping scheme for the proposed development shall require to be submitted with any planning application for development and agreed with the Department. This shall include all of the following:-

- The existing vegetation on the northern, eastern and western boundaries of the site shall be retained (unless otherwise determined by the Department) and supplemented with trees and planting of appropriate native species to provide screening for the development and facilitate its integration into the landscape;*
- a detailed planting plan and programme of works shall be provided for all new planting in relation to boundary definition.'*

56. Whilst it is expressly acknowledged that the proposal is not part of a planning application for employment development, and therefore the proposal is in conflict with the draft policy in not proposing employment use, regard is had to this key site requirement and the importance attached to the requirement for additional landscaping to the western boundary of the employment zoning that includes the proposal site.

57. Given the physical constraints of the application site as discussed previously, the proposal is in principle consistent with the aims of this key site requirement which requires appropriate additional landscaping on the western boundary of the zoning. The extent of the landscaping scheme to be considered under that KSR is a matter for planning judgement by the committee. However, given the nature of the proposal site as discussed above, the extent of planting and treatment proposed by the application is considered appropriate in addition to being consistent with the aims of Policy IND 5 of the BUAP in terms of environmental treatment of sites for industry and commerce.

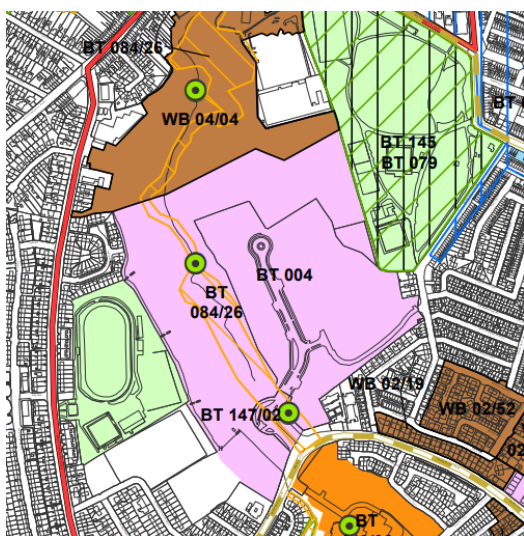


Figure 6a: Draft BMAP (version 2004) zonings



Figure 6b: Draft BMAP (version 2004) zonings with transposed application site

58. In draft BMAP (v2014), a large part of the central spine of site is similarly zoned for employment land, but under Zoning BT 004 as shown in Figure 7 overleaf. Key site requirements include that development shall only include Classes B1 (b) and (c), B2, B3 and B4. Development shall only be permitted in accordance with an overall comprehensive masterplan for the site to be agreed with the Department. The full text to Zoning BT 004 is provided at **Appendix 1**.

59. This draft policy has a KSR for landscaping similar to the version in draft BMAP (v2004) discussed above. It adds that an Article 40 agreement (equivalent of a Section 76 planning agreement) may be required to ensure delivery. In this case a planning condition can be used to secure the landscaping proposals forming part of the application. The KSR reads:

'A comprehensive landscaping scheme for the proposed development shall be submitted with any planning application for development and agreed with the Department. This shall include all of the following:-

- *The existing vegetation on the northern, eastern and western boundaries of the site shall be retained (unless otherwise determined by the Department) and supplemented with trees and planting of appropriate native species to provide screening for the development and facilitate its integration into the landscape; and*
- *A detailed planting plan and programme of works shall be provided for all new planting in relation to boundary definition and additional high quality landscaping proposals within the site, to be agreed with the Department; and*
- *Positive long term landscape management proposals shall be required to mitigate and integrate any development and to protect and maintain the landscaping on the site. An Article 40 Agreement may be required to ensure delivery of this in accordance with the Department's requirements.'*

60. Again, whilst clearly recognising that the proposal is not part of a planning application for employment development and is therefore contrary to the draft plan policy, regard is had to the key site requirement and the importance attached to the requirement to landscape the western boundary of the employment zoning.
61. Given the physical constraints of the application site as discussed previously, the proposed development is consistent with the aims of this key site requirement which requires appropriate additional landscaping on the western boundary of the zoning. The extent of the landscaping scheme to be considered under this KSR is a matter for planning judgement. However, given the nature of the proposal site as discussed above, the extent of planting and treatment proposed by the application is considered appropriate as well as consistent with the aims of Policy IND5 of the BUAP in terms of environmental treatment.

