

Committee Report

Development Management Report	
Application ID: LA04/2020/2615/F	Date of Committee: Tuesday 18 th January 2022
Proposal: Hot Food Take Away Unit with associated site works	Location: Lands opposite junction of Stewartstown Road and Suffolk Road Belfast BT11 9NB
Referral Route: Referred by the Director of Planning and Building Control	
Recommendation:	Refusal
Applicant Name and Address: Cedar Investments Ltd 43 Lockview Road Belfast BT9 5JF	Agent Name and Address: Inaltus Ltd 15 Cleaver Park Belfast BT9 5HX
<p>Executive Summary:</p> <p>The proposal is for a building for use as a hot food take away unit with associated site works. A building on this site has been previously approved as a retail unit as part of an application approved under the reference LA04/2016/1360/F for a petrol filling station, shop and 2 retail units. The PFS and retail units are currently under construction.</p> <p>The application is brought before committee due to the representations received.</p> <p>The site is unzoned white land within BUAP and dBMAP.</p> <p>The key issues to be considered are:</p> <ul style="list-style-type: none"> • Principle of a hot food takeaway in this location • Character/Layout/Design • Access/Parking • Impact on neighbouring amenity <p>In principle a hot food takeaway at this location may be acceptable, where the use does not conflict with adjacent land uses.</p> <p>The application has been neighbour notified and advertised and 45 objections have been received from local residents raising issues including, impact on neighbouring amenity, traffic, parking, noise, bin storage.</p> <p>The proposal is located in close proximity to a number of residential properties, DCAN 4 recognises the potential for impacts from noise and nuisance that can result from such uses.</p> <p>Consultees: EHO are satisfied subject to the imposition of conditions in respect of operating hours, plant/equipment noise levels and odour control. DFI Roads offer no objection.</p> <p>A concern remains however in respect of amenity in this case. Local residents perceive that a hot food bar (HFB) at this location will result in noise and nuisance. Whilst an acoustic barrier formed part of the previous application located along the south eastern boundary this was in relation to a retail unit and petrol filling station and is outside the red line of this application. It is considered that the nature of the proposed use has the potential to result in an unacceptable adverse impact on residential amenity due to the potential for noise, disturbance and nuisance given the proximity to neighbouring residential</p>	

properties as set out in DCAN 4; and that the proposal is not in compliance with the SPPS in that the proposed development will cause demonstrable harm to interests of acknowledged importance.

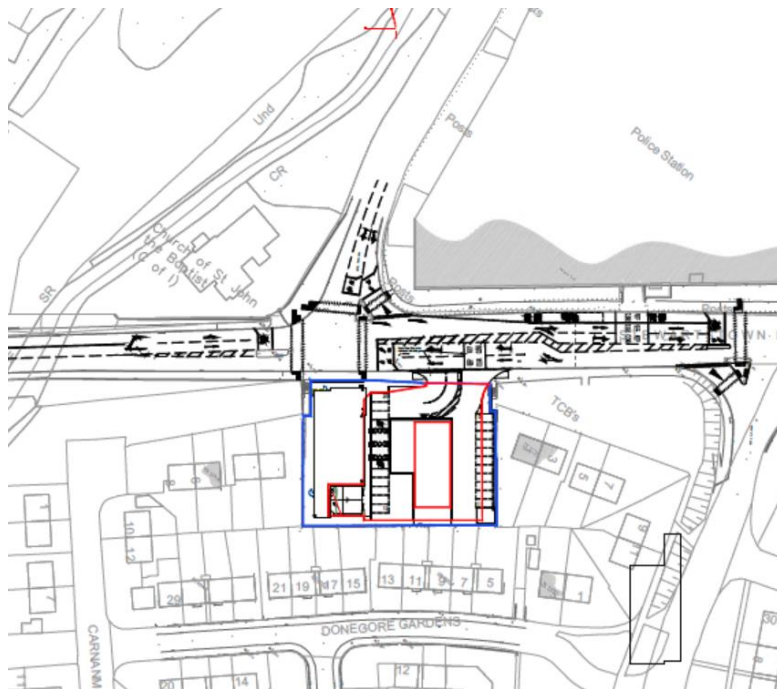
Recommendation

Having regard to the Development Plan and all other relevant material considerations, the proposal is considered unacceptable and refusal is recommended for the reasons set out in the case officer report below.

