

Planning Committee

Tuesday, 15th February, 2022

HYBRID MEETING OF THE PLANNING COMMITTEE

Members present: Councillor Hanvey (Deputy Chairperson);
The High Sheriff, Councillor Hussey;
Councillors Brooks, Carson, Matt Collins,
Garrett, Groogan, Maskey, McMullan,
Murphy, O'Hara, Spratt and Whyte.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Mr. E. Baker, Planning Manager (Development Management);
Mr. K. Sutherland, Planning Manager (Policy);
Ms. N. Largey, Divisional Solicitor;
Ms. C. Donnelly, Democratic Services Officer; and
Mrs. L. McLornan, Democratic Services Officer.

(Councillor Hanvey, Deputy Chairperson, in the Chair)

Apologies

An apology for inability to attend was reported from Councillor Hutchinson.

Minutes

The minutes of the meeting of 18th January were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st February, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor Spratt declared an interest in item 7c, namely LA04/2021/1702/F - 807 - 809 Lisburn Road and incorporating part of Kingsbridge Private Hospital at Nos 811- 815 Lisburn Road, in that he had met with Council representatives in respect of the application and had expressed an opinion. He therefore left the meeting for the duration of the discussion and did not participate in the vote.

Councillor Murphy declared an interest in item 7d, namely LA04/2021/2154/F - Change of approved design for Community Hub building for a community led mix use regeneration scheme at the site of the former St Gemma's School, in that he had previously engaged with the ABC trust on previous plans. He therefore left the meeting for the duration of the discussion and did not participate in the vote.

Committee Site Visit

The Committee noted that a site visit had taken place to the below application site on Monday, 14th February 2022:

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

- LA04/2021/0911/F - Demolition of existing building and construction of 9 no. apartments and associated site works at 236 Upper Newtownards Road

Request for pre-emptive site visit and briefing on LA04/2021/2280/F for a mixed use, mixed tenure residential-led development of 778 apartments in three buildings with internal and external amenity space; flexible commercial/community floorspace; public realm including public square and waterfront promenade; cycle and car parking and associated landscaping, access roads, plant and site works including to existing riverside on lands adjacent to and south east of the river Lagan west of Olympic Way of Queen's road Queen's Island

The Committee agreed to hold a pre-emptive site visit and briefing in respect of the above application.

Request for a pre-emptive site visit to LA04/2021/1808/F – Residential development comprising of 14 dwellings, access from Lagmore View Lane and Lagmore Glen, completion of remaining areas of open space (including hard and soft landscaping), provision of parking bays, speed bumps and bollards to improve road safety along Lagmore View Road, and all associated site works on lands South and East of 148-163 Lagmore View Lane North and West of 37 81 82 and 112 Lagmore Glen and Lagmore View Road

The Committee agreed to hold a pre-emptive site visit in respect of the above application.

Planning Appeals Notified

The Committee noted the receipt of correspondence in respect of a number of planning appeals which had been submitted to the Planning Appeals Commission, together with the outcomes of a range of hearings which had been considered by the Commission.

Planning Decisions Issued

The Committee noted a list of decisions which had been taken under the delegated authority of the Strategic Director of Place and Economy, together with all other planning decisions which had been issued by the Planning Department between 11th January and 7th February.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

DFI Provision of an Accessible/Disabled Parking Bay

The Committee noted that the correspondence had been considered last month and had been included in the agenda in error.

**NIHE Notifications - Vesting order: Lands at
Alloa Street**

The Committee noted that correspondence had been received from the Housing Executive in relation to a Vesting Order for Lands at Alloa Street.

Planning Applications

**THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE OF THE
POWERS DELEGATED TO IT BY THE COUNCIL UNDER STANDING ORDER 37(e)**

Withdrawn Items

The Committee noted that the following items had been withdrawn from the agenda:

- **LA04/2021/1808/F** - Residential development comprising of 14 dwellings, access from Lagmore View Lane and Lagmore Glen, completion of remaining areas of open space (including hard and soft landscaping), provision of parking bays, speed bumps and bollards to improve road safety along Lagmore View Road, and all associated site works on lands South and East of 148-163 Lagmore View Lane North and West of 37 81 82 and 112 Lagmore Glen and Lagmore View Road - withdrawn by officers in order to further examine relevant issues;
- **(Reconsidered Item) LA04/2019/0775/F** – 18 dwellings to include revision of site layout of previous approval Z/2007/1401/F at sites 2-8 (7 dwellings) and additional 11 No. dwellings, including landscaping, access via Hampton Park and other associated site works on lands approximately 50m to the north of 35 Hampton Park and approximately 30m to the west of 60 Hampton Park, Galwally - withdrawn in order that officers are able to provide more information to the Committee in relation to the detailed requirements of the proposed Section 76 Agreement.
- **LA04/2020/0559/F & LA04/2020/0562/DCA** – Renovation and single storey rear extension to dwelling, construction of a new detached garage and new entrance gates, pillars and boundary fence at 24 Malone Park - withdrawn by officers upon advice of the Divisional Solicitor.

**LA04/2021/2285/F - Apartment Development
at Parkside Gardens**

The Committee agreed to defer consideration of this item in order to undertake a site visit.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

**(Reconsidered Items) LA04/2020/0857/F - Demolition
of existing hostel building and redevelopment to provide
four-storey building comprising 15 No. residential units,
office space and ancillary development at Ormeau Centre,
5-11 Verner Street**

The Committee was advised that the application had originally been listed for consideration by the Planning Committee on 16th March, 2021. The application was withdrawn from the agenda and the Committee had agreed to hold a pre-emptive site visit. The site visit had taken place on 8th April, 2021. It was then on the agenda for the Committee meeting of 20th April, 2021. At that meeting, the Committee had agreed to defer consideration of it to allow further engagement to take place between the developer and local residents. It was subsequently on the agenda of the 14th September, 2021, however, it was again withdrawn to allow further engagement between the developer and local residents.