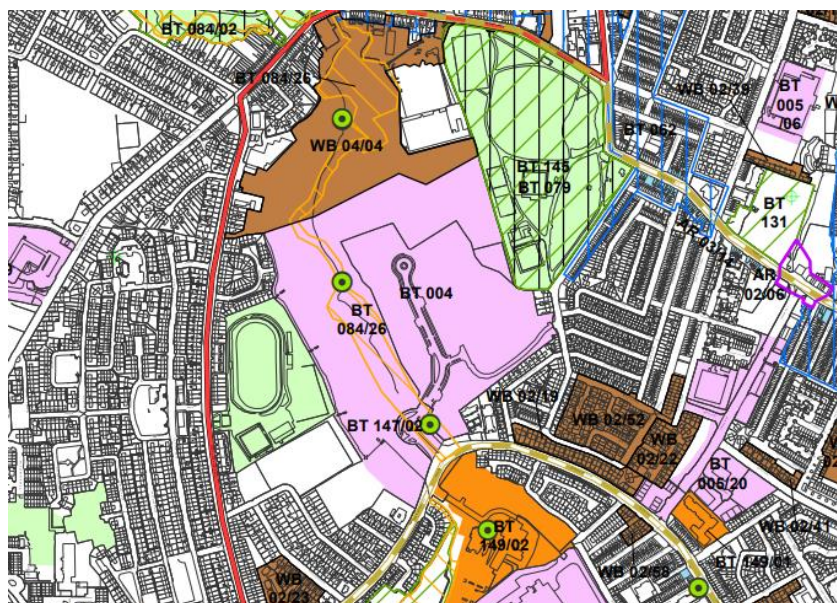


Figure 7: Draft BMAP (version 2014) zonings

62. The proposed development of the site as parkland and for a community greenway is contrary to the zonings in both versions of draft BMAP. However, conscious of the importance attached to the loss of zoned employment land, weight is attached to the fact that both draft policies have a KSR that expressly addresses the requirement for additional landscaping of the western boundary of the zoning. That in turn diminishes the weight to be attached to the loss of this element of the draft zoned employment land.

Belfast Local Development Plan 2035 Draft Plan Strategy

63. Whilst the Draft Plan Strategy is considered to hold minimal weight at this stage in the development plan process, it is still a material consideration which the Committee should have regard to. Policy EC4 of the Draft Plan Strategy relates to the loss of zoned employment land. The policy reads:

'Zoned employment areas will be retained in employment use and will be the focus of economic regeneration and development opportunities likely to come forward during the plan period. Only in exceptional circumstances as outlined below will the loss of zoned employment land be considered acceptable.

Proposals for the use of zoned employment land or buildings, for other purposes, should clearly demonstrate that:

- a) *The proposed use is complementary to the primary employment use of the area, providing a small scale-ancillary service to meet the day-to-day needs of local employees, subject to compliance with other plan policies; or*
- b) *The proposal would not prejudice the long term development of the wider employment area primarily for industrial and business development. In such cases alternative uses should:*
 - 1. *Not adversely affect the city's overall capacity to meet future demand for employment land;*
 - 2. *Be compatible with existing retained employment uses within their vicinity; and*
 - 3. *Demonstrate that there is no likely future demand for employment use on the site. This would require evidence that it had been actively marketed for B1(b), B1(c), B2, B3 and B4 uses for a minimum of 18 months.**In instances where the loss of employment land has been deemed acceptable further information will be necessary as per the council's contribution framework.'*

64. Draft Policy EC4 requires compliance with either a) or b). The proposed parkland does not comply with criterion a) in that it would not provide a small-scale ancillary service that meets the day-to-day needs of employees.

65. Regarding criterion b)

- the development proposal would not adversely affect the city's overall capacity; for meeting future demand for employment land. Paragraph 4.23 of Technical Supplement 3 of the draft Plan Strategy identifies a need for 550,000 sqm of employment space for B Use Classes between 2020 and 2035. Paragraph 4.25 states that there is an indicative capacity of 1.16 million sq m of gross employment floorspace available from committed and new sites. Paragraphs 4.26 and 4.39 indicate that this demonstrates that there is a substantial oversupply of employment space within the Council area. These figures are carried through to Policy EC2 – Employment Land Supply in the draft Plan Strategy. Paragraph 6.17 of the PAC Report on the Independent Examination confirmed that, subject to Recommended Amendments 42 and 43, Policy EC2 satisfies the tests for soundness;
- the proposal would be compatible with existing and proposed employment uses within the vicinity;
- the Council does not have direct evidence that the site has been actively marketed for the specified employment uses for a minimum of 18 months.

66. However, given the assessment of the physical constraints discussed previously, the limited extent of developable land within the proposal site, that the proposal is consistent with Policy IND 5, the KSRs in draft BMAP that require supplemental landscaping on the existing boundary, the existing larger flatter lands within the employment zoning to the east, the location of the constructed spine road into the zoned site and that the proposal would not exclude future development of the application site for employment, it is considered that the proposal would not prejudice the long term development of the wider employment area primarily for industrial and business development. Moreover, limited weight is given to Policy EC4 given the current stage of the LDP Plan Strategy process.

Regional planning policy

67. Regional planning policy seeks to safeguard land for economic development use to ensure an ongoing supply to meet the needs of industry and commerce.

68. The Regional Development Strategy 2035 (RDS) was published in March 2012. Policy RG1 seeks to ensure adequate supply of land to facilitate sustainable economic growth. Paragraph 3.3 of the RDS aims:

'To ensure that Northern Ireland is well placed to accommodate growth in jobs and businesses there should be an adequate and available supply of employment land. It should be accessible and located to make best use of available services, for example water and sewerage infrastructure, whilst avoiding, where possible, areas at risk of flooding from rivers, the sea or surface water run-off. The focus will be on larger urban centres and regional gateways taking advantage of their locations on the regional transport network.'

69. Planning Policy Statement 4: Planning and Economic Development (PPS 4) was published in November 2010. Policy PED 7 relates to the retention of zoned land and economic uses. It states:

Zoned Land in all Locations

'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.'

An exception will be permitted for the development of a sui generis employment use within an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally. Retailing or commercial leisure development will not be permitted except where justified as acceptable ancillary development.'

