

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date: 13 Feb 2018</b>	
<b>Application ID:</b> LA04/2017/2361/F	
<b>Proposal:</b> Reconfiguration of interior to provide 16 bar/restaurant units, health club, arena hospitality suite, climbing wall, refurbishment of Pavilion interior, new foyer, access deck bridge, new front façade & building access strategy under separate planning permission refurbishment of reception & other ancillary works.	<b>Location:</b> The Odyssey Pavilion 2 Queens Quay Belfast BT3 9QQ
<b>Referral Route:</b> Major Application	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Matagorda 2 (Isle Of Man) c/o 1-CAP Group Ltd Bridge Chambers West Quay Ramsey Isle Of Man IM8 1DL	<b>Agent Name and Address:</b> Turley Hamilton House 3 Joy Street Belfast BT2 8LE
<b>Representation from elected member</b>	None
<p><b>Executive Summary:</b> Full application seeking planning permission for the internal reconfiguration of the Odyssey Complex to provide 16No. bar / restaurant units, health club, arena hospitality suite, climbing wall, refurbishment of Pavilion interior, new foyer and access deck bridge.</p> <p>The key issues in the assessment of the proposed development include:</p> <ul style="list-style-type: none"> <li>- The acceptability of internal reconfiguration and changes of use</li> <li>- Design of new façade</li> <li>- Impact on designated sites</li> <li>- Traffic and Parking</li> <li>- Contaminated Land</li> <li>- Pre-application Community Consultation</li> </ul> <p>The site is located within the development limits of the Belfast Metropolitan Area and within the City Centre boundary as defined in the draft Belfast Metropolitan Area Plan (dBMAP). The site is unzoned in dBMAP and falls within the Odyssey/Tullycarnet Park/Ormeau Park and Odyssey/Stormont Community Gateways in the version of dBMAP purported to be adopted.</p> <p>The proposal has been assessed against the following Policies – Strategic Planning Policy for Northern Ireland, Planning Policy Statement 2 – ‘Natural Heritage’, Planning Policy Statement 3 - Access Movement and Parking and Planning Policy Statement 4 – ‘Planning and Economic Development’.</p>	

DFI Roads has no objections to the proposal

Environmental Health, Shared Environmental Services and NIEA have no objections subject to a number of planning conditions to ensure appropriate identification and remediation of unidentified contamination and the retention of a suitable buffer between service areas and the River Lagan.

Having had regard to the extant development plan, the draft development plan, relevant planning policies, and other material considerations the proposed change of use and all additional elements both individually and cumulatively are considered acceptable in what is a city centre location.

There has been no representations received from members of the public.

**Recommendation**

Approve subject to conditions set out below in the case officer report.

Committee is requested to delegate the consideration of the final wording of the conditions to the Director of Planning and Place.

