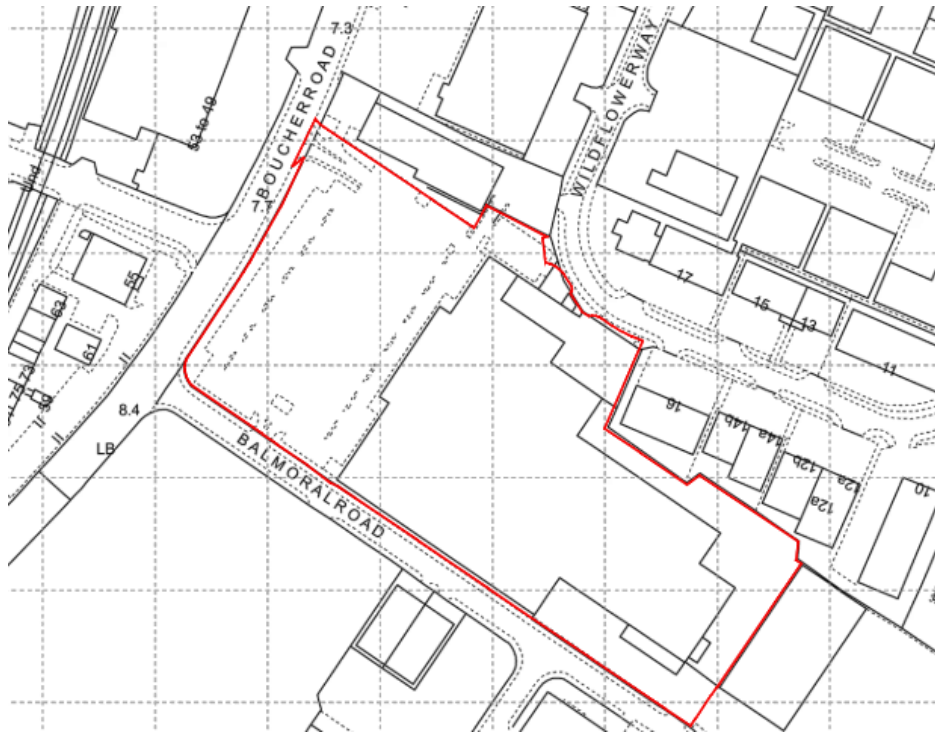


Committee Report

Development Management Report	
Application ID: LA04/2025/1525/F	Date of Committee: 9 th December 2025
Proposal: Removal of condition 9 of LA04/2024/0714/F as it does not meet the tests of validity of planning conditions, as the tanks referenced are not to be decommissioned	Location: Units 2a and 2b 38 Boucher Road, Belfast, BT12 6HR
Referral Route: Section 54 Removal of Condition of Major Application.	
Recommendation: Approval	
Applicant Name and Address: R Irwin Norlin Ventures Limited Innovation Centre Queens Road Belfast BT3 9DT	Agent Name and Address: Pragma Planning Scottish Provident Building 7 Donegall Square West Belfast BT1 6JH
Date Valid: 9 th September 2025	
Target Date: 7 th April 2026	
Contact Officer: Ciara Reville, Principal Planning Officer (Development Management)	
Executive Summary: The application seeks planning permission for the removal of condition 9 of LA04/2024/0714/F as it does not meet the tests of validity of planning conditions, as the tanks referenced are not to be decommissioned. The key issue relevant to consideration of the application is: <ul style="list-style-type: none">Any issues that may arise from the consultation with NIEA Regulation Unit who previously suggested the condition. Recommendation Having had regard to the development plan, relevant planning policies, and consultation responses it is considered that the removal of the condition should be approved. Delegated authority is sought for the Director of Planning and Building Control to finalise the conditions and deal with any other matters which may arise from the outstanding consultation response from Environmental Health.	

Case Officer Report

Site Location Plan and Site Layout



Characteristics of the Site and Area

1.0 Description of Proposed Development

1.1 The application seeks planning permission for the removal of condition 9 of LA04/2024/0714/F as it does not meet the tests of validity of planning conditions.

1.2 Condition 9 of LA04/2024/0714/F states:

‘The development hereby permitted shall not commence until all fuel tanks (and associated infrastructure) are fully decommissioned and removed in line with current Guidance for Pollution prevention (GPP 2). The quality of surrounding soils and groundwater should then be verified and agreed with the Planning Authority. Should any additional contamination be identified during this process, conditions for new contamination and risks, as detailed, will apply.

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

The application requests the removal of the above condition as NIEA Regulation Unit during the previous application assumed that all of the fuel tanks referenced in the previous GQRA are proposed to be removed.