70. The exceptions outlined in Policy PED 7 do not apply in that the zoned land has not been substantially developed for alternative uses and the proposal does not involve a *sui generis* employment use. The proposal is therefore contrary to Policy PED 7 of PPS 4.
71. However, Planning Advice Note to PPS 4, published in November 2015, accepts that there can be "special circumstances" in which a departure from the development plan zoning may be acceptable. Paragraph 16 of the Planning Advice Note reads:

'In the case of planning applications involving a departure from a development plan zoning, for example from light industrial use to a mixed use development, planning officers should be fully satisfied that it has been clearly demonstrated how the special circumstances of a particular case outweigh the preferred option of retaining the land for economic development use.'

72. "Special circumstances" are not defined in the Planning Advice Note and the example it uses is a change of use from industrial to mixed use. There is no definitive list of what those special circumstances might be. In this case, Officers consider that the special circumstances that justify a departure from Policy PED 7 are that the proposal:

- is consistent with the aims of Policy IND5 of the BUAP;
- is consistent with the KSR in both versions of the draft BMAP, which require additional landscaping treatment of the western boundary of the draft zoned land;
- involves land that has significant physical constraints which limit the development potential of the application site;

- is a key component of the wider Forthmeadow Community Greenway, which would provide improved connectivity through parts of the west and north of the city, encouraging active travel, health and wellbeing; and
- To enable safe, easy and accessible 're-connections' between historically segregated neighbourhoods.

73. The Strategic Planning Policy Statement for Northern Ireland ("the SPPS") was published in September 2015. It is the most recent articulation of regional planning policy relating to economic development and protection of employment land.

74. Paragraph 6.89 states:

*'It is important that **economic development land and buildings** which are **well located and suited to such purposes** are retained so as to ensure a sufficient ongoing supply. Accordingly, planning permission should not normally be granted for proposals that would result in the loss of land zoned for economic development use. Any decision to reallocate such zoned land to other uses ought to be made through the LDP process. While the same principle should also apply generally to unzoned land in settlements in current economic development use (or land last used for these purposes); councils may wish to retain flexibility to consider alternative proposals that offer community, environmental or other benefits, that are considered to outweigh the loss of land for economic development use.'*

75. The policy requires consideration of whether the lands comprising the zoned parts of the application site are well located and suited for economic development purposes. Whilst the zoning as a whole is considered to be well located and suited to such purposes, not all elements within that zoned land are always equally developable. For example, parts of the wider employment lands comprising this zoning are proposed to be designated a Site of Local Nature Conservation Importance (SLNCI) in draft BMAP, which would provide a constraint to development.

76. The application site has been visited again and considered in the context of relevant policies. In view of Policy IND5 of the BUAP, the physical constraints of the site which limit its developability and the KSRs in draft BMAP which require supplemental planting on the western boundary of the employment zoning, large parts of the site are not considered to be well located and suited for economic development purposes.

Environmental Constraints under the draft BMAP

77. In addition to the topographical and physical constraints, parts of the site are subject to various environmental constraints. These are summarised below with greater weight apportioned to draft BMAP (v2014) given its advanced stage in the plan process.

Draft LLPAs and SLNCIs

78. In the earlier version of draft BMAP (v2004), part of the site is designated a SLNCI under Zoning BT 102/26. Policy ENV 2 of draft BMAP (v2004) states that planning permission will not be granted for development that would be liable to have an adverse effect on the nature conservation interests of a designated SLNCI. Part of the site is also designated as a Local Landscape Policy Area (LLPA) under Zoning BT 160 Woodvale / Springfield Road. Policy ENV 3 of draft BMAP (v2004) applies and states that, within an LLPA, planning permission will not be granted for development that would be liable to adversely affect those features, or in combination of features, that contribute to environmental quality, integrity or character. It further states that, where riverbanks are included within

LLPAs, planning permission will only be granted where access is provided to the river corridor as part of development proposals. Land running across the Forth River is also designated a Community Greenway under Zoning BT162/02. Policy OS 2 of draft BMAP (v2004) states that planning permission will not be granted for development either within or adjacent to a designated Community Greenway which would prejudice the retention, enhancement or further development of an identified route.

79. Draft BMAP (v2004) was subject to an Independent Examination by the PAC. The PAC subsequently issued a report, noting two objections relating to these lands. One objection was made in respect of the LLPA designation and the other in relation to the Community Greenway. The PAC recommended that the LLPA designation under Zoning BT160 be removed but recommended no change in respect of the objection to the Community Greenway.
80. In the later version of draft BMAP (v2014), which the Committee is advised to give greater weight, the LLPA was subsequently removed on the recommendation of the PAC. A SLNCI designation remained under Zoning BT 084/26 and broadly follows the Forth River. The Community Greenway Zoning was retained under Zoning BT147/02. Policy OS 1 of draft BMAP 2015 (v2014) states that: *'Planning permission will not be granted for development either within or adjacent to a designated Community Greenway which would prejudice the retention, enhancement or further development of an identified route. Where appropriate, development proposals shall include open space linkages to designated Community Greenways.'*

Hydrological links

81. As well as being subject to the environmental designations listed above, the application site is hydrologically linked to the Belfast Lough SPA and Belfast Lough Open Water SPA, as well as the Inner Belfast Lough ASSI, Outer Belfast Lough ASSI.

