

Development Management Report Addendum Report

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| Application ID: LA04/2019/0083/F | Date of Committee: 10 th December 2019 |
| Proposal: Section 54 application to remove condition 2 of LA04/2015/0075/F. The condition reads as follows "No part of the residential development hereby permitted shall be occupied until the social club hereby approved is constructed and operational in accordance with drawing 06A date stamped 20th August 2016, drawing 07B date stamped 03 February 2016 and drawing 08 stamped 01 April 2015". The removal of the condition is necessary to allow for the construction and occupation of the social/affordable housing. | Location: Lands at former Maple Leaf Club 41-43 Park Avenue Belfast. |
| Referral Route: At the request of the Director of Planning and Building Control | |
| Recommendation: | Approval |
| Applicant Name and Address: Dixon Contractors 89 Broughshane Street Ballymena | Agent Name and Address: TSA Planning 20 May Street Belfast BT1 4NL |
| <p>Addendum Report: This application was previously scheduled for Planning Committee on the 11th June 2019 with a recommendation for refusal (See report at Annex 1), however was not presented as a Section 76 was submitted to mitigate against the proposed loss of open space. The application was withdrawn from committee to enable the consideration and discussion around the proposed Section 76 Agreement.</p> <p>Members should read this Addendum Report in conjunction with the original Development Management Officer Report of 11th June 2019, attached below.</p> <p>The applicant seeks the removal of condition no.2 of planning permission LA04/2015/0075/F, which related to 'no part of the residential development hereby permitted, shall be occupied until the social club was constructed and in operation'. This condition was attached to ensure the orderly development of the site and community benefits of the development are fully implemented. The applicant seeks to remove it as the Maple Leaf Club has been closed and no replacement occupier found.</p> <p>Members are referred to the addendum report for LA04/2019/0081/F.</p> <p>Following the publication of the first officer report, the applicant submitted a Section 76 Agreement, setting out terms to offset the loss and under provision of open space / recreation facility by offering to provide a financial contribution towards improvements to a local park. Policy OS1 allows developers to offer an alternative provision, which is as accessible to current users, at least equivalent in terms of its size, usefulness, attractiveness, safety and quality. In this case, the offer is to provide an upgrade to an existing Council owned park rather than 'new' or additional open space, however, the offer must be considered alongside the community benefits of the provision of the 12 social and affordable apartments themselves. The developer has agreed to provide a financial contribution of over £52K to be used to enhance existing open space in the area. The combination of the associated community</p> | |

benefits are considered on balance to decisively outweigh the loss of the provision of the recreation club and the shortage in the amenity provision.

Terms of the Section 76 Agreement

In respect of the proposed off set, the applicant has agreed to a developer contribution through a Section 76 Agreement linked to LA04/2019/0081/F. In broad terms, monies (£52k) will be used by the Council to enhance existing open space at King George V Playing Fields, which is an 8 minute walk away from the site and serves the local community. As set out above, this in part is considered, in this case, to adequately address Policy OS1 of PPS8 to off-set the loss of existing open space.

The following works are proposed for the King George V playing fields;

Improve Parkgate site boundary

- Remove exiting concrete boundary fencing/walling
- Install new 250 x 125 x 905mm road kerb edge
- New hedge planting along boundary to kerb edge
- Supply & install new vehicular access barrier
- Construct low brick piers with existing concrete crest
- Pedestrian road crossing markings

Trim Trail

- New 1.2m wide bitmac path to site boundary
- Form new mounds with excavated material
- Remedial landscape works/seeding

Screen planting

- Screen planting to western boundary

Summary

In conclusion, the recommendation has changed for the reasons as set out in this addendum. The removal of condition no.2 of planning permission LA04/2015/0075/F, will enable the granting of LA04/2019/0081/F and the developer contribution tied to that application will contribute to the delivery of the Belfast Agenda priorities - Living Here and City Development and the Local Development Plan Strategic Aims – Shaping a liveable place, a green and active place and a smart connected and resilient place.