The Principal Planning officer explained that the application was originally deferred in April 2021 to allow for further engagement between the developer and the local community. She outlined that, despite considerable delays already, the agent had requested further time to complete a separate PAD process prior to the Council making a decision on the application. To date, she explained that no further information or amended drawings had been received.

The applicant had submitted a Pre-Application Discussion (PAD) in January 2022 in relation to alternative mixed use proposals for the site. The Members were advised that the proposals were fundamentally different to the scheme proposed under the application in front of the Committee and would therefore require a fresh planning application to be made if the applicant wished to pursue that option. She explained that officers considered that deferral through Committee was not the forum to consider alternative schemes which, in themselves, would be required to follow due process.

The Committee was advised that, having afforded an additional 10 months within the process to resolve any local issues, officers considered that the application should be presented to draw it to a conclusion as nothing new had been presented in respect of the application.

The Committee's attention was drawn to the Late Items pack, whereby correspondence had been submitted from an objector stating that the PAD proposals should be shared with the Members. The Principal Planning officer explained that the PAD which had been submitted was not yet valid. She added that an additional 182 objections had been received to the proposed development and that Councillors Gormley and McKeown had both submitted objections in respect of the application.

The main issues raised by objectors included:

- a lack of consultation with the community;
- poor quality and amenity of living space;
- overdevelopment;
- overshadowing;
- fire safety concerns; and

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

- the destruction of built heritage

The issues had been addressed within the Case officer's report.

The Principal Planning officer presented the details of the application to the Committee.

She outlined that the key issues which had been considered during the assessment included:

- the principle of demolition;
- impact on character of the area and nearby listed buildings;
- impact on residential amenity;
- impact on sewage infrastructure;
- adequacy of proposed amenity space; and
- social housing need in the area

The site was not zoned for a use within BUAP or draft BMAP, however, it was located within the Victoria Street / Oxford Street Area of Townscape Character (ATC), as designated within dBMAP. As the application site lay within a draft Area of Townscape Character (ATC), it was considered that the test to be applied to assess demolition was whether the proposed development would result in unacceptable damage to the character of the ATC. It was considered that the proposed redevelopment of the site maintained the overall character and respected the built form of the local area. The proposal was respectful of the surrounding context and was appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance. She also highlighted that the proposed building incorporated some of the interesting features of the existing building. It was considered that the proposed development of the site did not result in a net detriment to the character of the ATC, and therefore the proposed demolition was acceptable.

The Committee was advised that, although the proposed amenity space was below the threshold advised in Creating Places, the application site was located within the city centre and was in close proximity to local amenities, such as City Hall Gardens and the River Lagan. On balance, therefore, it was considered that there would be no unacceptable adverse impact on residential amenity for potential residents, with appropriate mitigation offered by way of condition.

The Principal Planning officer reported that NIHE was supportive of the proposed residential scheme and had advised that the proposal would help to address unmet social housing need in the catchment area.

NI Water had responded to the consultation request, advising it had no objections subject to conditions.

The Principal Planning officer advised that, on balance, the proposed development was considered to comply with the tests of the Development Plan and retained planning policy and therefore the officer's recommendation was to approve the application, subject to conditions.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

The Deputy Chairperson welcomed Councillor Gormley to the meeting. He explained that he objected to the application for the following reasons:

- there would be a lack of sunlight and amenity space in some apartments which was contrary to PPS 7, in that it failed to create a quality residential environment;
- the destruction of built heritage, contrary to PPS6, as highlighted by the submission by the Ulster Architectural Heritage Society;
- the lack of comprehensive community consultation;
- the Council had submitted a response to the Department for Communities draft Housing Supply Strategy last week, stating that the Council was “committed to early engagement with local communities and stakeholders to ensure from the outset that they were involved in shaping places to encourage sustainable, thriving and inclusive communities”; and
- he urged the Committee to reject the application.

The Deputy Chairperson then welcomed Mr. D. Worthington, representing the Market Development Association, and Mr. C Mackle, architect, who were objecting to the application.

Together they advised that they believed that the Committee should reject the application as:

- it constituted town cramming and it was contrary to Policy QD1 of PPS5 para 6.137 of SPPS;
- it contained wholly substandard levels of private open space which was contrary to Policy PPS 7 QD1 c and Creating Places, and it contained apartments which would experience constant overshadowing and inadequate light levels due to being located at the rear, contrary to Policy PPS 7 QD1 h and the SPPS para 412;
- private open space was essential for all residential developments, with minimum of 10 square metres per apartment – however, only 45 square metres of communal, un-landscaped hard surface was provided on the roof;
- the fact the development was deemed appropriate by officers was because it was for social housing, which suggested it was second rate;
- MDA had been engaging with the applicant to create a more suitable scheme and was supportive of social housing in the city centre;
- the applicant had submitted a PAD with a revised sketch proposal and it was not acceptable that the Planning Department had only clarified the process for the payment of the fee four weeks after the application date;
- the Council’s Local Development Plan and “Bolder Vision” documents were of material consideration, and one of the focus streets in Bolder Vision was Verner Street; and
- a refusal of the current application would clarify ambition for greater quality, people first and community focused regeneration.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