Bats

82. The ecological surveys provided with the application evidence bat activity in the area. DAERA notes that the application site and surrounding area are *'likely to contain a significant population of bats. The vegetation within and surrounding the site provides high quality foraging habitat for bats, and any mature trees with cavities and crevices would be suitable for roosting bats'*. Following a further survey, the site is judged to provide productive foraging for bats, and the structural vegetation along the Forth River ravine and the western boundary would provide a focus for commuting as well as feeding. The Foraging and Commuting Potential was considered to be high. Local bat activity would therefore be a constraint on development of the site.

Community Greenway

83. Policy R3 of the BUAP seeks to establish linear based on streams and rivers within the urban area and, **where possible**, to develop a linking system of walkways within the valleys. These linear parks include the Forth River Valley.
84. As discussed above, draft BMAP also designates a community greenway along the Forth River.
85. The proposal will secure a long sought-after community greenway in this area albeit not directly following the Forth River. Policy R3 permits the greenway to be in an alternative location where it is not possible to base it on the river. In this case, the river is set within a steeply sided ravine with undulating ground. The area is also prone to surface water flooding as shown in Figure 4.2. These constraints would make it very difficult to base the greenway on the river. Moreover, funding is not in place to route the greenway there.

86. It is considered that the route of the greenway through the application site is more appropriate. Firstly, in view of the physical constraints of the alternative route based on the river as described above. Secondly, the greenway is considered an environmental improvement consistent with Policy IND 5 of the BUAP. Thirdly, it would include lands physically and environmentally constrained and not considered well located or suited for economic development, therefore making effective use of this part of the zonings. Fourthly, it is situated along the western boundary of the site where KSRs in draft BMAP require additional landscaping. It is also material that there is funding in place for the greenway which would secure its important delivery.

Absence of an adopted Master Plan

87. Draft BMAP states that development of the zoned employment land shall only be permitted in accordance with an overall comprehensive masterplan for the site to be agreed with the Department. A master plan has not come forward or been adopted for the employment zoning.
88. However, having regard to site's physical and environmental constraints as described above, and the policy context discussed, a judgement must be made as to what value a master plan would have for that part of the application site within the employment zoning. The western boundary has been identified in draft BMAP (both versions) as requiring additional landscaping and the proposal is considered to be a reasonable response to that requirement.
89. It is considered that a master plan would not have a decisive benefit in this case. An access and service road have already been constructed on the larger part of the zoning on the land to the east. The Council as Planning Authority has the power to ensure suitable high quality development of the zoned land through the development management process, supported by its detailed Pre-Application Discussion service to improve the quality of planning application submissions. There is also the benefit of a single landowner of the lands to the east in Invest NI for the Council to work with.
90. Therefore, the absence of an adopted master plan is not considered to be fatal and it is considered that it would not be in the public interest to refuse planning permission on the basis that an adopted master plan is not in place.

Planning Balance

91. The proposed parkland is contrary to Policy IND 6 of the BUAP as it is not a proposal for industrial or commercial use. However, the proposal is considered consistent with Policy IND 5 which seeks to secure environmental improvements of industrial areas.
92. The proposal is consistent with the KSRs in draft BMAP which require additional landscaping on the western boundary of the zoning.
93. The proposal is contrary to Policy PED 7 of PPS 4. However, having regard to the Planning Advice Note relating to PPS4, Officers are satisfied that there are special circumstances that justify departure from the strict application of the policy. These include that the proposal is consistent with the aims of Policy IND 5 of the BUAP and the KSRs in draft BMAP in relation to enhanced landscaping, the site's physical and environmental constraints, that it is a key component to the delivery of the wider Forth Meadow Community Greenway, and enable safe, easy and accessible 're-connections' between historically segregated neighbourhoods.

94. Moreover, it is considered that the proposal is not in contravention with paragraph 6.89 of the SPPS, which is the most recent articulation of regional planning policy that seeks to protect employment land, in that the element of zoned lands comprising the development proposal is not well located or suited for economic development land for the reasons stated above.
95. Furthermore, the proposal would not prejudice development of the remainder of the zoning (adopted or draft) and indeed may support development of those lands through environmental improvement and enhanced connectivity. In addition, the zoning would not exclude development of the site itself for employment use at some point in the future.
96. The proposed connections are a crucial element of the wider Forth Meadow Community Greenway. There is significant external funding of in the region of £5 million for the project and this is reliant on all sections of the greenway being granted planning permission. Both section 2 and wider greenway would provide improved connectivity and promote active sustainable travel. It would enable safe, easy and accessible 're-connections' between historically segregated neighbourhoods. These are important material considerations which add weight to the case for granting planning permission.
97. The funding for the Forth Meadow Community Greenway was secured from SEUPB under the Peace 4 programme. The overall greenway project is the delivery of 12km of greenway. The capital works are only one element of the overall project. In parallel with the capital project, a range of community activity and events programmes at key sections along the greenway are being developed to help bring communities together, on common ground, and promote use of the shared space.
98. These objectives and outcomes are consistent with the Core Planning Principles established by the SPPS, which include:
- Improving Health and Well-being;
 - Creating and Enhancing Shared Space;
 - Supporting Sustainable Economic Growth;
 - Supporting Good Design and Positive Place Making; and
 - Preserving and Improving the Built and Natural Environment.
99. These objectives are also consistent with the *Belfast Agenda*, the City's Community Plan.
100. Having regard to the factors set out in the assessment above, and in the planning balance, the development of the site as parkland is considered acceptable in principle.