Recommendation

Approval subject to the completion of the Section 76 Agreement and conditions under planning reference LA04/2019/0081/F.

ANNEX 1

Development Management Officer Report Committee Application

| Summary | |
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| Committee Meeting Date: 11 June 2019 | |
| Application ID: LA04/2019/0083/F | |
| Proposal: Section 54 application to remove condition 2 of LA04/2015/0075/F. The condition reads as follows "No part of the residential development hereby permitted shall be occupied until the social club hereby approved is constructed and operational in accordance with drawing 06A date stamped 20th August 2016, drawing 07B date stamped 03 February 2016 and drawing 08 stamped 01 April 2015". The removal of the condition is necessary to allow for the construction and occupation of the social/affordable housing. | Location: 41-43 Park Avenue Belfast. |
| Referral Route: At the request of the Director of Planning and Building Control | |
| Recommendation: | Refusal |
| Applicant Name and Address: Dixon Contractors 89 Broughshane Street Ballymena | Agent Name and Address: TSA Planning 20 May Street Belfast BT1 4NL |
| <p>Executive Summary:</p> <p>The proposal is a Section 54 application to remove condition no.2 of planning permission LA04/2015/0075/F.</p> <p>Condition no.2 is No part of the residential development hereby permitted shall be occupied until the social club hereby approved is constructed and operational in accordance with drawing 06A date stamped 20 August 2015, drawing 07B date stamped 03 February 2016 and drawing 08 date stamped 01 April 2015.</p> <p>Reason: To ensure the orderly development of the site and community benefits of the development are fully implemented.</p> <p>The applicant states that the removal of the condition is necessary to allow the construction of the social/affordable housing.</p> <p>The applicant states that the removal of the condition is necessary to allow the construction of the social/affordable housing.</p> | |

This application is linked to two other current applications:

- LA04/2019/0081/F for the erection of 12No. Apartments (social/affordable housing units comprising 3No. one bed & 9No. two bed) with provision of community pocket park, car parking, landscaping and all associated site and access works.
- LA04/2019/0083/F is also a Section 54 application to remove condition no.2 of planning permission LA04/2015/0075/F. The condition also relates to the implementation of the social club aspect of the planning permission.

The key issues in the assessment of the proposed development include;

- Case of need;
- Open space provision.

Applicant has advised that the occupier of the social club, the Maple Leaf club is no longer an entity. The applicant states they have sought an alternative occupier, however have not provided sufficient evidence that shows a new occupier has been actively sought and that all avenues have been explored.