The Deputy Chairperson welcomed Mr. L. Ross, planning agent for the application, to the meeting. He advised the Committee that:

- he had been involved with the project since it had started 7 years ago, wherein a PAD application process had resulted in a scheme which didn't work;
- a further PAD application was subsequently submitted which had found favour with the statutory consultees and the planners;
- a consultation process had taken place with the Market Development Association, which had expressed concerns regarding the proposal, and had come up with an alternative proposal for the site;
- the applicant, Habinteg Housing Association, had agreed that the best way to continue was to conduct a parallel PAD process alongside the planning application given the large amount of time and money that was involved in a PAD process;
- the applicant was happy to facilitate looking at the MDA proposal but that it had invested a lot of time and money in the process to date and didn't want that effort to have been wasted; and
- requested that the Committee did not refuse the application this evening and instead deferred it to allow more time for the discussions to continue.

A Member stated that the Committee had already deferred the application on a number of occasions to allow further time for those discussions to continue and that officers had advised the Committee that the PAD presented had not yet been validated and would require a new application. He added that he felt that the applicant should have withdrawn the application and continued with the PAD process, however, the Committee had to deal with the application in front of it.

Proposal

Moved by Councillor Garrett
Seconded by Councillor Maskey and

Resolved - That the Committee refuses the application as it is contrary to Policy QD 1 of PPS 7: Quality Residential Environments in that the proposal would, if permitted, introduce an unacceptable layout through the overdevelopment of the site which would fail to provide a quality residential environment to the detriment of the amenity of prospective residents in quantitative and qualitative terms. Furthermore, the proposal is considered contrary to Policy QD1(h) of PPS 7 as lower apartments would experience an unacceptable impact from overshadowing for prospective residents. The Committee agrees to grant delegated authority to the Director of Planning and Building Control for the final refusal reasons.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

**LA04/2021/0911/F - Demolition of existing building
and construction of 9 no. apartments and associated
site works at 236 Upper Newtownards Road**

The Planning Manager (Development Management) presented the details of the application to the Committee.

The Members were advised that the site was located within the development limits of Belfast in both the Belfast Urban Area Plan 2001 (BUAP) and both versions of draft Belfast Metropolitan Plan 2015 (dBMAP). It was within a draft Area of Townscape Character (ATC).

The main issues which had been considered included the principle of the proposal at that location; demolition; impact on the character and appearance of the area; impact on built heritage, impact on amenity, access, parking and transport; infrastructure capacity; and impact on human health.

The Planning Manager outlined that the principle of residential redevelopment was acceptable on the basis that the site was within the development limits in both the extant and draft plans and historically would have been used as a dwelling. The Development Plan did not preclude housing from the location.

He explained that it was considered that the existing building made a positive contribution to the character of the area and its demolition would normally present concerns. However, the difficult history of building was a material consideration and justified the removal of the building. Notwithstanding, he advised that it was still necessary for the applicant to demonstrate an acceptable redevelopment proposal and “put back”. It was considered that the design of the proposed apartments, in terms of their design, scale, massing and site coverage, would be inappropriate for the site and locality and would harm the character and appearance of the area.

The Committee was advised that sixteen letters of objection had been received, citing issues with parking and traffic; failure to respect the built context/local character of the area; concerns regarding the design and layout of the proposal; overdevelopment of the site; impact on listed buildings; impact on residential amenity; inadequate amenity provision; noise; security and health and safety concerns; inaccurate plans; unacceptable use; that further engagement with victims of the abuse scandal was required and that it was contrary to planning policy.

The Members were advised that the Council’s Conservation Officer and Urban Design Officer had submitted objections in relation to the proposals. The Conservation Officer had concluded that the building made a positive contribution to the surrounding area and that its demolition would be contrary to policy. However, in this particular case, the building had a very difficult history as the site was formerly the Kincora Boys’ Home and had been subject to a Historical Institutional Abuse Inquiry in 2017. The Members were advised that that was a relevant material consideration which could be taken into account in the assessment of the application. Given the difficult history of the site, it was considered that the demolition of the building would be acceptable. However, the acceptability of the application was still dependent on a suitable redevelopment scheme.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

The Conservation officer raised concerns about the redevelopment scheme, citing issues around overdevelopment, scale and massing. They had commented that the extensive site coverage represented significant overdevelopment of the site in comparison to both the existing and neighbouring plots.

DFI Roads, HED and Environmental Health had also been consulted in respect of the application and had confirmed that they had no objections.

The Planning Manager advised the Committee that it was recommended that planning permission be refused on the grounds that the design of the proposed apartments was inappropriate and would be detrimental to the character and appearance of the area.

The Committee's attention was drawn to the Late Items pack, whereby NI Water had maintained its objection to the application, as a high level assessment had indicated potential network capacity issues in the local sewer. The Planning Manager outlined that NI Water had raised significant risks of detrimental effect to the environment and on existing properties and that connection to the public sewerage system should therefore be curtailed. If approval was granted, a condition was recommended to prevent development above sub-floor level until an extension to the existing surface water network could be provided.

The Members were also provided with further information from officers in relation to the density in the surrounding area. Whilst density varied in the area, the site proposed a density at around double the highest density in the area and four times the lower densities.

The Deputy Chairperson welcomed Mr. S. Beattie QC, Mr. D. Stelfox and Mr. D. Ewing to the meeting, who represented the applicant and agent.