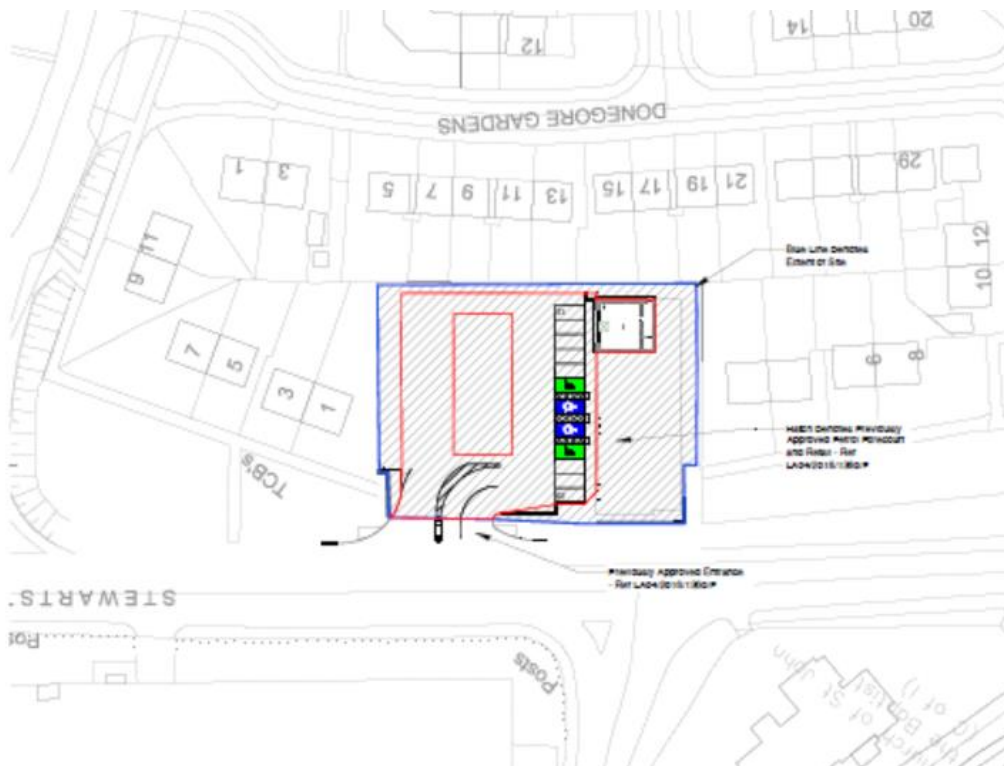
Committee is requested to delegate authority for the final wording of refusal reasons to the Direction of Planning and Building Control.

