

Development Management Addendum Officer Report Committee Application

Summary	
Committee Meeting Date:	16 August 2016
Application ID:	LA04/2015/1271/F
Proposal: Proposed three storey dwelling	Location: Site adjacent to No. 14 Rosetta Parade Belfast BT7 3HJ
Referral Route: Request by Cllr Michael Long	
Recommendation:	Refusal
Applicant Name and Address: Mr B Rice 2 Mourne Gardens Castlewellan BT31 9BY	Agent Name and Address: Urban Dynamics 46 Scaddy Road Crossgar Downpatrick BT30 8BP
ADDENDUM REPORT	
<p>This application was previously presented to Belfast City Council Planning Committee on 26th July 2016. The planning application was deferred for a site meeting which took place on 3rd August 2016. No new evidence was presented or considered at the site visit.</p>	
Representations	
<p>Further to the 26th July committee meeting four additional representations have been received. The issues raised are as follows:</p>	
<p>(1) Emailed letter dated 1/8/2016 for Dr & Mrs Lavery (No 3 St John's Avenue) responding to Donaldson Planning letter dated 20/7/2016:</p> <ul style="list-style-type: none"> • Site purchased on an assumption as previous permission had expired over two years before current submission • Material change in circumstances – dominance and loss of light not fully considered as no visit to No 3 St John's Ave and no specific assessment • Loss of light was not addressed by previous submissions. Previous references are to direct sunlight but concern is ambient light. • Dominance is not a new issue but was raised in objection to 2008 application (Z/2008/0685/F) • Moving the return does not address the impact on No 3 St John's Ave as the gable is the issue 	
<p>(2) Letter dated 3/8/2016 from Clyde Shanks Planning (on behalf of Dr & Mrs Lavery) rebutting the points made in Donaldson Planning letter dated 20th July 2016:</p>	

- Analysis of PAC decision taking principles by a QC does not elevation PAC decisions to planning case law (**Claremont Mews PAC decision is attached as appendix 2**).
- Two English planning law cases are referenced to support the view that it is acceptable for the Council to come to a different decision to those made by the DOE in 2003 and 2008, irrespective of whether or not there has been a change in circumstances.

(3) Email from Dr Rachael Hutton & Dr Gerard Kelly (No 557 Ormeau Road):

- No reference in case officer's report to objections from residents on Ormeau Road
- Not originally neighbour notified in November 2015
- Loss of sun to back of property and ground floor
- Overlooking
- Concern about timing of parking survey and need to ensure access to laneway which serves the parking area at the rear of their property (cannot park on Ormeau Road because of double yellow lines).

(4) Letter dated 1/8/2016 from Donaldson Planning:

- The site was purchased on the basis that a two and half storey dwelling was twice deemed acceptable by the planning authority
- Issue of dominance must have been considered before as Dr Lavery was an objector to the 2008 application
- Residential amenity of No 3 is already constrained by its design and north facing with no rear garden with limited outlook
- Gable ends meeting rear returns is a common relationship (4 photographs of other examples provided – in the Stranmillis and Ravenhill areas but no addresses provided)
- Any planning appeal would be unjustifiable and his client would seek costs.

Assessment

The current application was submitted on 22/09/2015. Planning permission Z/2008/0685/F expired on 11/08/2013. No evidence has been provided as to when the applicant purchased the site.

It is considered that the proposal will have an unacceptable impact on the residential amenities of the properties at 1-5 St John's Ave by virtue of dominance and loss of light. Loss of sunlight is not the issue for these properties as the rear of these properties face north.

The greatest impact in terms of dominance is from the gable element relative to No 3 St John's Ave. Moving the rear return does not alter this relationship. It is accepted that moving the rear return slightly improves the relationship with No 1 St John's Ave.

Our records indicate that the occupiers of No 557 were neighbour notified on 12 November 2015 and cannot explain why they did not receive a letter. They were also notified on 28 July 2016 about the receipt of amended plans.

The case officer's report does not mention specific letters of objection from residents on Ormeau Road but refers to issues raised, including loss of privacy due to windows overlooking back yards of properties to the rear of the site. Taking into account the separation distance (11m) between the windows on the main rear elevation of the proposed dwelling and the rear boundary of No 557 Ormeau Road, it is considered that the proposal will not result in an unacceptable loss of privacy. It is accepted that there will be some loss of evening sunlight to the rear of this property but this is not considered to be an unacceptable impact.

The issue about the adequacy of the parking survey is addressed in the case officer's report attached as appendix 1 to this report.