The GQRA submitted with the approval application (Ref:LA04/2024/0714/F) illustrates on page 7 at figure 2.2 that there are two fuel tanks on the site and a third located on neighbouring land. The ‘Off Site Fuel Tank’ is not part of this application and is therefore not covered by the permission and in any event the applicant has no control over the tank on the third party land and therefore cannot remove it. The ‘Disused Fuel Tank’ is incorrectly described and was previously used as a top up for the operating fuel tank. The ‘Operating Fuel Tank’ powers a ‘fuel powered generator’ that is used for the buildings sprinkler system. The result is that neither the ‘Disused Fuel Tank’ nor the ‘Operating Fuel

	<p>Tank' are intended to be decommissioned or removed and there were never any plans to do such.</p> <p>As a result, Condition 9 is not necessary nor is it relevant to the development and nor is it reasonable due to its unduly requirement that these pieces of the buildings infrastructure are removed.</p> <p>The agent has considered this matter further and provided a clarification note which concludes by indicating that the tanks within the site are not being decommissioned and hence condition 9 must be considered to be not necessary or relevant to the development proposed.</p>
2.0	Description of Site
2.1	The building is comprised of the former B&Q retail warehouse on Boucher Road, who operated from the building from 1999 until they terminated their lease in 2016. The building is located on Boucher Road, an area of mixed but mainly retail dominated uses of both comparison and convenience goods. The occupier of the remainder of the building is The Range.
2.2	On the northern boundary of the land on which the building is located are a pair of retail warehouses, to the north of the site is a block of retail warehouses, on the opposite side of Boucher Road are more retail warehouses. To the south of the Building are a mix of uses including vehicle storage, leisure uses, self-storage and a brewery.
Planning Assessment of Policy and other Material Considerations	
3.0	Site History
3.1	LA04/2024/0714/F - Proposed development to create a private medical facility (a hospital within Class C3) comprising of the change of use of part of retail warehouse and the extension of the building to create a private medical facility with a significant element of overnight residential care together with all associated ancillary development. Approved 21/01/2025
4.0	Policy Framework
4.1	Belfast Urban Area Plan 2001
4.2	<p>Draft Belfast Metropolitan Area Plan 2015 (v2004 and v2014)</p> <p>Following the recent Court of Appeal decision on BMAP, the extant development plan is now the BUAP. DBMAP (both v2004 and v2014 versions) is a material consideration. The weight to be afforded to dBMAP is a matter of judgement for the decision maker. Given its advanced stage in the Development Plan process, it is considered that dBMAP (v2014) carries significant weight.</p>
4.3	<p>Belfast Local Development Plan Draft Plan Strategy</p> <p>The Belfast Local Development Plan Draft Plan Strategy 2035 will guide future planning application decision making to support the sustainable spatial growth of the city up to 2035. The draft Plan Strategy has been subject to examination by the Planning Appeals Commission and the Council has been provided with a copy of their Report, together with a Direction from DfI in relation to additional required steps before it can be considered adopted. Paragraph 1.10 of the SPPS states that a transitional period will operate until such times as a Council's Plan Strategy has been adopted. Accordingly, whilst the Draft Plan Strategy is now a material consideration it has limited weight until it is adopted and during the transitional period planning authorities will apply existing policy together with the SPPS.</p>

4.4	Strategic Planning Policy Statement for Northern Ireland (SPPS)
5.0	Statutory Consultees Responses NIEA NED – Content
6.0	Non Statutory Consultees Responses None
7.0	Representations
7.1	The application was neighbour notified on 07/11/25 and no objections were received.
9.0	Assessment
9.1	<p>NIEA Regulation Unit were consulted and responded with the following;</p> <p><i>'Based on the confirmation included in the letters from PRAGMA Planning and RPS that no fuel tanks will be decommissioned and removed as part of the development, Regulation Unit Land and Groundwater Team are content and recommend the removal of Condition 9.'</i></p> <p>Therefore, the removal of condition 9 is acceptable.</p>
9.5	Having regard for the policy context and the considerations above, the proposal is deemed acceptable.
10.0	Summary of Recommendation:
10.1	Approval. Delegated authority is sought for the Director of Planning and Building Control to finalise the conditions.
11.0	DRAFT Conditions:
	<p>1. This planning permission has effect from the date of this decision.</p> <p>Reason: As required by Section 55 of the Planning Act (Northern Ireland) 2011.</p> <p>2. The existing vehicular access arrangements at Boucher Road and Balmoral Road, as generally indicated on Drawing No.03C uploaded to the Planning Portal 7th January 2025, shall be retained, and shall be available for use during all hours of operation of the development.</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>3. The development hereby permitted shall not become operational until hard surfaced areas have been constructed and permanently marked in accordance with Drawing No.12A uploaded to the Planning Portal 7th January 2025 to provide for parking, servicing and traffic circulation within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles in connection with the approved development, and shall be available for use during all hours of operation of the development.</p> <p>Reason: To ensure adequate provision has been made for parking, servicing and traffic circulation within the site.</p> <p>4. The development hereby permitted shall not become operational until cycle parking facilities, both sheltered and unsheltered, have been provided in</p>

accordance with Drawing No.12A uploaded to the Planning Portal 7th January 2025.