## Case Officer Report

### Site Location Plan



**KEY**

Ground Floor, First Floor and Second Floor Plans as proposed

Green – Bowling Alley

Blue – Health Club

Pink – Cinema

Orange – Climbing Wall

1.0	<b>Description of Proposed Development</b>
1.1	Reconfiguration of interior to provide 16No. bar / restaurant units, health club, arena hospitality suite, climbing wall, refurbishment of Pavilion interior, new foyer, access deck bridge, new front façade & building access strategy under separate planning permission refurbishment of reception & other ancillary works. The general layout is shown on the floor plans above.
1.2	The main physical additions are the introduction of a Health Club and Climbing Wall. The main loss of bar/ restaurant space will be experienced at first floor level to make way for the new health club. The 2 <sup>nd</sup> floor (cinema) remains virtually unchanged.
1.3	The overall net internal floorspace of the Pavilion will be increased by approximately 2,000 sq. metres. This will be across a number of uses, more notably a new bar with a floor area of 618 sq. m, a new health club with a floor area of 1,463 sq. m and a climbing wall with a floor area of 267 sq.m.
1.5	The number of car parking spaces will remain the same, no additional parking has been proposed.
2.0	<b>Description of Site</b>
2.1	Established mixed use entertainment complex with expansive car park area to other side of main road.
2.2	The site is located within the Development Limits of Belfast in the Belfast Urban Area Plan and the Draft Belfast Metropolitan Area Plan 2015, and within the city centre.
Planning Assessment of Policy and other Material Considerations	
3.0	<b>Planning History</b>
3.1	LA04/2017/0753/F - New main entrance to Odyssey Pavilion, extension/reconfiguration of adjoining ground and first floor units, alterations to southern elevation façade treatment, provision of external seating terraces and upgrade of public realm (approved 6 <sup>th</sup> October 2017).
4.0	<b>Policy Framework</b>
4.1	Belfast Urban Area Plan Draft Belfast Metropolitan Area Plan 2015
4.2	Strategic Planning Policy Statement for Northern Ireland Planning Policy Statement 3 - Access, Movement and Parking Planning Policy Statement 4 – Planning and Economic Development
5.0	<b>Statutory Consultees</b> DFI Roads – No objections subject to conditions WaterNI – No objections DAERA – No objections subject to conditions Shared Environmental Services – No objections subject to conditions
6.0	<b>Non-Statutory Consultees</b> Environmental Health BCC – No objection subject to conditions
7.0	<b>Representations</b> None received
8.0	<b>Other Material Considerations</b> N/A
9.0	<b>Assessment</b> The key issues in the assessment of the proposed development include: - The acceptability of internal reconfiguration and change of use

	<ul style="list-style-type: none"> <li>- Design of new façade</li> <li>- Impact on designated sites</li> <li>- Traffic and Parking</li> <li>- Contaminated Land</li> <li>- Pre-application Community Consultation</li> </ul>
9.1	<p><b>Principle of reconfiguration and change of use</b></p> <p>Following the recent Court of Appeal decision on BMAP, the extant development plan is now the BUAP. However, given the stage at which the Draft BMAP had reached pre-adoption through a period of independent examination, the policies within the Draft BMAP still carry weight and are a material consideration in the determination of planning applications. The weight to be afforded is a matter of judgement for the decision maker.</p>
9.2	<p>The site is located within the development limits of Belfast within the Belfast Urban Area Plan and Draft Belfast Metropolitan Area Plan. The presumption is therefore in favour of development subject to the planning considerations detailed below.</p>
9.3	<p>There is no significant additional floor area being created as a result of the proposal, simply a reconfiguration of the existing layout within the Odyssey complex. The proposal will help regenerate this established mixed use complex. All proposed uses are considered acceptable in principle in this city centre location.</p>
9.4	<p><b>Design of new Façade</b></p> <p>The changes to the external design, with the provision of the new entrance, including reconfiguration of adjoining ground and first floor units to the front of the building, were approved under the previous planning application for Phase 1 – LA04/2017/0753/F.</p>
9.5	<p><b>Impact on Designated Sites</b></p> <p>The proposed development is just over 2km from designated sites of national, European and international importance:</p> <ul style="list-style-type: none"> <li>- Inner and Outer Belfast Lough ASSI which is declared under the Environment Order (Northern Ireland) 2002;</li> <li>- Belfast Lough SPA and Belfast Lough Open Water SPA both of which are designated under the EC Birds Directive (79/409/EEC on the conservation of wild birds);</li> <li>- Belfast Lough Ramsar Site which is designated under the Ramsar Convention; and</li> <li>- East Coast Marine pSPA all of which are designated under the EC Birds Directive (79/409/EEC on the conservation of wild birds);</li> </ul>
9.6	<p>The proposed development is over 2km from the nearest designated site, Inner Belfast Lough ASSI and the nearest seal haul out site within Belfast Harbour. As the proposal is a refurbishment of an existing building, Marine and Fisheries Division are content that the proposal will not have any impact on marine features.</p>
9.7	<p>In addition to designated sites, marine mammals are afforded protection throughout their range through the following nature conservation legislation:</p> <ul style="list-style-type: none"> <li>- The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended); and</li> <li>- The Wildlife (Northern Ireland) Order 1985 (as amended).</li> </ul> <p>This includes marine mammals such as cetaceans and seals, both of which are present within Belfast Lough, particularly seals. There are seal haul out sites within Belfast Lough. All plans/projects within or adjacent to the marine environment must therefore provide appropriate mitigation, if required. This would be applicable if significant noisy works were being carried out, such as piling.</p>
9.8	<p>Natural Environment Division has considered the impacts of the proposal on the designated</p>