The issue of dominance is a material consideration and was considered by DOE Planning. The application falls to be assessed against Policy QD1 of PPS7 and it is the opinion of Belfast City Council Planning that the proposal will have an unacceptable impact by virtue of dominance and loss of light. It is acknowledged that No 3 has no rear garden and the rear of the property faces north. It is for this reason that the loss of light is considered to represent an unacceptable impact. The impact on the kitchen and 1st floor windows is loss of light rather than outlook.

Each application is assessed on its merits and it is not possible to tell from the photographs if these are completely comparable with the current proposal. The photographs seem to relate to historic layout/arrangement as opposed to a proposed infill / new-build development.

Having considered the points in Donaldson Planning's letters dated 20/7/2016 and 1/8/2016 and the letter from Clyde Shanks Planning dated 3/8/2016, and taking into account all relevant material considerations, including the site history, Planning Service remains of the view that the application is contrary to Policy QD 1 of PPS 7 and should be refused as set out in the case officer's report but amended to include loss of light.

Recommendation

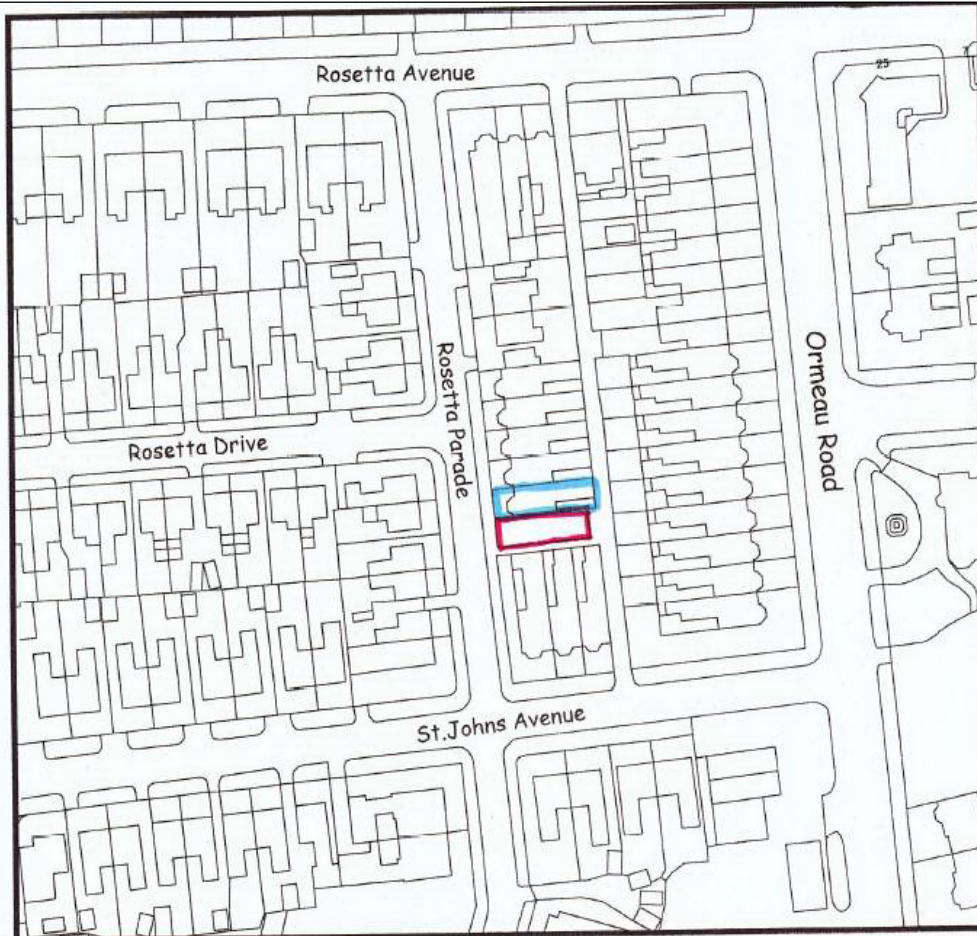
The recommendation remains to refuse as per the original case officer's report attached as an appendix to this addendum report.

Appendix 1: Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 26 July 2016	Item Number: 7i
Application ID: LA04/2015/1271/F	
Proposal: Proposed three storey dwelling	Location: Site adjacent to No. 14 Rosetta Parade Belfast BT7 3HJ
Referral Route: Request by Cllr Michael Long	
Recommendation:	Refusal
Applicant Name and Address: Mr B Rice 2 Mourne Gardens Castlewellan BT31 9BY	Agent Name and Address: Urban Dynamics 46 Scaddy Road Crossgar Downpatrick BT30 8BP
<p>Executive Summary:</p> <p>The application seeks permission for a three storey dwelling.</p> <p>Area Plan The site falls with the Rosetta Area of Townscape Character (BT049).</p> <p>The main issues in this case are:</p> <ul style="list-style-type: none"> • If the proposal sympathetic to the Rosetta Area of Townscape Character • If the proposal sympathetic to the existing built form • If the proposal unduly affects the privacy or amenity of neighbouring residents • Planning history (previous approvals for similar scheme) <p>Ten representations/objections were received. The issues raised by objectors and rebuttal points by the applicant are considered in the case officer's report.</p> <p>The Council's Conservation Officer, Transport NI, Environmental Health Unit and NI Water were consulted and have no objections.</p> <p>The proposed dwelling is considered unacceptable as it would adversely impact on the residential amenity of neighbouring properties by virtue of dominance and loss of light.</p> <p>It is recommended that the application is refused.</p>	