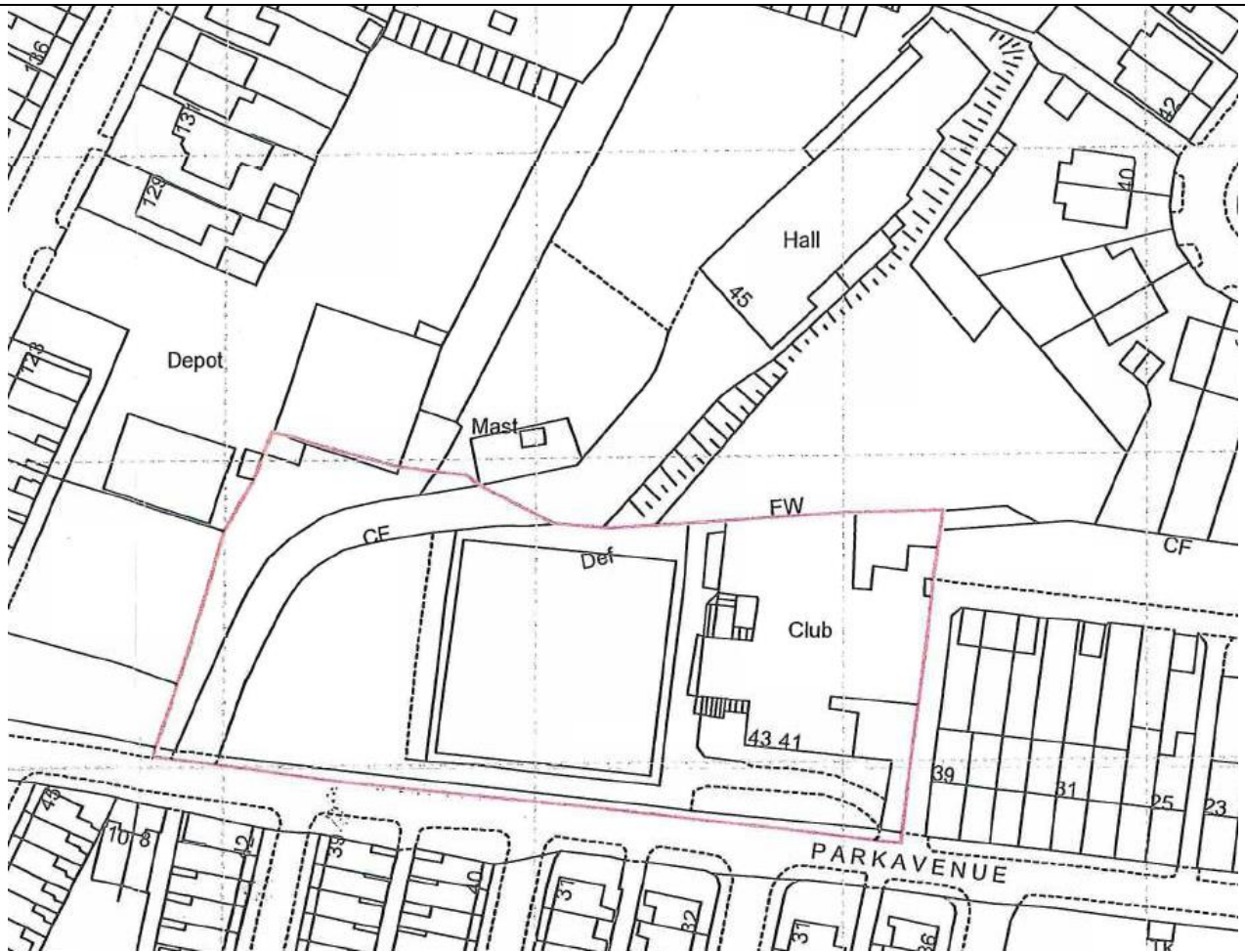
In terms of the open space, the new social club was considered to provide an off set for the loss of an extensive area of open space and a club house that provided a substantial community benefit in accordance with policy OS 1 of Planning Policy Statement 8: Open space and recreation. This condition was necessary to allow the development of housing to be approved. The removal of condition no.2 of planning permission LA04/2015/0075/F would result in the loss of the proposed social club to the wider community benefit and is considered to be contrary to policy OS 1 of Planning Policy Statement 8: Open space and recreation. In addition, the loss will impact the amenity for those prospective new residents of the approved housing as there will be insufficient amenity space provided and will therefore also be contrary to Policy OS 2 of PPS8.

Recommendation:

Having regard to the policy context and other material considerations above, the proposal is considered unacceptable and refusal of planning permission is recommended and delegated authority is sought for the final wording of refusal reasons from the Director of Planning and Building Control.