Case Officer Report

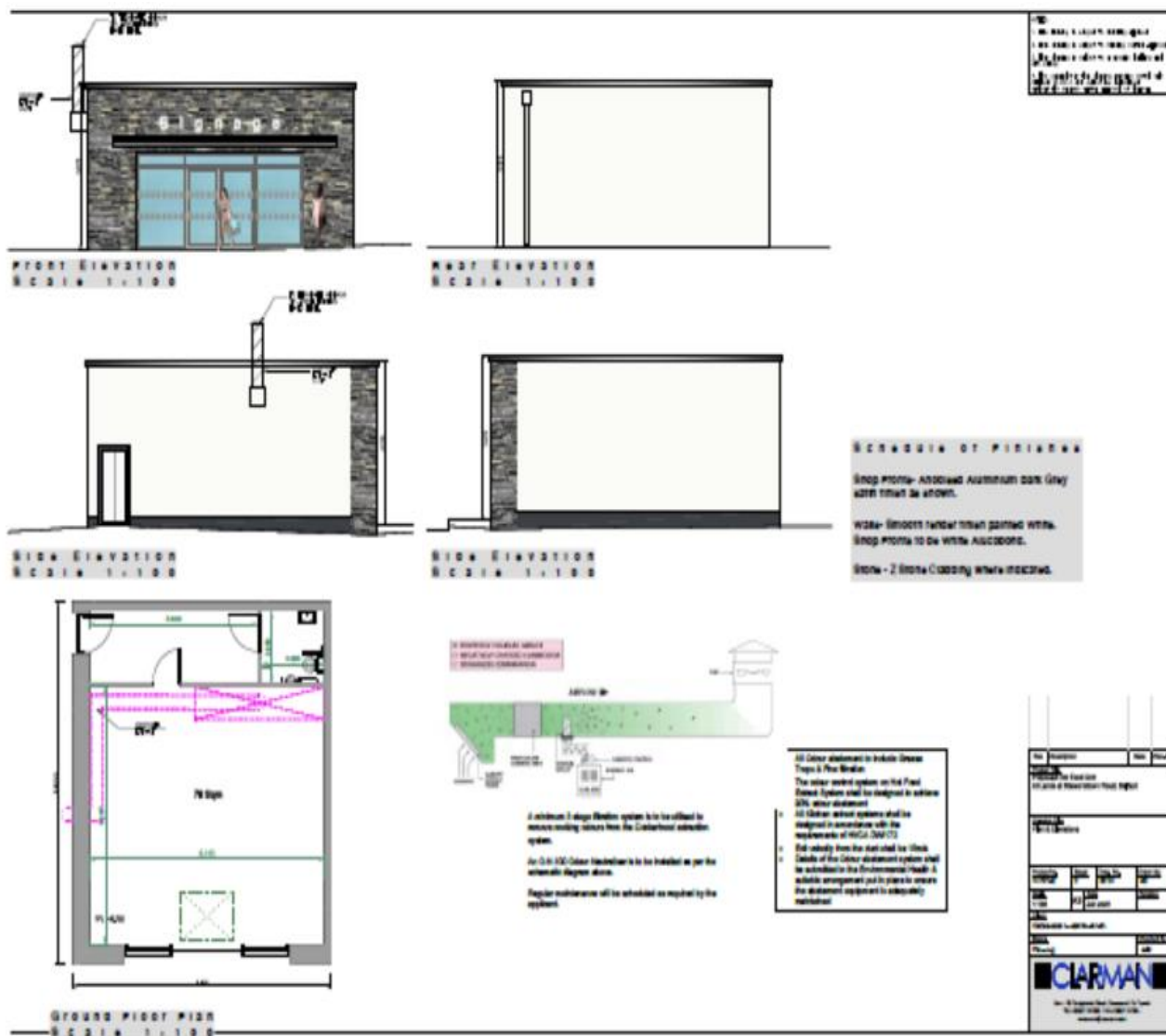
Site Location Plan



Block Plan



Elevations and Floor Plans



Characteristics of the Site and Area

1.0 Description of Proposed Development

Proposed Hot Food Take Away Unit with associated site works

2.0 Description of Site

The site is located opposite the junction of the Stewartstown Road and Suffolk Road and Woodbourne PSNI Station. The site sits below the level of the road and is 0.13 hectares in size. There are residential properties on three sides to the east, west and south of the site. The site is generally flat and rectangular shaped. Vehicular access is via one access from the north of the site. Steps on both the eastern and western boundaries of the site give access to residents of Cranmore Park and Donegore Gardens.

There are a mix of land uses in the surrounding area. A police station and church are located directly opposite the site. Beyond this on the Suffolk Road at a distance of approximately 130m from the site is a Costcutter, post office, coffee shop, pharmacy and day nursery.

Planning Assessment of Policy and other Material Considerations	
3.0	Site History Z/2009/0240/F Manual car wash facility with associated container (variation of condition(time limit)) Z/2010/0306/F Erection of 4 no. retail units (including demolition of the existing shop units) Permission granted 01.06.2010 Z/2011/0572/0 Construction of healthcare village comprising of a doctor's surgery, pharmacy, opticians, physiotherapy and creche with associated car parking. Permission granted 03.01.2012 Z/2011/1089/F Manual Carwash Facility with associated container. Permission granted 23.11.2011 LA04/2016/1360/F, Proposed filling station, shop, 2no. retail units, forecourt canopy and associated petroleum installation, Permission Granted, 24.04.2018
4.0	Policy Framework
4.1	Belfast Urban Area Plan 2001
4.2	Draft Belfast Metropolitan Area Plan 2004, 2015 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.
4.3	Strategic Planning Policy Statement for Northern Ireland (SPPS)
4.4	Planning Policy Statement 3: Access, movement and parking
4.5	Development Control Advice Note 4: Restaurants, Cafes and Fast Food Outlets
5.0	Statutory Consultees Responses DFI Roads- No objection
6.0	Non Statutory Consultees Responses Environmental Health- No objections PSNI- No response
7.0	Representations The application was neighbour notified most recently on the 13 th October 2021 and advertised in the local press most recently on the 26 th March 2021. 45 representations were received and are summarised below: <ul style="list-style-type: none"> Junction poses dangers to motorists and pedestrians <i>Case Officer's response: DFI Roads offer no objection to the proposed layout.</i> Interface- potential violence <i>Case Officer's Response: Any violence is a matter for the police.</i> PSNI objected to previous application