Protection of housing land

101. A small section of the application site at its northern end is zoned for housing in draft BMAP. In draft BMAP (v2004), the northern end of the site forms part of a wider housing zoning under zoning WB 04/12. In draft BMAP (v2014), the northern end forms part of a wider housing zoning under zoning WB 04/04. This land forms part of the housing zoning's frontage with and access to West Circular Road. A further principal frontage and access point is onto Ballygomartin Road further to the north.
102. It is considered that the proposal for parkland on this land zoned for housing is acceptable for the following reasons:
- The proposal would provide enhanced connectivity from and to the remaining housing land and wider city as part of the Forth Meadow Community Greenway.

- The proposal would provide an attractive green amenity for residents on the “doorstop” of the housing zoning.
- It recognises that not all land within the wider zoning will be equally developable.
- Part of these lands is prone to surface water flooding (see Figure 4.2)

103. The proposal would not be incompatible with nor prejudice the development of the remainder of the housing zoning.

104. Regard is also had to the benefits of the delivery of the wider Forth Meadow Community Greenway as discussed above, which in the planning balance, are considered to weigh in favour of the proposal.

Un-zoned land

105. The southern end of the site falls outside the employment land zoning and is “white land”. The proposal is therefore acceptable in principle in respect of this part of the site.

Impact on the character and appearance of the area

106. The proposal would have a series of 3m wide pathways, finished in buff-coloured asphalt path suitable for use by pedestrians, cyclists, and disabled users. A steel framed elevated walkway is proposed to provide access over the existing wetland area. The site boundary would be defined by a 2.4m high palisade fence. A 1.2m high palisade fence would be put in place to prevent access to the Forth River ravine, where there are steep slopes and areas of invasive species present.

107. The site comprises a mix of tree species which vary in age, size, health, condition, growing in small groups, clusters or stand alone. Initial concerns raised through the consultation process have since been addressed. A Tree Protection Plan, Landscape Management Plan and detailed landscaping plans have been submitted.

108. A total of 31 trees are proposed to be removed with 80 (of mixed species) to be planted. All retained trees would be protected using protective fencing during construction. On reviewing further information, neither BCC Landscape, Planning and Development nor BCC Tree Officers object to the application. The Tree Officer has suggested a number of conditions to be included should approval be granted and these are recommended.

109. The proposed parkland would be an appropriate use for the site, involving low impact built development. It provides the opportunity for enhanced management of the land which should have a positive impact on the character and appearance of the area. In this regard, the proposal is considered compliant with paragraph 4.26 of the SPPS which requires proposals to be of good design and fit into their surroundings.

Built Heritage

110. The application site is located within the vicinity of the Woodvale Park’s Bandstand and its gate piers, gates and railings, which are Grade B2 Listed (HB26/38/002 A and HB26/38/002 B). DfC HED is satisfied that the proposal would pose no greater demonstrable harm on the setting of these Listed assets and is satisfied that paragraph 6.12 of the SPPS and Policy BH11 of PPS6 are complied with.

111. An Archaeological and Cultural Assessment was carried out for the PEACE IV programme in its entirety. As well as Listed structures, one recorded archaeological

monument, four historic gardens recorded in the Historic Gardens Register, and eighteen sites within the Industrial Heritage Records were identified. HED Historic Monuments have confirmed that they have no objection to the proposal.

112. Having regard to the advice from HED, officers consider that the Policy BH11 of PPS 6 and its archaeology policies are satisfied.

Natural Heritage

113. As previously mentioned, the application site is hydrologically linked to the Belfast Lough SPA and Belfast Lough Open Water SPA, Inner Belfast Lough ASSI and Outer Belfast Lough ASSI.

114. A Draft Preliminary Ecological Appraisal (PEA), Bat Survey, Habitats Regulation Assessment, Invasive Species Management Plan and OMH Creation and Management Plan were submitted as part of the application. DAERA NED were consulted regarding potential impact on natural heritage assets on or removed from the site. NED responded requesting additional information, mainly in order to assess any potential impact on the significant population of bats present on the site, both foraging and commuting, but also in relation to badgers. A finalised PEA; lighting plan and clarification of tree removal were submitted, satisfying NED that the proposal was acceptable. NED also welcomes the plan set out within the Invasive Species Management Plan for the managed treatment of Japanese knotweed and Himalayan balsam present to eradicate stands and avoid further potential spread. NED has suggested three conditions should permission be granted: a Construction Environmental Management Plan (CEMP) should be submitted and agreed in writing prior to the commencement of works; any necessary vegetation removal should be completed outside of the bird breeding season (01 March – 31 August); and no development activity should take place within 10 metres of the existing watercourse.

115. DAERA, Water Management Unit were also consulted and confirmed that they have no objections to the proposal. Shared Environmental Services (SES) also offer no objection, subject to the submission and approval of a CEMP prior to the commencement of works. SES carried out a HRA screening and recommend that the Council as Competent Authority adopts the HRA report. This found that the project would not have an adverse effect on the integrity of any European site.

116. The proposal is considered acceptable with regard to ecological and environmental issues having regard to PPS 2 and relevant policy.

Compatibility with adjacent uses and neighbour amenity

117. It is considered that the nature of the proposal as parkland would not give rise to unacceptable impacts on adjacent uses including the employment zoning to the east, leisure uses to the north and surrounding residential properties and residential zoning. In this regard, the proposal is not in conflict with paragraph 4.14 of the SPPS.