Case Officer Report

Site Location Plan



Consultations:

| Consultation Type | Consultee | Response |
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| N/A | N/A | N/A |

Representations:

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| Letters of Support | None Received |
| Letters of Objection | None Received |
| Number of Support Petitions and signatures | No Petitions Received |
| Number of Petitions of Objection and signatures | No Petitions Received |

| Characteristics of the Site and Area | |
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| 1.0 | Description of Proposed Development |
| 1.1 | The proposal is a Section 54 application to remove condition no.2 of planning permission LA04/2015/0075/F. |
| 1.2 | <p>Condition no.2 is</p> <p><i>No part of the residential development hereby permitted shall be occupied until the social club hereby approved is constructed and operational in accordance with drawing 06A date stamped 20 August 2015, drawing 07B date stamped 03 February 2016 and drawing 08 date stamped 01 April 2015.</i></p> <p><i>Reason: To ensure the orderly development of the site and community benefits of the development are fully implemented.</i></p> |
| 1.3 | The applicant states that the removal of the condition is necessary to allow the construction of the social/affordable housing. |
| 1.4 | This application is linked to LA04/2019/0081/F for the erection of 12No. apartments (social/affordable housing units comprising 3No. one bed & 9No. two bed) with provision of community pocket park, car parking, landscaping and all associated site and access works. |
| 1.5 | Application LA04/2019/0082/F is also a Section 54 application to remove condition no.2 of planning permission Z/2010/0434/F. The condition also relates to the implementation of the social club aspect of the planning permission. |
| 2.0 | Description of Site |
| 2.1 | The site is located at lands at the former Maple Leaf Club, 41-43 Park Avenue, Belfast. The site has been cleared and is currently under construction. Formerly on the site was a bowling green and car park and the now derelict Maple Leaf Club building. The site is accessed from Park Avenue which slopes steeply from Holywood Road to Connsbrook Avenue. The area is characterised by two storey terrace dwellings and two storey semi-detached dwellings. Adjacent to the site and accessed from Connsbrook Avenue is a fuel and oil distribution depot. The site bounded by existing mature vegetation. Seven of the previously approved dwellings (10-22 Park Avenue Heights) have been constructed and are now occupied. |
| Planning Assessment of Policy and other Material Considerations | |
| 3.0 | Site History |
| 3.1 | LA04/2015/0075/F - Modifications to previous planning approval Z/2010/0434/F comprising of a reduction in the size of the replacement club premises and change of house types to the dwellings at plots 14-21 - Granted |
| 3.2 | Z/2011/0829/F - Article 28 application to vary condition 2 of permission Z/2010/0434/F to allow simultaneous commencement of development of the residential development and the social club – Granted |
| 3.3 | Z/2011/0827/F - Article 28 application to vary condition 3 of permission Z/2010/0434/F to include social/affordable housing within the residential development and the social club - Granted |

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| 3.4 | Z/2010/0434/F - Mixed use development to include the relocation and replacement of the Ulster Maple Leaf Club premises and residential development comprising 21 dwellings (3no. 2 bed, 18no. 3 bed dwellings), landscaping and associated site works - Granted |
| 3.5 | Z/1999/0307 - Proposed bowling green in part of existing car park including new access arrangements - Granted |
| 4.0 | Policy Framework |
| 4.1 | Belfast Urban Area Plan 2001 |
| 4.2 | Draft Belfast Metropolitan Area Plan 2015 |
| 4.3 | Draft Belfast Metropolitan Area Plan 2004 |
| 4.4 | 4.4.1 Strategic Planning Policy Statement for Northern Ireland (SPPS) 4.4.2 Planning Policy Statement 8: Open Space and Recreation |
| 5.0 | Statutory Consultees Responses |
| 5.1 | None |
| 6.0 | Non Statutory Consultees Responses |
| 6.1 | None |
| 7.0 | Representations |
| 7.1 | The application has been neighbour notified and advertised in the local press. No representations have been received. |
| 8.0 | Other Material Considerations |
| 8.1 | The adopted Belfast Urban Area Plan 2001 designates the site as white land. |
| 8.2 | Draft Belfast Metropolitan Area Plan (BMAP) 2015 plan the site is designated as white land. |
| 8.3 | Draft Belfast Metropolitan Area Plan (BMAP) 2004 plan the site is designated as white land. |
| 9.0 | Assessment |
| 9.1 | The key issues in the assessment of the proposed development include; <ul style="list-style-type: none"> • Case of need; • Open space provision. |
| 9.2 | The adopted Belfast Metropolitan Area Plan 2015 (BMAP) has been quashed as a result of a judgement in the Court of Appeal delivered on 18 May 2017. As a consequence of this, the Belfast Urban Area Plan 2001 (BUAP) is now the statutory development plan for the area. |
| 9.3 | Section 45 (1) of the Planning Act (NI) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. |