Case Officer Report

Site Location Plan



Characteristics of the Site and Area

1.0	Description of Proposed Development
1.1	The application is for the erection of a 3 storey dwelling. The proposed development comprises the addition of a dwelling to the five existing dwellings in the terrace. Two previous approvals have been granted for a dwelling on the site.
2.0	Description of Site
2.1	The site is located adjacent to no.14 Rosetta Parade, off the Ormeau Road in South Belfast. It is currently occupied by a large single storey garage and a vacant side garden to no.14. The site falls within Area of Townscape Character 049 – Rosetta.

Planning Assessment of Policy and other Material Considerations

3.0	Site History
3.1	Z/2002/2526/F - Adjacent to 14 Rosetta Parade - Erection of terrace house - PERMISSION GRANTED - 19.02.2003
3.2	Z/2008/0685/F - Ground adjacent to 14 Rosetta Parade - Erection of 2.5 storey terrace house - PERMISSION GRANTED - 11.08.2008 (expired 11.08.2013 – current application submitted 22.09.15)

4.0	Policy Framework
4.1	Belfast Metropolitan Area Plan 2015 Planning Policy Statement 6 (Addendum) - Areas of Townscape Character Planning Policy Statement 7 (Addendum) - Residential Extensions and Alterations
5.0	Statutory Consultee Responses
5.1	None
6.0	Non Statutory Consultee Responses
6.1	Belfast City Council Conservation Officer – No objection Transport NI – No objection Belfast City Council Environmental Health Unit – No objection NI Water – No objection
7.0	Representations
7.1	The application has been neighbour notified and advertised in the local press. Ten comments have been received. Issues raised in objections are as follows:
7.2	<ul style="list-style-type: none"> • Loss of privacy due to windows directly overlooking the back yards of properties to rear of site • Potential to promote nuisance/crime due to narrowing of alleyway • Exacerbation of issues such as traffic, street safety, and parking • The proposal is contrary to PPS7 QD1 in that it is not a significant gap site • Dominance - the proposal would result in a substantial gable being located less than 2m from the rear year of no.3 St John's Avenue; • Failure to notify neighbours • Possible potential for use as a House of Multiple Occupation • Reduction in direct and indirect sunlight and overshadowing • Density and crowding – the proposal is 'shoe-horning' an opportunistic property • Construction impacts – the construction impact of this development would be entirely unacceptable
7.3	The applicant submitted a rebuttal report Response to the objection points raised under the following headings: <ul style="list-style-type: none"> • Loss of privacy • Dominance • Loss of natural light • Increased likelihood of nuisance or crime • Traffic/street safety
7.4	The issues raised above are addressed in the assessment below.
8.0	Other Material Considerations
8.1	The site has two previous approvals for similar dwellings (see above).
9.0	Assessment