Mr. Beattie QC advised the Committee that:

- the current building on the site was notorious;
- the original application submitted comprised a traditional design which the planning department did not like;
- the award-winning architect Mr. D. Ewing was then brought in to create a new design, which was peer reviewed by Mr. D. Stelfox, a renowned conservation architect;
- the design created an enhancement to the area which should carry significant weight;
- the draft ATC was not of material weight and PPS6 did not apply;
- to suggest that LC1 was a reason to refuse the application was incorrect, as it was on a main arterial route and there was a presumption in favour of greater density on such a location, as supported by a recent PAC decision on the Antrim Road;
- the character of an area was not defined by abutting premises;
- there was a modern architectural building opposite, Hawarden House;
- it was a mixed use area;
- the PAC had recently described an unashamedly modern development in a draft ATC in Belfast as being acceptable and that policy did not compel proposals to replicate the design of neighbouring development;

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

- QD1 paragraph 4.24 expressly stated that the policy did not preclude quality contemporary design using modern materials;
- it was ironic that the previous traditional design was rejected and that officers were recommending a refusal for the more modern design in front of the Committee;
- in Policy QD1 of PPS7 the applicable policy presumption was “unacceptable damage” in established residential areas, not detriment; and
- the assessment ignored the fact that the development was on the corner of North Road and that HED had found that the listed building adjacent to the site would not be adversely affected.

A Member requested further information on the design from the architects in attendance.

Mr. Stelfox advised the Committee that the current façade onto the North Road had a fairly plain return and a large open space which allowed an untidy view of the rear returns of a number of neighbouring properties, thus no attempt to create a streetscape.

He added that the proposal in front of the Committee created an attractive new road frontage and townscape onto both the Upper Newtownards Road and North Road, reflecting the scale and design of the properties on the opposite side of the road and that required extending the building footprint. He pointed out that HED did not find that it would affect the character of the nearby listed buildings or the townscape and did not have any objection to the proposal.

Mr. Ewing explained that the building had been designed to be respectful of the scale and proportion of the surrounding buildings and that the brick and aluminium which were proposed were low maintenance and sustainable for the busy corner site.

In response to a Member’s question in respect of the character of the area, Mr. Stelfox advised the Committee that the area comprised a variety of building styles with a mix of uses, including a number of modern retail units, a fire station and office buildings. He added that the application would enhance the busy junction.

A Member asked officers to confirm whether Policy LC1 applied on arterial routes. The Planning Manager advised the Committee that officers believed that it did apply. He explained that Annex E defined an established residential area as “residential neighbourhoods dominated by medium or low density single family houses with associated private amenity space and gardens... the areas may include buildings in commercial, retail or leisure service uses, usually clustered together and proportionate in scale and size of the neighbourhood being served”.

In response to a further Member’s question as to what the correct policy test was for QD1, whether it was “unacceptable damage” or “respecting the built form”, the Planning Manager advised the Committee that QD1 stated that “all proposals for residential development would be expected to confirm to all of the following criteria – (a) that the development respected the surrounding context and was 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”. He advised the Committee

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

that officers believed that the application failed to respect its context for the reasons as outlined within the report.

Proposal

Moved by Councillor Hussey,
Seconded by Councillor Spratt,

That the Committee grants approval to the application, as it does not believe that Policy LC1 applies given that it is a mixed use area and not an established residential area, and that it is on an arterial route; and in respect of Policy QD1, that the application respects the built form in the surrounding area in terms of the use of brick and the design, and how it improves the turn on the corner, and gives delegated authority to the Director of Planning and Building Control to prepare and finalise the wording of the conditions.

On a vote, ten Members voted for the proposal and three against and it was accordingly declared carried.

**LA04/2021/0547/F & LA04/2021/0543/DCA –
Demolition of existing buildings and redevelopment
of site for 2 commercial units on ground floor and
11no. 1 & 2 bedroom apartments, landscaped communal
courtyard and associated site works at 124-126 Lisburn Road**

The Senior Planning officer presented the details of the application for the demolition of no. 124-126 Lisburn Road and the erection of a 3.5 storey building with two commercial units at ground floor level and 11 apartments above.

The main issues which had been considered included:

- the principle of demolition of the existing buildings and the design and form of the replacement building in the conservation area;
- the potential impact on the character of the area and nearby listed buildings;
- the potential impact on residential amenity of existing and proposed residents;
- access, movement and parking; and
- infrastructure capacity

The Members were advised that the site was located within the Malone Conservation Area and involved the demolition of two buildings. It was not considered that the buildings made a material contribution to the Conservation Area and therefore their demolition was acceptable, subject to a suitable replacement scheme.

In terms of amenity provision, he explained that there was a communal courtyard of approximately 120 metres squared, which was above the minimum standards within PPS7 of Creating Places.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

The Senior Planning officer reported that the design of the proposed building reflected the traditional features of the street and appearance of the area. He outlined that the proposed replacement scheme would offer an enhancement to the Malone Conservation Area and that the setting of the nearby listed buildings would be protected.

HED, DFI Roads, Rivers Agency, BCC Environmental Health and BCC Conservation Officer had been consulted and had offered no objections to the proposal.

He explained that there had been an offer of Travel Cards for three years, along with car club and Belfast Bikes membership, to off set any requirements for parking, which would be secured through a Section 76 Planning Agreement.

The Members were advised that the applicant had engaged with NI Water to resolve the capacity issues to serve the development whereby a proposal of attenuation to the storm run-off rate had been proposed which indicated that there was a solution for the storm and water discharge.