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| 9.4 | As the decision to adopt BMAP has been quashed in its entirety, it is as though the draft BMAP has never been adopted, however, the version of draft BMAP which was purported to be adopted remains a material consideration. |
| 9.5 | The site is located within the settlement development limit for Belfast. However given that the Belfast Metropolitan Area Plan 2015 version was adopted and subsequently quashed weight is afforded to it as it had reached the most advanced stage a draft plan could having been through public inquiry. The site was designated as white land. |
| 9.6 | Draft BMAP 2004 version also designated the site as white land. |
| 9.7 | The adopted Belfast Urban Area Plan 2001 designates the site as white land. |
| 9.8 | <p><u>Case of need</u></p> <p>The supporting statement submitted by the applicant states that the Maple Leaf Club has been permanently closed and evidence has been provided at Annex 2 in the supporting statement. It is on this basis that the applicant seeks the removal of condition no.2 of planning permission LA04/2015/0075/F, which related to no part of the residential development hereby permitted shall be occupied until the social club was constructed and in operation. This condition was attached to ensure the orderly development of the site and community benefits of the development are fully implemented.</p> |
| 9.9 | Paragraphs 6.15-6.18 refer to the search for an alternative operator. It is stated that a representative from Tennant's assisted the applicant in the search for a new occupier. This representative spoke with the Con Club on Newtownards Road, however members felt Park Avenue was too far away. The applicant was also approached by the Mount Masonic and following discussions withdrew their interest. |
| 9.10 | It is stated that the applicant has no viable option for delivering the club building and the social housing due to the winding up of the Maple Leaf Club and no club interested in relocating and therefore the removal of the club from the proposal is required. However whilst this has been stated in the supporting statement, no evidence has been provided by the applicant to demonstrate and marketing or tendering for an alternative occupier and therefore have failed to demonstrate that all avenues to secure an occupier have been investigated. |
| 9.11 | The Officers report of the original planning permission Z/2010/0434/F, stated that <i>'the main benefits are the provision of much needed social housing and provision of a new social facility to serve the local area'</i> . The two conditions that attached to the permission, condition no.2 which the applicant seeks to remove and condition no.3 in relation to the allocation of the residential development for social housing were both attached and the same reason <i>'To ensure the orderly development of the site and community benefits of the development are fully implemented'</i> . Therefore it is considered that the construction of the social club was equally required to be provided to ensure the community benefits. |
| 9.12 | Application Z/2011/0829/F, was an Article 28 application to vary condition 2 of permission Z/2010/0434/F to allow simultaneous commencement of development of the residential development and the social club. |
| 9.13 | Planning permission LA04/2015/0075/F was a modification to the original planning permission Z/2010/0434/F. This included the reduction in the size of the social club to be constructed. Whilst this was a reduction and was considered to be of a scale more in keeping with the established residential area, the community benefit to be gained remained an integral part of the proposal and was appropriately conditioned to reflect this. The condition in relation to the provision of the social club was attached to the permission and was worded that the residential dwellings would not be occupied. The same reason as per planning permission |