9.1	PPS 7 Addendum 'Safeguarding the quality of Established Residential Areas' sets out the Council's planning policy for achieving quality in new residential development.
9.2	<p>Policy QD 1 of PPS 7 (Addendum) states that the design and layout of residential development should be based on an overall concept that draws upon the positive aspects of the character and appearance of the surrounding area. It states that development which would result in unacceptable damage to the local character, environmental quality or residential amenity of established residential areas will not be permitted and requires proposals for such development to meet all of a number of listed criteria.</p> <ul style="list-style-type: none"> (a) Criterion (a) states that new development should respect the surrounding context and should be appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings and structures and landscaped and hard surfaced areas. Planning approval for an almost identical scheme was approved under Z/2008/0685/F approximately 6 years ago. The new dwelling will maintain the environmental quality, local character and privacy of existing residents, creating a safe environment with clearly defined private space and appropriate garden & amenity space identical to the neighbouring dwellings forming Rosetta Parade. A distinct building line along Rosetta Parade is maintained whilst the proposed width and roof line reflect the neighbouring terrace dwellings. As the proposed design is very similar to the existing row of dwellings it is in keeping with the surrounding area. (b) The proposal will not result in any harm to features of the archaeological or built heritage. There are no significant landscape features in need of protection. (c) Criterion (c) requires that any proposed development allows for the adequate provision of private amenity space. There are no proposals for extensive landscaping to be carried out as the existing rear and side yards to neighbouring dwellings are enclosed with either 2m high timber fencing or facing brick walls, similar to the proposed scheme. The small front garden (identical to the adjacent dwellings) will contain a paved pathway from Rosetta Parade and a small grass area, as per the Site Layout Plan. (d) As a proposal for a single dwelling there is no onus on the developer to provide neighbourhood facilities. (e) A movement pattern must be provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures. Level access will be created to the dwelling via specific levelling of the hard surfaces on the approaching footpath. The site is completely urban, hence the adjacent Rosetta Parade is of sufficient width to allow emergency vehicles and delivery lorries, etc, to park, enter, turn and exit without any difficulties. All hard surfacing, paths and building entrances will be fully compliant with Building Regulations Part R (Disability Access). The proposal therefore complies with this criterion. (f) Adequate and appropriate provision is made for parking. On street car parking is appropriate in this urban context as a parking survey has been carried out and the results confirm the availability of spaces along Rosetta Parade, thus reflecting the surrounding provision. Transport NI was consulted and offered no objection (with the attachment of a condition and informatives). The parking survey submitted was compliant with the requirements of Transport NI and is considered sound and acceptable. In response to objections to the timing and quality of the survey Transport NI provided the following comment: "The parking survey supplied by the applicant satisfied Transport NI in that it shows an availability of parking spaces within a reasonable distance from the application site. The survey

was undertaken over a period of 1 week, both in mornings and evenings. On each occasion sufficient spare parking capacity was demonstrated as being available. If we ignore the 2 pictures taken outside the suggested peak residential parking periods (between 7pm and 7am), all others are sufficient. Transport Ni is satisfied with the evidence supplied in relation to the parking and our opinion in reply dated 17/2/16 is still applicable.”

(g) The design of the development draws upon the best local traditions of form, materials and detailing; As highlighted above the design of the proposed dwelling is considered to be in keeping with the surrounding area.

(h) Criterion (h) requires that development proposals do not create conflict with adjacent land uses or give rise to adverse effect on existing properties in terms of overlooking, loss of light, overshadowing, noise and other disturbance.

- Overlooking: The gable elevation of the proposed dwelling adjacent to No.14 Rosetta Parade will contain 4no. windows, two of which belong to Bedrooms while two of which will contain obscure glass as they facilitate light into Bathrooms. The location of the proposed Bedroom windows within the gable wall will not create a loss of privacy or overlook the rear yards to Nos.1, 3 & 5 St John's Avenue as they have been positioned to line up with the rear gables of the 2.5 storey high extensions which all but fill the rear yards of the aforementioned homes.
- Loss of light/overshadowing: The dwellings on St John's Avenue are orientated to the south, they receive natural light on the eastern gable, main frontage and western gable/rear yards during the morning, afternoon and evening respectively, with the rear yards being in constant shadow throughout the entire day due to the height of surrounding boundary walls/fencing, etc. Window openings within the existing rear extensions of Nos.1, 3 & 5 St John's Avenue are orientated entirely to the east, relying on the afternoon/evening sun for natural light; hence the proposed dwelling to the north will not create a loss of light given its location. Shadow from the proposed new dwelling will only fall to the north, affecting the proposed rear yard only. As regards non-direct light, the proposed gable end will have a considerable impact on the rear of no.3 St John's Avenue. A site visit carried out involved visiting this property and assessing the impact of the proposal on light getting into the rear yard and rear windows of no.3. While it is the case that the rear of the property is already affected by the gable of no.14 Rosetta Parade the proposal will exacerbate this.
- While issues of potential overlooking and direct overshadowing can be dismissed as set out above, the issue of dominance of the proposed gable over the rear of the adjacent properties along St John's Avenue is a key concern. While reference was made to dominance in the previous approvals it is not considered that adequate assessment was given to the issue. Site visits to view the proposal from within the boundary of no.3 St John's Avenue were carried out by myself and a Principle Planner and it is considered that the proximity of the proposed gable will have a negative impact on the residential amenity of the adjacent properties 1, 3 and 5 St John's Avenue by virtue of over-dominance and loss of light. It is therefore considered that the proposal is contrary to criterion (h) of QD 1

9.3

PPS 7 Addendum Policy LC1 is also relevant in the assessment of this application: Protecting the local character, environmental quality and residential amenity. As a single dwelling has already been approved on the site there is no additional increase in density and environmental quality of the area will not be further eroded.