Case Officer's Response: The PSNI have been consulted and have not responded, the PSNI previously objected to the proposed entrance to the petrol filling station. DFI Roads were consulted and had no objection.

- Noise, smell, illumination and traffic impact to Donegore Gardens

Case Officer's Response: The impact to neighbouring properties has been considered within the report.

Anti-social behaviour

Case Officer's Response: Anti-social behaviour is a matter for the police.

- Traffic Management plan should accompany application

Case Officer's Response: This is not required given the scale of the proposal, DFI Roads were consulted and had no objection.

- Proposal fails to meet parking standards

Case Officer's Response: DFI Roads were consulted and are satisfied that adequate parking has been provided.

- Loss of locked secure space replaced by open forecourt

Case Officer's Response: The conditions of the approval LA04/2016/1360/F remain

- Applicant cannot seek a revision of previous proposal which is neither completed nor substantially complete. The application for a standalone hot food takeaway is not appropriate.

Case Officer's Response: An application was submitted for a change of use of the approved retail unit to a hot food takeaway, the previous approval was not substantially complete and therefore the application was invalid. This application has been submitted as a standalone application and is valid.

- Site location plan is incorrect.

Case Officer's Response: Amended site location plan has been submitted.

- All access works should be included in application

Case Officer's Response: Access works are shown on the proposed plan.

- Previous approval included a 1.8m acoustic fence which has not been included in this application,

Case Officer's Response: Council do not believe the 1.8m fence will be sufficient mitigation to prevent an unacceptable impact to neighbouring amenity.

- Figures in Q25 appear to be incorrect by stating there are existing visitors to the site and nos. predicted is low when compared to other hot food takeaways in the area.

	<p><i>Case Officer's Response: Construction was ongoing at the time the application was submitted, the objector has provided no evidence to substantiate claims that figures put forward were low when compared to other hot food takeaways. The council have no reason to dispute the figures and DFI Roads had no objections.</i></p> <ul style="list-style-type: none"> • DFI Roads referred to additional info provided by the applicant in relation to Q25, this is not available on the portal, <p><i>Case Officer's Response: The applicant was asked to confirm the sales floor space and this has been reflected in an amended floor plan. The DFI Roads consultation response provides the details of this without the need for emails to uploaded to the portal.</i></p> <ul style="list-style-type: none"> • Discrepancy between email and Q24 in P1 form. <p><i>Case Officer's Response: The overall floorspace has been provided in the P1 form, the fit out of the unit has been amended in a floor plan as reflected in the response from DFI Roads.</i></p> <ul style="list-style-type: none"> • A list of additional info that should have been provided and additional consultees, <p><i>Case Officer's Response: The additional information is not necessary for an application of this scale.</i></p> <ul style="list-style-type: none"> • No details of hours of operation and site will be controlled outside of these hours, <p><i>Case Officer's Response: These have been conditioned by Environmental Health.</i></p> <ul style="list-style-type: none"> • Incompatible with surrounding area <p><i>Case Officer's Response: Officers agree</i></p> <ul style="list-style-type: none"> • Irwin Carr Consulting submitted report raising concerns with the submitted noise and odour report and the response from Environmental Health. <p><i>Case Officer's Response: Environmental Health have responded to the issues raised but officers' concerns remain.</i></p> <ul style="list-style-type: none"> • Building height <p><i>Case Officer's Response: The single storey building is as approved under the previous approval. Under the previous approval the building height raises to two storey to the rear of the single storey.</i></p> <ul style="list-style-type: none"> • Bin storage <p><i>Case Officer's Response: whilst bin storage is provided under the previous approval, there is none provided with this proposal.</i></p>
8.0	Other Material Considerations None
8.1	Any other supplementary guidance Parking Standards