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| | Z/2010/0434/F for the condition was given to ensure the orderly development of the site and to ensure the community benefits of the development are fully implemented. |
| 9.14 | <p><u>Provision of open space</u></p> <p>Z/2010/0434/F was originally recommended for refusal by the case officer, with one concern in regards to the private amenity provision. The case officer considered that the proposal did not provide sufficient amenity space, failing to meet the requirements as set out in Creating Places for the majority of the proposed dwellings and would be limited in usability. The Group report states that <i>'the main benefits are the provision of much needed social housing and provision of a new social facility to serve the local area. The concerns about the scheme are not considered substantial enough to warrant a refusal'</i>. Indicating that the benefits from the social housing and the social facility the proposal where both crucial in the permitting of the overall development as a whole.</p> |
| 9.15 | The case officers report also states <i>'On balance I accept that the existing club facility makes a contribution to the local community and is an importance resource to the locality'</i> . Whilst the case officer acknowledged the proximity of similar bowling facilities in close proximity to the application site and that regardless of the physical condition, they accepted there was some gain to the amenity of the area with the redevelopment of the site and the benefits of social housing provision. |
| 9.16 | Planning permission LA04/2015/0075/F was for a change of house type at plots 14 to 21 and included the reduction in the proposed replacement social club. Whilst the social club was to be reduced it still provided the off set for the loss of open space in line with policy OS 1 of Planning Policy Statement 8: Outdoor space and recreation. |
| 9.17 | However the applicants statement of case states at paragraph 6.26 the delivery of 12 apartments in lieu of the social club yields a substantially greater benefit to the community and that as the case officer acknowledged the proximity of similar bowling facilities in close proximity to the site which were equally accessible in their view. The applicant states that the in this context, the total loss of the facility is therefore negligible to the local community and its loss therefore will have no significant detrimental impact and states this is consistent with para. 6.025, of the Strategic Planning Policy Statement for Northern Ireland (SPPS). It is considered that the loss of the social club which was the off set for the loss all quality open space is not negligible to the local community as stated. Particularly as the private amenity provision is below recommended requirements. Whilst the applicant refers to other facilities in the locality including Victoria Park, this is 0.7mile away from the site. As per recent appeal decision 2018/A0070, it was considered that existing other public spaces were not an acceptable substitute for the deficit of communal space in quantitative and qualitative terms. |
| 9.18 | This acknowledged the community benefit the club it's self-provided and while the open space was to be lost, the offset to this was through the provision of a new social facility, albeit reduced but would continue to provide community benefit as was provided by the existing club. Therefore it is considered that in order to comply with policy OS 1 of Planning Policy Statement 8 – Open Space and Recreation to ensure adequate alternative provision that the social facility must be implemented and form part of the overall development of the site. |
| 9.19 | It is also noted that the original development comprised of 21 dwelling units. The applicant seeks removal of condition no.2 to facilitate the construction of 12 apartments in lieu of the social facility. This would provide a total of 33no. social/ affordable housing units. However, the additional units would exceed the threshold of 25 units as set out in policy OS 2 of Planning Policy Statement 8. Policy OS 2 states that an exception to this will only be permitted in the case of apartment developments or specialised housing where a reasonable level of private communal open space is being provided or where it will make use of adjoining public open space. |