Transport

118. DfI Roads have been consulted and offers no objection to the application. Existing car parks are available at Paisley Park and Springfield Park, with on street parking available at the proposed entrance at West Circular Road. Deliberately there is no proposed dedicated vehicular access as the community greenway is specifically proposed for cyclists and pedestrians. The proposal is considered acceptable with regard to access, movement, parking and transport issues having regard to PPS 3. It is consistent with the SPPS Core Principles including improving health and well-being.

Contaminated Land

119. A Preliminary Risk Assessment, Generic Quantitative Risk Assessment and accompanying Ground Investigation Report have been submitted. The site investigation identified a human health risk from asbestos fibres in shallow soils and remediation measures were outlined. Whilst DAERA Regulation Unit responded with no objection to the proposal subject to certain conditions, BCC Environmental Health requested further information, resulting in the submission of updated reports.
120. Asbestos was identified at 25 locations. BCC Environmental Health notes that the only potential risk posed to future site users is through direct exposure and as the proposed walking and cycling routes are to be surfaced with hardstanding a physical barrier will therefore break the direct exposure pathways. Future site users could potentially be exposed to contaminants in soils across non-hardstanding areas, therefore, the impacted areas are to be provided with a capping layer of clean material. BCC Environmental Health has subsequently responded offering no objection to the proposal subject to the agreement of a Verification Report prior to the operation of the development if approved. Environmental Health also suggest the inclusion of an informative with respect to the proposed pole mounted LED lanterns and bridge lighting.

Flood Risk

121. DfI Rivers Agency was consulted and responded with no objection. A Drainage Assessment has been submitted in accordance with Policy FLD 3 of PPS 15. The proposal is considered acceptable with regard to flood risk and drainage having regard to PPS 15 and relevant policy.

Conclusion

122. The application proposal has been reconsidered in the light of the judicial review and the site re-visited. This report constitutes a fresh assessment of the proposal.
123. Whilst the proposal is in conflict with Policy IND 6 of the BUAP, it is consistent with Policy IND 5 of the BUAP.
124. Weighing the various material considerations in the planning balance, the proposal is considered acceptable. This includes the proposal's consistency with Policy IND 5 of the BUAP in that it would result in environmental improvement of a future industrial area.
125. Moreover, much of the application site is physically constrained and its developability for employment use is limited. In this regard, the site is not considered well located or suited as economic development land and the proposal therefore does not conflict with paragraph 6.89 of the SPPS which seeks to ensure a sufficient ongoing supply of economic development land. The SPPS is the most recent articulation of regional planning policy that seeks to safeguard employment land and significant weight is therefore given to this policy.
126. Whilst the proposal is contrary to various KSRs in draft BMAP including that it is not for the specified employment uses, the proposal would provide supplemental landscaping of the western boundary of the zoning as required by the KSRs.

127. The proposal is contrary to Policy PED7 of PPS 4, however, the PPS 4 Planning Advisory Note advises that there can be special circumstances that can outweigh the preferred option of retaining the land for economic development use. Officers consider that special circumstances can be clearly demonstrated in this case and include:

- the proposal is consistent with the aims of Policy IND5 of the BUAP;
- it is consistent with the KSR in both versions of the draft BMAP, which require additional landscaping treatment of the western boundary of the draft zoned land;
- it involves land that has significant physical constraints which limit the development potential of the application site;
- there is a substantial oversupply of employment space within the Council area
- it is a key component of the wider Forthmeadow Community Greenway, which would provide improved connectivity through parts of the west and north of the city, encouraging active travel, health and wellbeing; and
- it would enable safe, easy and accessible 're-connections' between historically segregated neighbourhoods.

128. Limited weight is given to Policy EC4 of the draft Plan Strategy given the current stage of the development plan process.

129. It is acknowledged that there is a policy presumption, both regionally and locally, against the loss of employment land. However, that is not un-rebuttable presumption. Policy is not a strait jacket and it is possible to set aside these policies and the employment zonings in the various plans where material considerations indicate otherwise.

130. The proposal is considered acceptable in all other regards.

131. The objections from third parties have been addressed in the main body of the report. No objections have been received from statutory and non-statutory consultees.

132. For the reasons set out in this report, the recommendation is that planning permission is granted.

Recommendation

133. It is recommended that planning permission is granted. Delegated authority is sought for the Director of Planning and Building Control to finalise the wording of conditions.

Draft Conditions

1. 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.

2. All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in writing by the Council. Any existing or proposed trees or plants indicated on the approved plans 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.

3. Prior to the operation of the proposed development, a Verification Report shall be submitted to and approved in writing by the Council. This report must demonstrate that the remediation measures outlined in the Pentland Macdonald Ltd report entitled 'Additional Contaminated Land Risk Assessment, PEACE IV CRSS Forth Meadow Community Greenway, Belfast, for McAdam Design/Belfast City Council' (dated May 2021 and referenced PM21-1032) and shown on the McAdam Design Ltd drawing entitled 'Section 2, Contaminated Lands Remediation Plan' (Project No: E2103, Drawing No: 02-110, Revision B, dated 8th July 2021) have been implemented.