9.4	<p>The proposal falls within Rosetta Area of Townscape Character in BMAP 2015 – Designation BT 049 – Rosetta (Part 4 Volume 2 – Belfast). Our ATC Officer was consulted. A summary of his points are as follows:</p> <ul style="list-style-type: none"> • “In my opinion the proposed plot/footprint to one space ratio to be created would be reasonable/acceptable in the context of the terrace adjacent. The existing dwelling is left with a plot size/footprint to open space ratio identical/similar to those of the terrace adjacent and therefore remains consistent with local/immediate context. • “The context is one of terraces dwellings with semi detached opposite. The dwellings are faced in red brick and render with pitched slated and red tile roofs. There is generally a high solid to void and verticality of bays and openings – in terms of proportion. Roofscapes feature silhouettes broken by gables, lucarnes and chimneys. Facades are modulated with projecting gabled bays, and bay windows (canted and bowed) • “The proposed dwelling will replicate the form of the dwellings to the terrace adjacent – canted bay window, string coursing, eaves, proportion of windows etc. The corbels enclosing the eaves to the existing terrace will be retained. • “The proposal will obscure a view from Rosetta Parade of the steeple of St John’s Church; however this is balanced by the fact that it will screen the rears of the terraces along the Ormeau Road. Given the above there is no objection from a conservation viewpoint.”
9.5	<p>The Council’s Environmental Health Unit was consulted and offered no objection (with the attachment of informatives). Reference was made to the issue of air quality but no requirements were made as regards measures to be taken.</p>
9.6	<p><u>Comparison with previous approval Z/2008/0685/F:</u> - The current application has a footprint measuring 11m from front to rear and 5.8m wide. Its rear return is 4.6m long and 4m wide. The main roof height is 10.7m with the rear return height 6.7m, similar to the adjacent dwelling. The gable has a first floor en suite window and the rear return has two first floor side bedroom windows. The previous dwelling approved had a footprint 9.4m long from front to rear and 5.8m wide. It had a rear return footprint 7.8m long and 4m wide. The height of the main part of the building and return was the same as the adjacent dwelling. The gable wall had one first floor en suite window and the rear return had two bedroom windows. While the policy has not changed since this approval was granted it is not considered that the issue of dominance was adequately assessed. One of the objectors raised the point that no site visits had previously been carried out to view the potential impact of the proposal from their property. Following site visits to view the proposal from within the boundary of no.3 St John’s Avenue by myself and a Principle Planner, it was clear to envisage the dominant affect of the proposed gable, it being a three storey structure 2m away from the rear boundary wall of the adjacent properties.</p>
9.7	<p>As regards failure to notify the property at no.559 Ormeau Road of the application, ‘neighbouring land’ is defined as ‘land which directly adjoins the development site or which would adjoin it but for an entry or road less than 20m in width.’ No.559 does not directly adjoin the proposal site and all properties which do were notified. Neighbour notification was therefore carried out in accordance with requirements.</p>
9.8	
9.9	<p>NI Water was consulted and offered no objection (with conditions).</p>
	<p>Taking into consideration all of the factors in this proposal it comes down to judging whether it is considered acceptable. While it is felt that the proposal meets most of the relevant policy requirements for a new dwelling it does not comply with criterion (h) of</p>

	policy QD 1 of Planning Policy Statement 7 (Addendum) – Safeguarding the Character of Established Residential Areas. For this reason I consider the proposal unacceptable and recommend refusal.
10.0	Summary of Recommendation: Refusal
11.0	Reason for refusal
11.1	The proposal is contrary to criterion (h) of policy QD 1 of Planning Policy Statement 7 (Addendum) – Safeguarding the Character of Established Residential Areas – in that the development would cause and adverse effect on neighbouring properties in terms of unacceptable dominance and loss of light.
12.0	Notification to Department (if relevant) N/A
13.0	Representations from Elected members:
13.1	A request for the application to be brought to the Planning Committee was received from Cllr Long. A request was also received from Cllr McAteer for an office meeting to be arranged with objectors. This meeting occurred, Cllr McAteer took no part in the meeting.