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| <p>9.20</p> <p>9.21</p> <p>9.22</p> | <p>As stated in the original case officers report for Z/2010/0434/F, the proposal did not provide sufficient amenity space for the majority of the proposed dwelling and would be limited in its usability. Nor is it located adjacent to existing public open space. Therefore it would be considered that it would not be an exception to Policy OS 2 and therefore it would be expected that at least 10% of the site would be for the provision of public open space. The proposal would not be able to facilitate this and the addition of 12 no. apartments was add extra pressure to the demand for amenity space in the whole development. Application LA04/2019/0081/F proposes the provision of a pocket park between the proposed apartments and Park Avenue providing an area of 0.045ha with landscaping and play equipment with access from Park Avenue so other residents can benefit. However this provision is deemed to be insufficient to warrant the removal of condition no.2 of planning permission Z/2010/0434/F.</p> <p>On balance with the provision of private amenity for the approved dwellings being below the requirements as per Creating Places, it is considered that the social facility is essential to address the loss of the open space and the club facility, particularly as private amenity space is insufficient to meet requirements. The proposal to not provide the social facility is considered to be contrary to policy OS 1 of Planning Policy Statement 8: Open Space and Recreation.</p> <p><u>Recommendation</u> The proposal is considerable to be unacceptable and refusal is recommended as the applicant has failed to provide evidence demonstrating that an alternative occupier for the social facility have been exhausted.</p> |
| <p>9.23</p> | <p>Having regard to the policy context and other material considerations above, the proposal is considered unacceptable and refusal of planning permission is recommended and delegated authority is sought for the final wording of refusal reasons from the Director of Planning and Building Control.</p> |
| <p>10.0</p> | <p>Summary of Recommendation: Refusal</p> |
| <p>11.0</p> | <p>Refusal Reasons</p> <p>The proposal is contrary to policy OS 1 of Planning Policy Statement 8: Open space and recreation as the removal of the condition will result in the loss of open space and will fail to provide a social recreation facility which will be detrimental to the amenity of the local area for both existing and prospective residents.</p> <p>The proposal is contrary to Policy QD1 of PPS7 Quality Residential Environments and Policy OS 2 of PPS 8 of Planning Policy Statement 8: Open space and recreation in that the removal of the condition will impact the amenity for those prospective new residents of the approved housing as there will be insufficient amenity space provided.</p> |
| <p>Notification to Department (if relevant)</p> <p>N/A</p> | |
| <p>Representations from Elected members:</p> <p>Cllr Newton</p> | |

| ANNEX | |
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| Date Valid | 8th January 2019 |
| Date First Advertised | 25th January 2019 |
| Date Last Advertised | 25th January 2019 |
| Details of Neighbour Notification (all addresses) | |
| <p>10 Park Avenue Heights, Belfast, BT4 12 – 22 Park Avenue Heights, Belfast, BT4 125 Connsbrook Avenue, Belfast, Down, BT4 1JX 31 Sefton Park, Belfast, Down, BT4 1PN 31 Shaw Street, Belfast, Down, BT4 1PT 32 Sefton Park, Belfast, Down, BT4 1PN 36 Sefton Drive, Belfast, Down, BT4 1PL 39 Colvil Street, Belfast, Down, BT4 1PS 39 Park Avenue, Belfast, Down, BT4 1PU 40 Shaw Street, Belfast, Down, BT4 1PT 42 Colvil Street, Belfast, Down, BT4 1PS 45 Park Avenue, Belfast, Down, BT4 1PU 8 Park Avenue, Belfast, Down, BT4 1PU Apartment 1 47 Park Avenue BELFAST Apartment 10, 47 Park Avenue, BELFAST, BT4 1PU Apartment 11, 47 Park Avenue, BELFAST, BT4 1PU Apartment 12, 47 Park Avenue, BELFAST, BT4 1PU Apartment 13, 47 Park Avenue, BELFAST, BT4 1PU Apartment 14, 47 Park Avenue, BELFAST, BT4 1PU Apartment 15, 47 Park Avenue, BELFAST, BT4 1PU Apartment 2, 47 Park Avenue, BELFAST, BT4 1PU Apartment 3, 47 Park Avenue, BELFAST, BT4 1PU Apartment 4, 47 Park Avenue, BELFAST, BT4 1PU Apartment 5, 47 Park Avenue, BELFAST, BT4 1PU Apartment 6, 47 Park Avenue, BELFAST, BT4 1PU Apartment 7, 47 Park Avenue, BELFAST, BT4 1PU Apartment 8, 47 Park Avenue, BELFAST, BT4 1PU Apartment 9, 47 Park Avenue, BELFAST, BT4 1PU</p> | |
| Date of Last Neighbour Notification | 12th February 2019 Additional neighbours notified 24 th May 2019 due dwellings now being occupied. |
| Date of EIA Determination | N/A |
| ES Requested | No |
| Drawing Numbers and Title | |

Drawing No. 01
Type: Site Location Map