	<p>sites and advises that due regard is given, by the competent authority, to the recommendation outlined when undertaking a Habitats Regulations Assessment on Belfast Lough SPA/Ramsar, Belfast Lough Open Water SPA and East Coast (NI) Marine Proposed SPA to ensure compliance with the requirements of the Habitats Directive and The Environment (Northern Ireland) Order 2002.</p>
9.9	<p>Shared Environmental Services have considered the planning application in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Belfast City Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.</p>
9.10	<p>Having considered the nature, scale, timing, duration and location of the project Shared Environmental Services have concluded that, provided the mitigation, as detailed below in 11.2, is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.</p>
9.11	<p><b>Traffic and Parking</b></p> <p>No amendments are proposed to the existing car parking provision or access arrangements. The Transport Assessment Form has stated that given the only 'new uses' proposed (Health Club and Climbing Wall) are leisure uses they are off peak generators and will also benefit from shared trips with other existing uses within the Odyssey and Titanic Quarter. The Assessment goes on to state that car parking will be accommodated within the existing Odyssey car park.</p>
9.12	<p>The proposed development will be served by an established pedestrian, cycle, public transport and private vehicle network. DFI Roads have confirmed they have no objections to the proposal, no conditions have been suggested.</p>
9.13	<p><b>Contaminated Land</b></p> <p>Environmental Health and DAERA Regulation Unit (RU) (Land and Groundwater Team) note that previous uses of the application site LA04/2017/2361/F and/or the adjacent site(s) may have caused the land to be affected by contamination.</p>
9.14	<p>A Preliminary Risk Assessment was submitted: 'Matagorda 2, Odyssey Pavilion, Interior Reconfiguration, Preliminary Risk Assessment Report, Ref: IBR1037/Phase 2, prepared by RPS'. Dated 5/11/2017. This report concludes that although exceedances of relevant soil guideline values for contaminants of concern were noted in boreholes close to the proposed development, the nature of the development and construction methodology would result in no pathways being introduced.</p>
9.15	<p>Environmental Health and NIEA Land and Groundwater Team have no objections to the development provided conditions are placed on any Planning Decision Notice as recommended below at 11.3 – 11.5.</p>
9.16	<p><b>Odour</b></p> <p>Environmental Health Service has considered the ventilation strategy submitted in support of this application – 'Odyssey Pavilion Ventilation Strategy, Revision – A L1978004, prepared by Lehding Services Design'. Dated 11/09/2017.</p>
9.17	<p>The above strategy outlines the odour abatement requirements for existing food premises within the Odyssey Arena. It is understood that following the refurbishment, additional businesses and end uses shall be present within the building. Environmental Health Service have therefore requested that the condition detailed at 11.6 is attached to the decision notice should approval be forthcoming.</p>