ANNEX

Date Valid	27 October 2015
Date First Advertised	13 November 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier 1 St. Johns Avenue, Ballynafoy, Belfast, Down, BT7 3JE The Owner/Occupier 11 Rosetta Parade, Ballynafoy, Belfast, Down, BT7 3HJ The Owner/Occupier 13 Rosetta Parade, Ballynafoy, Belfast, Down, BT7 3HJ The Owner/Occupier 14 Rosetta Parade, Ballynafoy, Belfast, Down, BT7 3HJ The Owner/Occupier 3 St. Johns Avenue, Ballynafoy, Belfast, Down, BT7 3JE The Owner/Occupier 5 St. Johns Avenue, Ballynafoy, Belfast, Down, BT7 3JE The Owner/Occupier 555 Ormeau Road, Ballynafoy, Ormeau, Belfast, Down, BT7 3JA The Owner/Occupier 557 Ormeau Road, Ballynafoy, Ormeau, Belfast, Down, BT7 3JA	
Date of Last Neighbour Notification	28 March 2016
Date of EIA Determination	N/A
ES Requested	No
Drawing Numbers and Title 01 – Site location map and proposed elevations and floor plans 02A – Existing and proposed elevations and floor plans	

Appendix2: PAC Decision – Claremont Mews

Appeal Reference: 2015/A0053.
Appeal by: GMK Construction.
Subject of Appeal: The refusal of full planning permission.
Proposed Development: Proposed apartment block with 6 apartments with ground floor parking.
Location: 2 Claremont Mews, Belfast.
Planning Authority: Department of the Environment (NI).
Application Reference: Z/2013/1465/F.
Procedure: Informal Hearing on 17th December 2015.
Decision by: Commissioner Damien Hannon dated 18th January 2016.

Decision

1. The appeal is allowed and full planning permission is granted subject to the conditions detailed below.

Reasons

2. This appeal raises the matters of the impact of the proposal on both the character and built form of an Area of Townscape Character (ATC) and the setting of listed buildings. Other main issues raised relate to road safety and to whether the proposed development would contribute to a quality residential environment. The policy context is provided by the statutory Belfast Metropolitan Area Plan 2015 (BMAP), Planning Policy Statement 6, Planning, Archaeology and the Built Heritage (PPS 6), the Addendum to PPS 6 entitled 'Areas of Townscape Character (PPS 6 Addendum), Planning Policy Statement 7 – Quality Residential Environments (PPS 7) and Planning Policy Statement 3 - Access, Movement and Parking (PPS 3).
3. The appeal site lies within the BT 042 Lower Lisburn Road Area of Townscape Character (ATC), as designated in BMAP. While BMAP contains no specific policies pertaining to the ATC, it states that development proposals within ATCs will be assessed in accordance with prevailing regional planning policy currently set out in the PPS 6 Addendum and supplementary planning guidance. Although paragraph 2.11 of the PPS 6 Addendum states that the Planning Authority will draw up supplementary planning guidance for individual ATCs, no such guidance has been prepared in respect of the Lower Lisburn Road ATC.
4. Policy ATC 2 of the PPS 6 Addendum states that the Planning Authority will only permit development proposals in an ATC where the development maintains or enhances its overall character and respects the built form of the area. While the Planning Authority raised no objection to the proposal regarding its impact on the

ATC, a third party made a written representation in this respect stating "Planning Service by previously permitting a change of use thereby contravened the need to retain the ATC mix need". The third party was not present at the hearing to provide clarification as to the exact nature of his objection. However, from the papers, I consider it to relate to an alleged detrimental impact on the ATC brought about by the introduction of more residential development to replace existing non-residential development. However, Policy ATC 2 seeks to protect the distinctive character and intrinsic qualities of ATCs. ATCs, by definition are concerned with townscape rather than land use and in the context of the evidence presented, this objection of a third party is not sustained.

5. The appellant stated that the buildings which comprised Nos. 33 – 35 University Road were removed from the list following a fire and subsequent redevelopment. This account appears plausible given my inspection of the existing buildings, their design and patina. The Planning Authority was unable to offer any evidence to refute this statement and in these circumstances I shall proceed on the basis that Nos. 33 – 35 are not listed buildings.
6. Nos. 47-43 are listed and the Planning Authority objected on the grounds that the proposal would adversely affect their wider setting. At the hearing, the Planning Authority clarified their position in respect of this objection. They stated that they had no issue regarding materials and design but added that because of its size, the proposed building would appear as over dominant and when viewed in the context of the listed building, would present an inharmonious relationship, detrimental to its setting.
7. Policy BH 11 of PPS 6 is entitled 'Development Affecting the Setting of a Listed Building' and states that development which would adversely affect the setting of a listed building will not normally be permitted. It further states that development proposals will normally only be considered appropriate where the detailed design respects the listed building in terms of scale, height, massing and alignment. The 2½ storey listed terrace of former dwellings is now used for mainly restaurant purposes. I consider the architectural and historic merit of these buildings to relate, in the main, to the design of their front façade and the aspect this presents onto University Road. The proposed building would be located at the rear of the listed buildings across an alleyway (Claremont Mews) and would not be visible from University Road. The elevation of the proposed building facing Claremont Mews would be some 4.6m higher than that of the existing building at the appeal site but would be no higher than the listed buildings. The existing building is derelict and unattractive and while the proposed elevation onto Claremont Mews would be of greater mass than the existing, I do not consider that it would constitute a disenchantment in visual terms. Furthermore, views of the proposed building in the context of the listed terrace would be restricted to the rear of the listed buildings and would be available only from Claremont Mews.
8. Paragraph 6.31 of Policy BH 11 states that the extent to which proposals will be required to comply with the criteria in Policy BH 11 will be influenced by a variety of factors including the character and quality of the listed building, the proximity of the proposal to it, the character and quality of the setting and the extent to which the proposed development and the listed building will be seen in juxtaposition. Given that the proposed building would cause no visual detriment,