The Verification Report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use (public open space (park)). It must demonstrate that the identified potential contaminant linkages are effectively broken. The Verification Report shall be in accordance with Environment Agency guidance and must demonstrate that:

- a) A minimum 600mm clean capping layer has been emplaced in all required areas, as shown in the Pentland Macdonald Ltd report entitled Additional Contaminated Land Risk Assessment, PEACE IV CRSS Forth Meadow Community Greenway, Belfast, for McAdam Design/Belfast City Council (dated May 2021 and referenced PM21-1032) and the McAdam Design Ltd drawing entitled Section 2, Contaminated Lands Remediation Plan (Project No: E2103, Drawing No: 02-110, Revision B, dated 8th July 2021); and
- b) The clean capping layer is formed from material is demonstrably suitable for use (public open space (park)) and is underlain by a geotextile membrane.

Reason: Protection of human health.

4. If during the development works, new contamination or risks are encountered which have not previously been identified, works shall cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with best practice. In the event of unacceptable risks being identified, a Remediation Strategy and subsequent Verification Report shall be submitted to and agreed with the Council in writing, prior to the development being occupied. If required, the Verification Report shall be completed by competent persons in accordance with best practice and must demonstrate that the remediation measures have been implemented and that the site is now fit for end-use.

Reason: Protection of human health.

5. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be submitted to and agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

6. After completing the remediation works under Condition 4; and prior to occupation of the development, a verification report shall be submitted in writing and agreed with the Council. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>. The verification report should present all the remediation, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and wastes in achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

7. A final site-specific Construction Environmental Management Plan (CEMP) shall be submitted by the applicant/approved contractor to the Council at least 8 weeks prior to the commencement of works. This plan should contain all the appropriate environmental mitigation as detailed in the NIEA WMU and NED responses dated 24/02/2021 and 29/06/2021. It should identify the perceived risks to the aquatic environment, potential pollution pathways and mitigation measures to negate such risks. It should include;
- a. Construction Method Statement(s) - including details of construction and excavation;
 - b. Pollution Prevention Plan including details of a suitable buffer of 10m between the location of refuelling, storage of oil/fuel/substrate/construction materials/machinery, concrete mixing and washing areas and any watercourses found on site.
 - c. Site Drainage Plan; including details of Sustainable Drainage Systems (SuDS).
 - d. Spoil Management Plan; including location of spoil storage areas out with the 10m buffer zone
 - e. Environmental Emergency Plan; including details of emergency spill procedures and regular inspections of machinery onsite;
 - f. Water Quality Monitoring Plan;
 - g. Details of the appointment of an Ecological Clerk of Works (ECoW), detailing their roles and responsibilities.

The works shall not be carried out unless in accordance with the approved CEMP.

Reason: To protect designated sites and site selection features.

8. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active birds' nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Council within 6 weeks of works commencing.

Reason: To protect breeding birds.

9. No development activity, including vegetation clearance, infilling, disturbance by machinery, dumping or storage of materials including vehicles/refuelling of vehicles, shall take place within 10 metres of the existing watercourse.

Reason: To protect/minimise the impact of the development on the biodiversity value of the name of the existing watercourse (former mill race) to the west of the proposed greenway route.

10. All soft landscaping works shall be carried out in accordance with the approved details on drawing nos 14A, 15A, 16A, 17A, 18A and 19A, published on the Planning Portal on 9th June 2021. 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.

11. 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 drawings 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.

Reason: In the interests of visual amenity.

12. Prior to any work commencing all protective measures, protective barriers (fencing) and ground protection is to be erected or installed as specified within British Standard 5837: 2012 - Trees in Relation to Design, Demolition and Construction - Recommendations (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 removed from site.

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.

13. If roots are accidentally damaged the council must be notified and given the opportunity to inspect the damage before it is covered over.

Reason: To ensure the protection of, and to ensure the continuity of amenity afforded by existing trees.

14. No storage of materials, parking of vehicles or plant, temporary buildings, sheds, offices or fires within the Root Protection Area of trees within the site and adjacent lands during the construction period.