The Committee granted approval to the application, subject to conditions, with delegated authority given to the Director of Planning and Building Control to finalise the conditions and the completion of a Section 76 Agreement to secure the green travel measures.

LA04/2021/1702/F - Alterations and 3 storey extension to existing private hospital including vehicular access and car parking (amendment to previously approved two storey permission granted under LA04/2017/0005/Fat 807 - 809 Lisburn Road Belfast BT9 and incorporating part of Kingsbridge Private Hospital at Nos 811- 815 Lisburn Road

(Councillor Spratt, having declared an interest in this item, left the meeting at this point in proceedings)

The Principal Planning officer outlined that permission had previously been granted for a two storey extension to the private hospital, which was extant.

He explained that the key issues which had been considered during the assessment of the application included:

- the acceptability of the proposed use at this location;
- the acceptability of the design;
- impact on surrounding context – listed buildings and draft area of townscape character;
- access, parking and traffic management; and
- environmental considerations - drainage, contamination and noise

The Members were advised that the principle of a three storey extension to the existing hospital was considered acceptable given that permission was previously granted for a two storey extension on the site.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

The Principal Planning officer explained that the proposal had been the subject of a Pre-Application Discussion (PAD) and that it had been amended during the PAD process to address design issues raised by the Urban Design Officer, HED and the Conservation Officer. He confirmed that the Urban Design Officer, HED and the Conservation Officer were all now content with the proposed scheme.

The Committee was advised that the scale, height and massing of the proposed extension was considered acceptable and appropriate to the surrounding area. The design and materials had drawn cues from the immediate context and were considered acceptable.

The Members were advised that no third party objections had been received.

The Principal Planning officer drew the Member's attention to the Late Items pack, whereby a response had been received from DFI Roads on 14th February. It offered no objection to the proposed development, subject to conditions and to a minor amendment to the car parking layout which necessitated the removal of one car parking space. A revised plan had been submitted to address that technical issue.

He outlined that NI Water had objected to the application on the grounds of insufficient waste-water drainage infrastructure capacity.

A response had been received from NI Water in response to an officer's request for specific evidence to demonstrate the following:-

- lack of capacity for the specific development;
- resultant detrimental harm and how it would manifest;
- how the proposed additional floorspace over and above the previously approved 2 storey development on the site (LA04/2017/0005/F) would have a harmful impact; and
- how the specific proposal would have a harmful impact over and above developments that had already been committed in Belfast (i.e. extant permissions).

In response NI Water had stated that:

1. It had carried out extensive population and flow and load studies which had both confirmed that the existing Belfast Waste Water Treatment Works (WWTW) was operating above design capacity. As a result, NI Water had commenced the upgrade of the treatment works. The initial upgrade work would be completed by June 2023 and some additional capacity would be available from 1st July 2023. Further phases of upgrade work were planned throughout April 2021 – March 2027, subject to available funding;
2. Continuing to approve new foul connections would add additional biological loading to the existing overloaded treatment works, increasing

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

the risk of failing its Water Order Consent Standards set by Northern Ireland Environment Agency (NIEA). Its previous consultation response

3. had also confirmed a high level assessment had indicated potential wastewater network capacity issues. If confirmed, that established environmental risks, including pollution, flooding and detrimental impact on existing properties. In accordance with its advice, the applicants Drainage Consultant had applied for a Wastewater Impact Assessment and had submitted additional flow calculations. The application was currently being processed by NI Water;
4. The amended proposal included for 2 additional beds, 8 patient pods, endoscopy suite and administration facilities. It was NI Water's opinion that that would result in an increased biological loading. It was, however, acknowledged that the volumetric discharge (hydraulic loading) to the existing combined sewer could be reduced through on-site attenuation and flow control which would address the network capacity issues; and
5. NI Water had a duty to approve connections for all proposed development with extant planning. Although the site had extant approval for a 2 storey extension, and, it was highly likely the volumetric discharge could be reduced for the proposal (which would address the network capacity issues), it was NI Water's opinion that the additional storey would result in increased biological loading. Subject to successful hydraulic loading outputs from the Wastewater Impact Assessment, NI Water would consider a negative condition to permit the construction of additional storey to be constructed but not occupied until 1st July 2023 when additional biological treatment capacity would be available.

The Principal Planning officer explained that there were ongoing discussions between the applicant and NI Water on this issue. He advised the Committee that NI Water had not addressed the fall-back of the significant number of un-implemented planning permissions for residential and commercial development across the city.

In response to a Member's question, the Planning Manager advised the Committee that there were planned works on the Waste Water Treatment plant within 18 months and that officers did not feel that there were adequate grounds to refuse the application based on capacity for the reasons set out in the report.

The Deputy Chairperson put the officer's recommendation, to grant approval to the application subject to conditions and a Section 76 Agreement to secure an Employability and Skills Plan, with delegated authority given to the Director of Planning and Building Control to finalise the wording of conditions and the Section 76 Agreement, to the Committee.

On a vote, eight Members voted for the proposal, one against and with three no votes, it was accordingly declared carried.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

**LA04/2021/2154/F - Change of approved design for
Community Hub building included within the extant
planning permission ref: LA04/2018/1832/F
(dated 21.02.20) for a community led mix use
regeneration scheme at the site of the former
St Gemma's School**

(Councillor Murphy, having declared an interest in this item, left the meeting at this point in proceedings)

The Principal Planning officer presented the details of the application to the Committee, for a revised design and layout for a community hub building, which had previously been approved as part of a larger regeneration scheme under reference LA04/2018/1832/F in February 2019.