its juxtaposition with the rear of the listed terrace, the poor environmental quality of the surroundings and its limited degree of visibility from public viewpoints, I conclude that it would have no adverse affect on the setting of a listed building. Objection to the proposal on grounds on its impact on the setting of listed buildings and the Planning Authority's second reason for refusal based on Policy BH 11 of PPS 6 is not sustained.

9. The proposal incorporates adequate provision for on-site parking and access arrangements in accordance with adopted guidance. Provision and retention of such facilities can be secured by conditions and in these circumstances, the objection of third parties on road safety grounds is not therefore sustained.
10. At the hearing the Planning Authority confirmed that they withdrew their objection based on Development Control Advice Note 8 - Housing in Existing Urban Areas (DCAN 8). Policy QD 1 of PPS 7 is entitled Quality in New Residential Development and states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment and that all proposals for residential development will be expected to conform to all of 9 listed criteria. The Planning Authority argued that the proposal would run contrary to Policy QD 1 as it would fail to conform to criteria (a), (c) and (h) of that policy.
11. Criterion (e) of Policy QD1 requires that development proposals incorporate a movement pattern that meets the needs of people whose mobility is impaired. While he did not refer directly to this policy criterion, a third party objected on the grounds that the proposal made no provision for disabled access to upper floors. There is however, no planning policy requirement that all schemes for private dwellings should be wheelchair accessible. Furthermore, such provision as required under building regulations legislation, pursuant to this matter, could be delivered through minor amendment to the scheme. Objection on these grounds is not sustained.
12. Criterion (a) of Policy QD1 requires that development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. I have already concluded that the proposed building would cause no visual detriment and therefore further conclude that it would respect its surrounding context and that criterion (a) would be complied with.
13. Criterion (c) requires that adequate provision is made for private open space and landscaped areas as an integral part of the development. It adds that where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area. The proposal involves demolition of and replacement of an existing building that covers the vast majority of the site and there is no provision for boundary planting that could soften its impact. Paragraph 4.27 of QD 1 states that the Planning Authority attaches particular importance to using 'greening' to raise the quality of residential development and assist in the promotion of biodiversity. The failure of the appeal scheme to incorporate boundary or any significant 'greening' planting marks a missed opportunity to enhance quality and promote biodiversity. However, given that the appeal site it currently covered in built development and set within a dense urban

context devoid of planting, I do not judge it appropriate in this case, that the absence of formal boundary planting should be critical to the scheme. Objection in this respect and based on criterion (c) is not sustained.

14. Private amenity space, accessible to all residents, is proposed in the form of a first floor courtyard with planters. Paragraph 4.31 of Policy QD1 states that developers should make adequate provision for private open space in the form of gardens, patios, balconies or terraces, depending on the characteristics of the development proposed and the surrounding context. It adds that for apartment developments, private open space may be provided in the form of communal gardens, where appropriate management arrangements are agreed. The courtyard is overlooked by windows of every apartment, notwithstanding that some of these are to be angled. Also, the more recent apartment development surrounding the appeal site on two sides accommodates little or no private amenity space. Nevertheless, I consider the level to which the proposed courtyard would be overlooked to render it inadequate as private amenity space and consequently, the proposal would fail criterion (c) of Policy QD1.
15. Criterion (h) states that the design and layout should not create conflict with adjacent land uses or cause unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. I have been given no persuasive evidence that the scheme, because of its design, would give rise to unacceptable levels of noise, rubbish accumulation or fire risk and the objection of a third party in respect of these matters is not sustained. All of the windows in the south elevation facing residential properties in Camden Street light corridors as opposed to habitable rooms and the appellant suggested that they could be fitted with obscure glass, secured by condition. Nevertheless, these first, second and third floors windows, given their number and proximity to rear habitable room windows of properties in Camden Street, would give the impression of overlooking that would have a detrimental impact on the residential amenity of occupants of these properties.
16. The north elevation of the proposed building would be 4.5m higher than the existing building for a stretch of some 6m. This increase in massing would represent an unacceptable loss of outlook to residents of apartments at the western end of Claremont Court, which, although set at a slightly oblique angle, would be located some 5m away. Criteria (h) would be offended in respect of residential amenity in terms of both overlooking and over dominance.
17. I conclude that it has not been demonstrated that the proposal would create a quality and sustainable residential environment and that it would fail to comply criteria (c) and (h) of Policy QD 1. The Planning Authority's first reason for refusal based on Policy QD1 is therefore sustained to this extent.
18. Planning permission was granted in August 2007 for a development that the Planning Authority conceded was not materially different to the appeal proposal. This permission expired in 2012. The Planning Authority argued that a change in circumstances had taken place in that the second Addendum to PPS 7 entitled 'Safeguarding the Character of Established Residential Areas' was published in August 2010, after the initial grant of permission. I do not accept the Planning Authority's argument that the second addendum strengthens or changes the policy relevant to consideration of the appeal proposal. It is stated in the preamble that the Addendum provides additional planning policies on the