9.0	Assessment
9.1	<p>Process Matter</p> <p>A planning application was originally submitted for a change of use of the approved retail unit to a hot food takeaway, however as the previous approval LA04/2016/1360/F was not constructed, the application was made invalid, and the agent was advised that the whole scheme would need to be applied for in full to include the proposed amendment. The agent subsequently proposed to submit a standalone application for a separate hot food takeaway building. As this was a valid application in its own right, it was accepted and processed as such.</p>
9.2	<p>Assessment</p> <p>The key issues to be considered are:</p> <ul style="list-style-type: none"> • Principle of a hot food takeaway in this location • Character/Layout/Design • Access/Parking • Impact on neighbouring amenity <p>It is considered that the proposal is not in compliance with the SPPS in that the proposed development will cause demonstrable harm to interests of acknowledged importance which are considered below.</p> <p>Principle of a hot food takeaway in this location</p> <p>The proposed site is a brownfield site which was occupied in part by a Co-op until 2008. Currently construction is ongoing for a petrol filling station, shop and 2 retail units approved under the reference LA04/2016/1360/F. The site is designated as whiteland within the BUAP and dBMAP. DCAN 4 provides guidance on hot food takeaways. The proposed location is not within the town centre or a district/local centre. Paragraph 4.4 states that any application not within a town centre or district/local centre will be determined on its own particular merits. The site has approval for retail units under LA04/2016/1360/F and the historical use of the site as retail, and whilst it is not untypical for hot food bars to be located within contemporary PFSs, it is considered the use of a hot food takeaway is not compatible with this site and at this particular location within the site. The applicant is in ownership / control of the wider site and has placed the HFB closest to residential dwellings, which is poor in terms of layout.</p> <p>Character/Layout/ Design</p> <p>The proposed building is the same scale, massing and design of that approved under the application LA04/2016/1360/F. The modern design is compatible with the new use of the site. There appears to be no provision for waste storage and bins within the site.</p> <p>Access/Parking</p> <p>The proposed access is from the Stewartstown Road. The site contains 24 car parking spaces. The site access and car parking layout were previously approved under the reference LA04/2016/1360/F. DFI Roads were consulted and have no objections. It is considered that the proposed access and parking arrangements are acceptable and comply with PPS 3.</p> <p>Impact on residential amenity</p> <p>The proposed hot food takeaway is located along the southern boundary of the site and within close proximity of properties at Donegore Gardens. Paragraph 5.1 of DCAN 4 recognises a number of factors that need to be taken into account, these are:</p> <ul style="list-style-type: none"> • noise disturbance; • smells and fumes; • refuse and litter;

	<ul style="list-style-type: none"> • traffic considerations and car parking; and • provision for people with disabilities. <p>Environmental Health were consulted and requested a noise impact assessment and odour assessment which has been provided. As a result, Environmental Health have no objections subject to conditions.</p> <p>While Environmental Health are of the opinion that noise concerns can be overcome with conditions, the surrounding residential context presents potential noise and nuisance concerns that the Council consider will have a significant impact on the surrounding residential area.</p> <p>DCAN 4 states that the main sources of noise are vehicles, people and use of equipment and that these sources of noise are particularly noticeable in late evening. The guidance also recognises that take-away uses, which often generate frequent vehicle and pedestrian movements, can be particularly annoying and unacceptable. The weight to be attached to noise disturbance will be greater where there is an increased likelihood that customers will seek to park close to the premises.</p> <p>The distance from the proposed takeaway to the boundary with dwellings on Donegore Gardens is approximately 3.1m while the distance to the rear elevations of nos. 15 and 17 Donegore gardens is approximately 14.9m. Parking provision is directly in front of the unit and close to the rear boundary with residents. Given the close proximity of dwellings to the hot food takeaway it is considered that the noise/ disturbance generated by vehicles and the movement of people will be unacceptable, especially in times of high volumes of traffic such as the evenings. The high number of objections from local residents demonstrate the concerns with noise and nuisance from such a use. In addition, no details have been provided in respect of adequate storage of refuse. Paragraph 5.6 of DCAN 4 states that concerns can be overcome with conditions but the council are not satisfied that the restriction of hours of operation or the fence granted under the previous application which is outside the application site will be sufficient to prevent an unacceptable level of nuisance/ disturbance.</p>
9.3	Having regard for the policy context and the considerations above, the proposal is deemed unacceptable.
10.0	Summary of Recommendation: Refusal
11.0	Reasons for refusal <ol style="list-style-type: none"> 1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) Paragraphs 4.11 and 4.12 in that the proposal, if permitted, would result in an incompatible use in close proximity to residential dwellings due to the potential for an unacceptable adverse impact on neighbouring residential amenity through noise, disturbance and nuisance. 2. The development has failed to provide adequately for waste and bin storage within the site contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and guidance outlined in the Development Control Advice Noise 4 'Restaurants, Cafes and Fast-Food Outlets'.