The key issues which had been considered in the assessment of the proposal included:

- the principle of redevelopment;
- acceptability of community uses;
- loss of open space provision;
- impact on neighbouring amenity;
- impact on built heritage;
- traffic and parking;
- impact on trees and natural heritage;
- contaminated land;
- drainage and flooding; and
- pre-application community consultation

He advised the Committee that the site was located on unzoned land within the development limits of Belfast. The presumption was, therefore, in favour of development, subject to the planning considerations as discussed within the report. He outlined that the principle of the demolition of the former school building and a mixed-use development, which included housing, retail and community use on the site was acceptable and was established under planning permission LA04/2018/1832/F.

The scale, height and design of the proposed revised community hub building was acceptable when compared to the previously approved building.

The ground floor would comprise training rooms, a dual use area for a café/event space, community offices, gym, boxing ring/training area, with ancillary administration offices, foyer, and toilets. There was also a secure and enclosed external courtyard area for training purposes. The first floor comprised two flexible use halls, changing rooms and gym, with a multi-use sports/community hall at the rear of the building.

The mix of uses was considered acceptable at the location, given the previous approval.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

The Members were advised that consultees, including Environmental Health, had no objections.

The current application substantially removed a buffer landscape area which was an area of communal open space between the community hub building and the approved housing element due to a revised layout for the hub building and associated areas. The open space was relocated within the layout. He explained that the revision had been necessary for several reasons as discussed in the report, but principally they were required to allow the community groups currently using the site to continue to operate at the site during redevelopment works.

The Principal Planning officer explained that the proposal would provide a more extensive community benefit in terms of physical and economic regeneration to the area than what would likely have been derived from the grassed open space as part of the approved layout. He advised that the benefit of the previously approved open space was limited to the prospective residents of the new housing. In addition, the private amenity space provision for the new dwellings was compliant with policy and broadly exceeded provision within the locality. The proposed open space was broadly the same size and would still be provided for community use, albeit in a different layout. On balance it was therefore considered that the revised proposal was acceptable in terms of the loss of open space.

A total of 17 letters of support and no objections were received in respect of the application.

The Committee granted approval to the application, subject to conditions. Delegated authority was given to the Director of Planning and Building Control to finalise the wording of the conditions subject to no substantive issues being raised.

LA04/2021/0264/F - Demolition of existing public house and erection of 7No. dwellings (social housing) at 475-487 Crumlin Road

The Senior Planning officer provided the Committee with the details of the application.

He explained that the site was within the development limits for Belfast in both the Belfast Urban Area Plan 2001 (BUAP) and the draft Belfast Metropolitan Plan 2004 (BMAP). The site was unzoned in BUAP 2001 and was zoned as a commercial node and area of parking restraint and was set along an arterial route within draft BMAP 2004.

He detailed the main issues which had been considered during the assessment of the case, including:

- the principle of the proposal at that location;
- design, layout and impact on the character and appearance of the area
- impact on amenity;
- access, parking and transport;
- infrastructure capacity; and
- impact on human health

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

The Members were advised that the principle of the proposal was acceptable on the basis that the site was within the development limits in both the extant and draft plans and had a history of planning approvals for housing in the past. He explained that the development plan did not preclude housing from the location.

He explained that the proposal followed the general pattern of development in the area and that the design and layout would not create conflict and was in keeping with the local character and would not impact on environmental quality or residential amenity in accordance with PPS 7.

In terms of prospective residents, each unit had adequate outlook to the public street and all units were proposed to be built to a size not less than Housing Executive standards.

The Committee was advised that the design, layout and separation distances proposed were acceptable and would not significantly impact on existing residential amenity by way of overlooking, dominance, loss of light or overshadowing.

The Senior Planning officer outlined that an objection had been received from the neighbouring Crumlin Star Social Club. It had raised a number of concerns, including those relating to impact on trade, access to its property, security issues, interface violence, potential for noise pollution complaints and additional running costs. The Senior Planning officer drew the Members attention to the report which had addresses each of those issues.

In respect of the impact on parking and traffic, he explained that DfI Roads was content. He added that Rivers Agency and Environmental Health had considered the proposal and offered no objections. The applicant had engaged with NI Water to resolve wastewater treatment capacity issues to serve the site and had provided correspondence from NI Water which indicated that there was a solution for storm and foul water discharge which could be addressed.

The Committee granted approval to the application, subject to conditions, with delegated authority given to the Director of Planning and Building Control to finalise the wording of conditions subject to no new substantive planning issues being raised by third parties.

LA04/2021/2802/F - Application under section 54 of the Planning Act (Northern Ireland) 2011 in respect to planning permission LA04/2017/1216/F (residential development comprising 45 dwellings and 8 apartments and associated access road, parking and landscaping (53 dwellings in total) to vary condition 5 (seeking to vary the soft landscaping works to be implemented)

(Councillor Spratt re-joined the meeting at this point in proceedings)

The Committee was advised that the application sought to vary a condition under Section 54 of the Planning Act (Northern Ireland) 2011 to a previous approval relating to a

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

residential development at Upper Dunmurry Lane, LA04/2017/1216/F. The previous approval was granted in February 2019 and the development was substantially complete.

The proposal sought to vary Condition 5 which related to soft landscaping. The condition required that all soft landscaping would be carried out in accordance with approved details as set out in the approved Drawing No. 22A. The current application sought to amend the Drawing number, to take account of revised proposals which proposed to replace 1 ash tree and a grouping of young sycamore trees removed with 4 semi-mature lime trees.