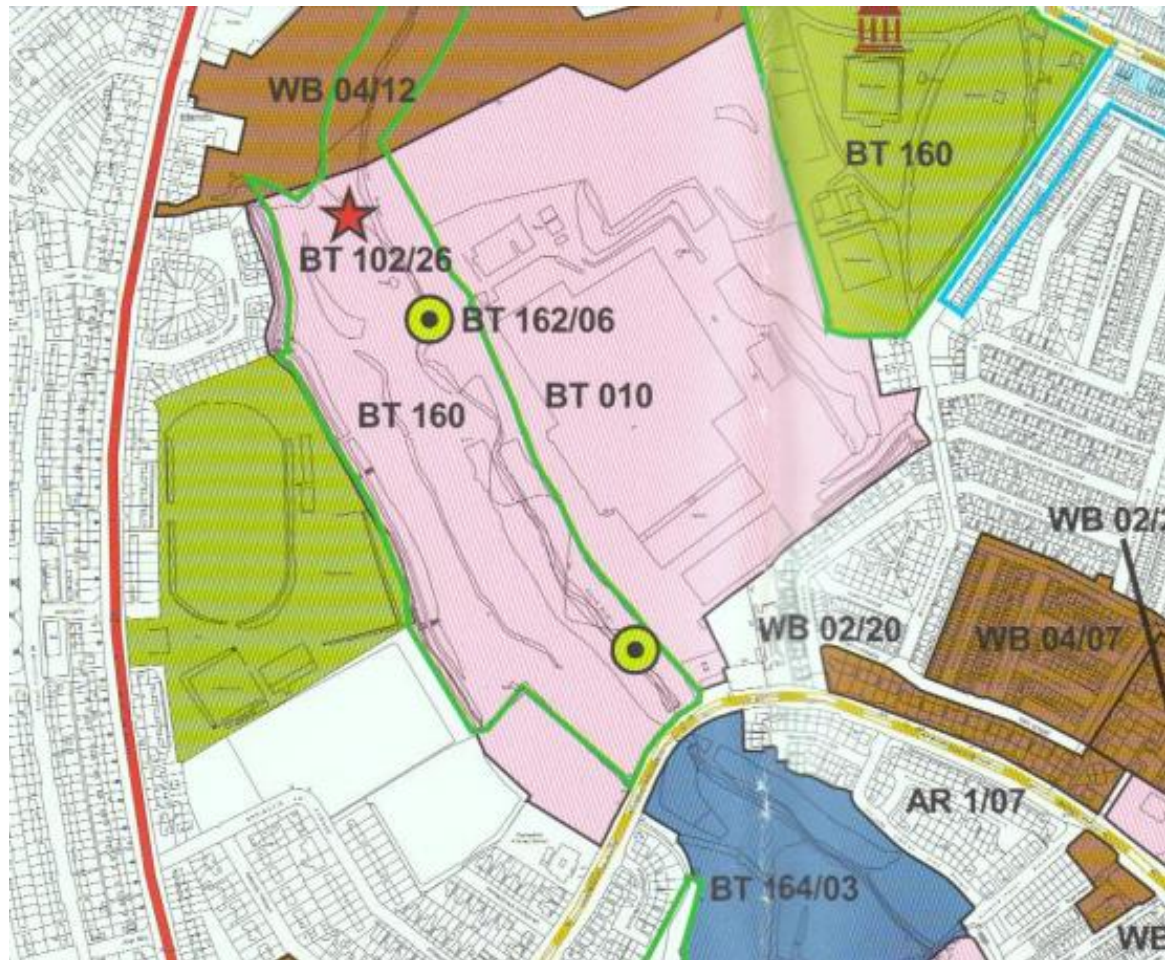
Reason: To avoid compaction within the Root Protection Area of existing trees to be retained.

Late Items

Planning Committee: Tuesday 14 June 2022

Agenda Item	Application	Issues Raised	Action
6a	LA/2020/1959/F Section 2, Forth Meadow Community Greenway, Springfield Road and West Circular Road	The incorrect Proposals Map is shown at Figure 6a of the Committee report (page 14). Figure 6a incorrectly shows an extract from Draft BMAP (v2014) when it should be an extract from Draft BMAP (v2004). However, the correct extract is included at Figure 6b albeit with the application site transposed onto the plan. So essentially the Committee still has the correct Proposals Map before them in the Committee report.	For the sake of completeness, the correct plan for Figure 6a (i.e. extract from Draft BMAP v2004 without the application site transposed) is provided below.

Corrected Figure 6a Extract from dBMAP (version 2004)



Agenda Item	Application	Issues Raised	Action
6a	LA/2020/1959/F Section 2, Forth Meadow Community Greenway, Springfield Road and West Circular Road	Participation and the Practice of Rights (PPR) has referred to the arrest of a person allegedly associated with some of the groups which were consulted as part of the planning application process. Officers do not consider this to be material to the consideration of the merits of the planning application and the applicant and council have followed their legal obligations in relation to public consultation on the proposals.	Committee to note.
6b	(Reconsidered Item) LA04/2020/1666/F Office development at 102-127 Grosvenor Road and adjoining the Westlink/Grosvenor Road junction.	Legal Services have confirmed that the Section 76 Planning Agreement for this development has now been executed.	Committee to note.
6h	LA04/2021/0859/F & LA04/2022/0351/DCA 21-23 Victoria Street and 41-51 Waring Street, Belfast	A final consultation response was received from Environmental Health on 9th June confirming no objection subject to conditions and informatives including: • Implementation of noise insulation/ mitigation measures; • Managing and controlling music noise level from any amplified sound within the ground floor and roof top bars • The ground floor and roof top bars shall not operate after 1am	Committee to note..

Agenda Item	Application	Issues Raised	Action
6h	LA04/2021/0859/F & A04/2022/0351/DCA 21-23 Victoria Street and 41-51 Waring Street, Belfast	Email correspondence dated 13th June received from Beannchor advising that they: • did not receive a neighbour notification; • have no objection in principle to hotel use; • have concerns about the scale, height and massing of the extension and impact on the listed Merchant Hotel building; and • concern about proximity of the proposed extension which may give rise to noise, odour; overlooking and overshadowing impacts on amenity of residents within their hotel.	Members to note. Officers would respond: • neighbour notification letters were sent to “bar, 35-39 Waring Street” and “hotel, 35-39 Waring Street” on 1st March 2022. This building, whilst part of the Merchant hotel, records indicate it retains its’ Waring Street address, and is located between the site and neighbouring Merchant Hotel buildings to the rear. Notification has been undertaken in accordance with standard practice. • correspondence indicates that Beannchor was aware of the planning application back in May 2021 and therefore no prejudice has occurred. • The issues raised have been considered in the committee report – HED, Conservation officer and Urban Design officer have no objections to the scale height and massing of the proposal. Environmental Health have considered noise and odour information and no objection subject to conditions.

Agenda Item	Application	Issues Raised	Action
			No harmful overlooking issues arise due to location of existing window positions. Window positions of upper floor extension would not overlook adjacent properties to an unacceptable degree given city centre context and filtering by rooftop structures and plant on neighbouring buildings.