Notification to Department (if relevant): N/A
Representations from Elected members: None

ANNEX	
Date Valid	9th March 2021
Date First Advertised	26th March 2021
Date Last Advertised	26 th March 2021
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Blacks Road,Belfast,Antrim,BT11 9LS 10, Donegore Gardens, Belfast, Antrim, Northern Ireland, BT11 9NA The Owner/Occupier, 11 Donegore Gardens,Belfast,Antrim,BT11 9NA The Owner/Occupier, 13 Donegore Gardens,Belfast,Antrim,BT11 9NA 14, Donegore Gardens, Belfast, Antrim, Northern Ireland, BT11 9NA The Owner/Occupier, 15 Donegore Gardens,Belfast,Antrim,BT11 9NA The Owner/Occupier, 15, Blacks Road, Belfast, Antrim, Northern Ireland, BT11 9LS The Owner/Occupier, 17 Donegore Gardens,Belfast,Antrim,BT11 9NA 17a, Carnanmore Park, Belfast, Antrim, Northern Ireland, BT11 9LX The Owner/Occupier, 19 Donegore Gardens,Belfast,Antrim,BT11 9NA 19, Blacks Road, Belfast, Antrim, Northern Ireland, BT11 9LS 1a, Erris Grove, Belfast, Antrim, Northern Ireland, BT11 9LE The Owner/Occupier, 2 Carnanmore Park,Belfast,Antrim,BT11 9LX 20 Stewartstown Avenue Belfast Antrim 20, Ringford Crescent, Belfast, Antrim, Northern Ireland, BT11 9LG 21, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LU 21b, Carnanmore Park, Belfast, Antrim, Northern Ireland, BT11 9LX 22, Ringford Crescent, Belfast, Antrim, Northern Ireland, BT11 9LG 23, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LU 23b, Carnanmore Park, Belfast, Antrim, Northern Ireland, BT11 9LX	

The Owner/Occupier,
 25, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LU
 The Owner/Occupier,
 3 Donegore Gardens,Belfast,Antrim,BT11 9NA
 3 Rosgoill Drive Belfast Antrim
 33, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LU
 34, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LW
 4, Donegore Gardens, Belfast, Antrim, Northern Ireland, BT11 9NA
 4, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LW
 The Owner/Occupier,
 42, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LW
 The Owner/Occupier,
 46, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LW
 The Owner/Occupier,
 49, Blacks Road, Belfast, Antrim, Northern Ireland, BT11 9LS
 The Owner/Occupier,
 5 Donegore Gardens,Belfast,Antrim,BT11 9NA
 The Owner/Occupier,
 54, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LW
 The Owner/Occupier,
 59, Blacks Road, Belfast, Antrim, Northern Ireland, BT11 9LS
 The Owner/Occupier,
 7 Donegore Gardens,Belfast,Antrim,BT11 9NA
 88, Tildarg Avenue, Belfast, Antrim, Northern Ireland, BT11 9LW
 8a, Donegore Gardens, Belfast, Antrim, Northern Ireland, BT11 9NA
 The Owner/Occupier,
 9 Donegore Gardens,Belfast,Antrim,BT11 9NA
 9, Donegore Gardens, Belfast, Antrim, Northern Ireland, BT11 9NA
 The Owner/Occupier,
 Church Of St John The Baptist (C Of I),Stewartstown Road,Belfast,Antrim,BT11 9NB
 Crescent Belfast

Date of Last Neighbour Notification	13/10/2021
Date of EIA Determination	N/A
ES Requested	No