<p>9.18</p>	<p><b>Noise</b> Environmental Health have noted that additional plant and equipment shall be required for the new and existing end uses within the development. Environmental Health have requested the condition detailed at 11.7 is attached to the decision notice should approval be forthcoming. This will require the developer to demonstrate that the plant they eventually chose would not cause a problem at the nearest noise sensitive premises and no loss of amenity is experienced.</p>
<p>9.19</p>	<p><b>Pre-application Community Consultation</b> For applications that fall within the major category as prescribed in the Development Management Regulations, Section 27 of the Planning Act (NI) 2011 places a statutory duty on applicant for planning permission to consult the community in advance of submitting an application.</p>
<p>9.20</p>	<p>Section 27 also requires that a prospective applicant, prior to submitting a major applications must give notice, known as a 'Proposal of Application Notice' (PAN) that an application for planning permission for the development is to be submitted. A PAN (LA04/2017/1160/PAN) was submitted to the Council on 24<sup>th</sup> May 2017.</p>
<p>9.21</p>	<p>Where pre-application community consultation has been required and a PAN has been submitted at least 12 weeks in advance of the application being submitted, the applicant must prepare a pre-application community consultation report to accompany the planning application.</p>
<p>9.22</p>	<p>A Pre Application Community Consultation Report (October 2017) has been submitted in support of this application. The Report has confirmed the following:</p> <ul style="list-style-type: none"> <li>- The Public Events took place in the Odyssey Pavilion on 21<sup>st</sup> June 2017. This event was advertised in the Belfast Telegraph on 14<sup>th</sup> June 2017. Over 750 flyers were sent to addresses in the area.</li> <li>- The PAN notice was circulated to elected representatives for the Titanic Electoral District Area and East Belfast on 22<sup>nd</sup> May 2017.</li> <li>- Face to face meetings were also held with local stakeholders and neighbouring properties/ landowners.</li> <li>- All respondents were supportive of the proposal.</li> </ul>
<p>9.23</p>	<p>It is considered that the Pre-Community Consultation Report submitted has demonstrated that the applicant has carried out their duty under Section 27 of the Planning Act (NI) 2011 to consult the community in advance of submitting an application.</p>
<p>10.0</p>	<p><b>Summary of Recommendation: Approval</b></p>
<p>10.1</p>	<p>Having regard to the policy context and other material considerations above, the proposal is considered acceptable and planning permission should be approved for the following reasons.</p>
<p>10.2</p>	<p>The proposal is for the refurbishment of the ailing Odyssey Pavilion that will see a reconfiguration of the existing layout to improve legibility and upgrade the existing facilities whilst improving visitor access to all units and levels.</p>
<p>10.3</p>	<p>The proposed changes/ alterations are very much in keeping with the character of this</p>

	established complex and are appropriate to its city centre location.
11.0	<b>Conditions</b>
11.1	As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  Reason: Time Limit.
11.2	A suitable buffer of at least 10 metres must be maintained between the location of refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the River Lagan / Belfast Lough and any storm drains located on site.  Reason: To prevent the release of contaminants to the River Lagan / Belfast Lough thus protecting the site selection features and conservation objectives of European Sites.
11.3	If during the development works, new contamination or risks 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 Model Procedures for the Management of Land Contamination (CLR11). 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.
11.4	After completing the remediation works under Condition 3; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.  Reason: Protection of environmental receptors to ensure the site is suitable for use.
11.5	No development or piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Planning Authority. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on “Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention” available at <a href="http://publications.environment-agency.gov.uk/PDF/SCHO0501BITT-E-E.pdf">http://publications.environment-agency.gov.uk/PDF/SCHO0501BITT-E-E.pdf</a> .  Reason: Protection of environmental receptors to ensure the site is suitable for use.
11.6	A proprietary odour abatement systems shall be installed to suppress and disperse odours created from cooking operations within the development. The outlets from any extract ventilation ducting shall terminate at a height not less than 1 metre above the eaves height of the main building and should be directed away from nearby premises.  Reason:  Prior to the operation of the proposed development, the applicant must submit, to the Council



11.7

for approval, a noise Verification Report (VR). This Report should demonstrate that the rating level (dB LAr) of all combined proposed building plant services shall not exceed the background sound level (for both day time and night time) as measured at the nearest noise sensitive premises with all sound measurements made in accordance with BS4142:2014 - Methods for rating sound and assessing industrial and commercial sound.

Reason: In the interests of amenity.

**Informatives:**

The applicant is advised to ensure that all plant and equipment is so situated, operated and maintained as to prevent the transmission of noise, odour or dust to nearby properties.

The purpose of the Conditions 3 - 5 is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development and end-use of the site such that it would not be determined as contaminated land under the forthcoming Contaminated Land legislation i.e. Part 3 of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks.

The applicant should ensure that the management of all materials onto and off this site are suitably authorized through the Waste Management Regulations (NI) 2006 and/or the Water Order (NI) 1999.