protection of local character, environmental quality and residential amenity within established residential areas, villages and smaller settlements.

19. A definition of the term 'established residential area' provided in Annex E of the Addendum reads "For the purposes of this Addendum and in order to clarify the existing application of the term, established residential areas are normally taken to mean residential neighbourhoods dominated by medium to low density single family housing with associated private amenity space or gardens. These areas may include buildings in commercial, retail or leisure services use, usually clustered together and proportionate in scale to the size of the neighbourhood being served". The area surrounding the appeal site is dominated by high density residential development, little of which is given over to single family housing with associated amenity space or gardens.
20. Because the term 'normally taken to mean' is used, I accept that established residential areas are not exclusively residential neighbourhoods dominated by medium to low density single family housing. However, it is also stated in Annex E that in recognition of the desirability of promoting increased density housing in appropriate locations, Policy LC 1, which deals with new buildings in established residential areas, will not apply to previously developed land / brownfield land or along key and link transport corridors (including designated arterial routes) within cities and large towns. The appeal site falls within the definition of previously developed land / brownfield land as set out in Annex C. Also, although not designated as such, both University and Lisburn Roads, to which the appeal site lies adjacent, are referred to in BMAP as arterial routes in the context of the Arterial Routes Strategy in the Northern Ireland Regional Development Strategy 2035 (RDS).
21. Taking all the relevant factors in the round, I conclude that the appeal site does not lie within an established residential area as envisaged by the PPS 7 Addendum and that even if it were it would constitute an exception to which Policy LC 1 does not apply. In these circumstances I conclude that the second Addendum does not apply to the appeal proposal and that the Planning Authority has failed to demonstrate that any relevant change in circumstances has occurred since the previous grant of approval. Consequently, I further judge the site's planning history to be a material consideration that outweighs the failure of the proposal to comply with Policy QD 1 of PPS 7. Planning permission is granted subject to the conditions set out below.

Conditions

- (1) Prior to occupation of the relevant apartments, all windows in the South elevation of the building shall be fitted with obscure glass which shall be permanently retained.
- (2) The car parking spaces and access arrangements as illustrated in the 1:100 and 1:1250 scale Proposed Apartment Block, Floor Plans and Location Plan numbered 2518/P01.1B REV B and submitted by the appellant with their Statement of Case shall be provided prior to occupation of any apartment and shall be permanently retained.

- (3) Before any apartment is occupied, a landscape management plan shall be submitted to and approved by the Planning Authority setting out the period of the plan, long-term objectives, management responsibilities, performance measures and maintenance schedules for the landscaped amenity courtyard as illustrated in the 1:100 and 1:1250 scale Proposed Apartment Block, Floor Plans and Location Plan numbered 2518/P01.1B REV B and submitted by the appellant with their Statement of Case. The landscape management plan shall be carried out as approved.
- (4) The development shall be begun before the expiration of five years from the date of this permission.

This decision relates to the following drawings:-

1:100 and 1:1250 scale Existing Apartment Block, Floor Plans, Elevation and Location numbered 01 by the Area Planning Office and received by them on 16th December 2013.

1:100 and 1:1250 scale Proposed Apartment Block, Floor Plans and Location Plan numbered 2518/P01.1B REV B and submitted by the appellant with their Statement of Case.

1:100 scale Proposed Apartment Block, Proposed Elevations numbered 2518/P01.2B REV B and submitted by the appellant with their Statement of Case.

1:500:200 scale Site Section and Layout numbered 2518/SS01A Rev A and submitted by the appellant with their Statement of Case.

1:500 scale Site Layout and Context Elevation numbered 2518/L01B Rev B and submitted by the appellant with their Statement of Case.

COMMISSIONER DAMIEN HANNON