The Members were advised that the Tree Officer was satisfied that the proposed replacement trees were appropriate and had no objection to the proposed variation.

One representation was received in respect of the application, raising issues regarding the short period for consultation, that the main contacts were on annual leave over the Christmas period and a lack of detail on the planning portal on the proposed amendments and how they would impact on the aesthetics of the site and what had originally been agreed by the community.

The Principal Planning officer pointed out that details of the proposed amendments were articulated to the objector and the landscape plan and cover letter, which were available on the portal, had been forwarded to the objector to provide clarity on the proposed amendments. Taking account of the planning history on the site, the Committee was advised that the proposed changes were considered compliant with the development plan and other relevant policies.

The Committee granted approval to the application and agreed that delegated authority be given to the Director of Planning and Building Control to finalise the wording of the varied condition, subject to no new substantive planning issues being raised.

**LA04/2021/2416/F - Retractable canopy for
outdoor dining to restaurant at The Muddlers Club,
1 Warehouse Lane**

The Committee was advised of the proposal for the erection of a retractable canopy to provide cover for an outdoor seating area, on a temporary basis of two years.

The key issues which had been assessed included the impact of the proposal on the character and appearance of the conservation area; the impact on the setting of a listed building; and the impact on the amenity of the surrounding area.

The site was located within the Cathedral Conservation Area and within the setting of a number of listed buildings. The area was commercial in nature and the surrounding area was predominantly restaurants and bars.

The application had been neighbour notified and advertised in the local press and no objections were received.

Historic Environment Division had been consulted in relation to the proposal and had no objection to the proposed canopy.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

The Committee granted approval to the application for a period of two years.

**LA04/2021/2896/A - Building signage for
Walkway Community Association 1-9 Finvoy Street**

The Members were advised that the signage was to be positioned on the newly constructed Walkway Community Association Centre. Three brushed stainless steel signs were to be mounted on to the building, one on each elevation - front, side and rear.

The key issues which had been considered were amenity and public safety.

The Committee noted that the proposed signs would identify the new Walkway Community Association building and would integrate sensitively to the host building and would respect the amenity of the surrounding area.

DFI Roads had been consulted and had no objections. The signs would not prejudice public safety.

The Committee granted approval for the three signs, with delegated authority given to the Director of Planning and Building Control to finalise the wording of the conditions.

(The High Sheriff, Councillor Hussey, left the meeting at this point in proceedings)

**LA04/2021/2779/F - Section 54 Application to
vary Condition 7 of Planning Permission
LA04/2019/2343/F (replacement new build
community centre) to amend external facing
and roofing materials at Walkway Community
Association 1-9 Finvoy Street**

The Committee was advised that a Section 54 Application to develop land without compliance with Condition 7 of previous Planning Permission LA04/2019/2343/F, which had been approved on 24th February, 2020. LA04/2019/2343/F was for the "Proposed demolition/removal of existing temporary building and erection of new two-storey Community Centre and associated works.". Condition 7 of LA04/2019/2343/F read, "All external facing and roofing materials shall be implemented as specified on the approved plans'. Reason: In the interests of the Character and Appearance of the Area.

The change proposed was to omit the noted 'PPC Aluminium Cladding Panels - Metallic Beige/Grey' at the rear upper block of the centre and to install a textured render system in an off-white colour instead.

The application had been advertised in the local press and neighbour notified. No letters of representation had been received. The proposal complied with the design requirements of the SPPS and would respect and be sympathetic to the overall character of the draft ATC in line with the Addendum to PPS6.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

The Committee granted approval to the application and agreed that delegated authority be given to the Director of Planning and Building Control to finalise the wording of the varied condition.

LA04/2021/2363/F - Side Extension to North-East Elevation for Fitness Suite, level area created to rear to accommodate 2no. shipping containers for Storage, additional site works & boundary fencing at Poleglass Community Association, Bell Steel Road

The Committee noted the details of the application which sought to construct an extension to the North-East side elevation of the existing community centre to create an additional 120sq metres space for a new fitness suite and associated changing facilities. An area of sloped ground to the rear of the site was to be levelled and hardstanding introduced to create space for two shipping containers for external storage. Given the nature, form and materials of shipping containers, it was recommended that they were removed after a period of three years with a more permanent storage solution, more fitting to the context, to be found.

The Department for Infrastructure Roads Service and Environmental Health Service had no objection. The application had been neighbour notified and advertised in local press and no third-party representations had been received.

The Members noted, in the Late Items pack, that a response from HED (Historic Monuments) had now been received and it was content that the proposal satisfied SPPS and PPS 6 archaeological policy requirements.

The Committee granted approval to the application, with temporary approval for the containers, subject to conditions and informatives with delegated power given to the Director of Planning and Building Control to finalise the conditions.

(The Committee adjourned for ten minutes at this point in proceedings)

Miscellaneous Items

NI Audit Officer Report - Planning in Northern Ireland and DfI Report on the Review of the Implementation of the Planning Act (NI) 2011

The Director of Planning & Building Control and the Planning Manager (Development Management) presented the undernoted report to the Committee:

“1.0 Purpose of Report or Summary of Main Issues

- 1.1 This report relates to two separate reviews of the NI planning system, or aspects of it.**

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

- Firstly, publication of the Northern Ireland Audit Office's report on its review of the wider NI planning system; and
- Secondly, the Department for Infrastructure's report on its review of the implementation of the Planning Act (Northern Ireland) 2011.