RU recommend that the applicant consult with the Water Management Unit within the DAERA regarding any potential dewatering that may be required during the redevelopment works including the need for discharge consent. Discharged waters should meet appropriate discharge consent Conditions.

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended), under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 to the Order. This includes the common seal (*Phoca vitulina*), grey seal (*Halichoerus grypus*), basking shark (*Cetorhinus maximus*), angel shark (*Squatina squatina*), common skate (*Dipturus batis*) short snouted seahorse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus elaphus*) and fan mussel (*Atrina fragilis*).

Article 11 of the Wildlife (Northern Ireland) Order 1985 (as amended) provides that a person shall not be guilty of an offence under Article 10 (killing or injuring a species listed in Schedule 5 (as amended)) if the act was incidental to a lawful operation (i.e. activity permitted by a Marine Licence or Planning Permission) and could not reasonably be avoided. A separate marine Wildlife Licence is therefore not required for national marine protected species if a Marine Licence/Planning Permission has been granted, since adherence to the conditions of the Marine Licence should reduce the likelihood of harm to marine national protected species.

Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks. It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 5<sup>1</sup>) use for shelter or protection; damage or destroy anything which conceals or protects any such structure; or disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.

Under Article 13 it is an offence to sell or transport any Schedule 7 animal dead or alive at any time. Any person who knowingly causes or permits an act which is made unlawful under Article 10 or Article 13 shall also be guilty of an offence.

If there is evidence of Schedule 5 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA.  
Under the Wildlife (Northern Ireland) Order 1985 (as amended) a licence may be required for any operations which might impact on protected species.

The applicant's attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European Protected Species included in Schedule 2 to these Regulations. This includes all species of dolphins, porpoises and whales and the marine turtle species.

(1) It is also an offence to;

(a) deliberately disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;

(b) deliberately disturb such an animal in such a way as to be likely to;

(i) affect the local distribution or abundance of the species to which it belongs;

(ii) impair its ability to survive, breed or reproduce, or rear or care for its young; or

(iii) impair its ability to hibernate or migrate;

(c) deliberately take or destroy the eggs of such an animal;

(d) deliberately obstruct access to a breeding site or resting place of such an animal; or

(e) damage or destroy a breeding site or resting place of such an animal.

(2) It is an offence for any person;

(a) to have in his possession or control,

(b) to transport,

(c) to sell or exchange, or

(d) to offer for sale or exchange, any live or dead animal which is taken from the wild and is of a species listed in Annex IV(a) to the Habitats Directive, or any part of, or anything derived from, such an animal.

If there is evidence of Schedule 2 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

Under this legislation a licence may be required for any operations which might impact on European Protected Species.

DfI Roads would recommend that the site operators (OTC and Matagorda 2) maintain a program of continuous review and improvement of traffic management during large events through the existing monthly tenants meetings and at the Quarterly Traffic forum meetings.

The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.

Notwithstanding the terms and conditions of the Department for Infrastructure's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Belfast South Section Office, 1a Airport Road, Belfast BT3 9DY (ph. 028 9025 4600 for advice or to arrange an appointment). A monetary deposit will be required to cover works on the public road.

	<p>Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.</p> <p>All construction plant and materials shall be stored off the adopted road.</p> <p>It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.</p> <p>Pedestrian Crossing Points across the proposed entrances are to be provided in accordance with the DTER/Scottish Office publication 'Guidance on the use of Tactile Paving'.</p>
	Neighbour Notification Checked <span style="float: right;">Yes</span>
	Signature(s)

### ANNEX

<b>Date Valid</b>	9th October 2017
<b>Date First Advertised</b>	3rd November 2017
<b>Date Last Advertised</b>	3rd November 2017
<b>Details of Neighbour Notification</b> Odyssey Trust Company, 2 Queens Quay	
<b>Date of Last Neighbour Notification</b>	10 <sup>th</sup> January 2018
<b>Date of EIA Determination</b>	5 <sup>th</sup> November 2017
<b>ES Requested</b>	No
<b>Drawing Numbers and Title</b> 01, 06, 07, 08, 09, 10, 11, 12, 13, 14	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	