Reason: To promote the use of alternative modes of transport in accordance with sustainable transportation principles.

5. The development hereby permitted shall operate in accordance with the Travel Plan Framework uploaded to the Planning Portal 21st June 2024.

Reason: To promote the use of alternative modes of transport in accordance with sustainable transportation principles.

6. The development hereby permitted shall operate in accordance with the Service Management Plan uploaded to the Planning Portal 21st June 2024.

Reason: In the interests of road safety and the convenience of road users.

7. In the event that new contamination or risks to the water environment are encountered which have not previously been identified, works should cease, and the Planning Authority 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/land-contamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

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

8. After completing any remediation works required and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with the Planning Authority. 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/land-contamination-how-to-manage-the-risks>. The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all waste materials and risks and in achieving the remedial objectives.

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

9. In the event that any centralised combustion sources (boilers, CHP, biomass or generators) are proposed and there is a risk of impact at relevant receptor locations as per the criteria detailed within the Environmental Protection UK and Institute of Air Quality Management, Land-use Planning & Development Control: Planning For Air Quality (January 2017), this Service would request that an updated Air Quality Impact Assessment be submitted to and approved in writing by the Planning Authority prior to the installation of the plant. The assessment shall include details of the combustion plant to be installed, to include emission rates and flue termination heights of the proposed combustion systems and must demonstrate that there will be no exceedances of the Air Quality Strategy objectives at relevant human receptor locations, associated with operation of the proposed combustion plant and with the overall development.

Reason: Protection against adverse air quality.

10. No development should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: Approval is required upfront because the design of the drainage is an integral part of the development and its acceptability.

11. No development (other than site clearance, site preparation, demolition and the formation of foundations and trenches) shall commence on site unless a hard and soft landscaping scheme (including the proposed living wall) has been submitted to and approved in writing by the Council. The scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences, other boundary treatment and finished ground levels; details of the hard surface treatment of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to include species, size, position and method of planting of all new trees and shrubs; and a programme of implementation.

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. All hard and soft landscape areas and works shall be permanently retained in accordance with the approved details.

Reason: In the interests of the character and appearance of the area, and to promote sustainable drainage and mitigate against the impacts of climate change. Approval is required upfront because the landscaping is critical to the acceptability of the proposal.

12. No development shall commence on site (other than site clearance, enabling works or works to fulfil this condition) unless a Detailed Remediation Strategy has been submitted to and approved in writing by the Council. The Detailed Remediation Strategy shall consider the RPS Group Plc report entitled '38 Boucher Road, Belfast, Remedial Strategy Report, HCT-00916, Remedial Strategy Report, 38 Boucher Road, Belfast, 1.0, November 2024' and the RPS Ireland Ltd report entitled '38 Boucher Road (Former B&Q), Generic Quantitative Risk Assessment Report, HCT00916 38 Boucher Road, GQRA, Final, September 2024'. The Remediation Strategy shall follow current Environment Agency and CIRIA guidance and British Standards and must demonstrate how the identified contaminant linkages are to be demonstrably broken and no longer pose a potential risk to human health. It must also detail how the proposed remedial works are to be verified.

The development shall not be carried out unless in accordance with the approved Remediation Strategy.

Reason: To ensure that any contamination within the site is appropriately dealt with, in the interests of human health.

	<p>13. Prior to occupation or operation of the development, a Verification Report shall be submitted to and approved in writing by the Council. The Verification Report shall be completed by competent persons and be in accordance with current Environment Agency and CIRIA guidance and British Standards. It must demonstrate that the mitigation measures outlined in the agreed Detailed Remediation Strategy have been implemented, that they have broken the relevant contaminant linkages and that the site no longer poses a potential risk to human health.</p> <p>Reason: To demonstrate that the required remedial measures have been incorporated into the development, in the interests of human health.</p> <p>14. If during the carrying out of the development, new contamination is encountered that has not previously been identified, all related development works shall cease, and the Council shall be notified immediately in writing. No further related development works shall proceed until this new contamination has been fully investigated in accordance with current Environment Agency and CIRIA guidance and British Standards.</p> <p>In the event of unacceptable human health risks being identified, a Remediation Strategy shall be submitted to and agreed in writing by the Council. The Remediation Strategy shall be implemented and subsequently a Verification Report shall be submitted to and agreed in writing by the Council prior to the development being occupied or operated. The Verification Report shall be completed by competent persons and demonstrate the successful completion of the remediation works and that the site is now fit for end-use. The Verification Report shall be in accordance with current Environment Agency and CIRIA guidance and British standards.</p> <p>Reason: To ensure that any contamination within the site is appropriately dealt with, in the interests of human health.</p>
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ANNEX	
Date Valid	9 th September 2025
Date First Advertised	N/A
Date Last Advertised	07/11/2025
Date of Last Neighbour Notification	26/09/2025
Date of EIA Determination	N/A
ES Requested	No