1.2 The main purpose of this report is to summarise the findings of these two reports. It provides an officer analysis of the issues raised and sets out next steps for dealing with the issues identified by the two reports. The report also takes opportunity to set out some of the current significant impacts that issues raised by the reports, alongside other factors, are having on the Council's operation of its Planning Service.

2.0 **Recommendations**

2.1 The Planning Committee is asked to note this report.

3.0 **Background**

3.1 The current NI planning system has been operating for nearly seven following local government reform and the transfer of most planning powers to the 11 newly formed councils in April 2015. As mentioned in the summary, two separate reviews of the NI planning system, or aspects of it, have been carried out over the last 12 months. These reviews have resulted in the recent publication of two separate reports. The Department for Infrastructure (DfI) published its report on 27 January 2022 and the Northern Ireland Audit Office (NIAO) published its on 01 February 2022. These reviews are particularly timely given the criticisms levelled at the NI planning system that it is not delivering and is having an adverse impact on growth and investment.

3.2 The main purpose of this report is to summarise the findings of these two reports. It provides an officer analysis of the issues raised and sets out next steps for dealing with the issues identified by the two reports. The report also takes opportunity to set out some of the current significant impacts that issues raised by the reports, alongside other factors, are having on the Council's operation of its Planning Service.

4.0 **NIAO Review of the NI Planning System**

Background

4.1 Belfast City Council has been engaging with NIAO on its review of the NI planning system since first learning of the audit in 2020. The Planning Service initially met with NIAO in December 2020 then provided written feedback to NIAO in January 2021, also

responding to an information request to all councils. NIAO shared its draft report with the 11 councils in December 2021 to which Belfast City Council provided comments. NIAO then published its final report on 01 February 2022. A copy of the full report is provided at Appendix 1a. For ease of reference, the report's recommendations are listed at Appendix 1b.

Report's Key findings and recommendations

4.2 The overarching message of the NIAO report is that the NI planning system is not working efficiently and, in many aspects, is failing to deliver for the economy, communities or the environment. The report's key findings are summarised below.

- The planning system has not met many of its main performance targets
- The system is increasingly financially unsustainable
- The system is inefficient and often hampered by poor quality applications
- There is an urgent need for improved joined-up working between organisations delivering the planning system
- Many statutory consultees are struggling to provide information in a timely manner
- The system isn't meeting its plan-making objectives.

4.3 The report goes on to make a series of recommendations as set out at Appendix 1b. These recommendations relate to Plan-making, improving performance on the most important applications, enforcement, delegation and committee matters, review of planning fees, leadership of the planning system, skills and environmental ammonia levels.

4.4 The NIAO report is especially critical of the disjointed approach to planning in NI:

'Our review has identified significant silo working within the planning system. We saw a number of instances where individual bodies – councils, the Department or statutory consultees – have prioritised their own role, budgets or resources, rather than the successful delivery of the planning service. Each organisation is accountable for its own performance, and whilst the Department monitors the performance of individual organisations against statutory targets, there is little accountability for the overall performance of the planning system.' (par. 4.10)

Officer commentary on the NIAO report

4.5 Officers view the NIAO Report as excellent opportunity to highlight the shortcomings of the NI planning process, whether it relates to

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

Plan-making, Development Management or the general administration of the planning process. In this regard, the report is welcomed.

- 4.6 In terms of the NIAO Report's recommendations, these are generally supported. Although the recommendations can perhaps be criticised for being too high level, not time bound and that there is no indication as to how those recommendations should be implemented. In some regards, the report does not go far enough and in previous feedback the Planning Service has called for an independent review of the NI planning system.
- 4.7 Despite the overall negative tone of the NIAO Report, Belfast City Council fairs reasonably well overall. Major planning application performance is strong in the context of the other councils (although clearly there is room for improvement); this is despite the Council dealing with around twice as many Major development projects as the next most prolific council. The Council enjoys healthy levels of delegation (96%) and low levels of officer recommendations overturned by the Committee (2% compared to 31% for the highest council). The NIAO Report also makes specific mention of the Council's *Application Checklist*, published in 2018 to improve the quality of planning applications on submission, with the Department encouraging other councils to follow suit.

LDP Process

- 4.8 The NIAO recognises significant issues with the introduction and administration of the new Local Development Plan processes set out in the Planning Act 2011. The NIAO Report notes that the Department's unrealistic expectation was that all councils would have a fully adopted two-part LPD within 3.5 years of transfer contrasting this with the reality that after seven years no council has even an adopted first part Plan Strategy – with Belfast being at the most advanced stage. According to the latest projections, not all council areas will have an adopted plan until 2028 – some 13 years into new system when the life-cycle of a Plan is expected to be 15 years. The changes within the 2011 Act were intended to ensure NI has a plan-led system and it is imperative that all council areas have up to date plans to provide certainty, consistency and provide the foundation for investment. In emphasising the unrealistic expectations for the LDP processes the NIAO Report also recognise the underestimate for this part of the system from both a skills and resources perspective.

Development Management

- 4.9 Officers advise that the NI planning system is structurally flawed. Whilst the objective of local government reform was to enable

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

councils to make local planning decisions, the reality is that in a significant number of cases, this is not possible because local decisions cannot be made without input from central government departments through the statutory consultee process. Unlike planning authorities in England and Wales, councils do not have key areas of responsibility such as transport and regeneration. In addition, unlike in other areas of GB, advice on all Listed Building and archaeological matters comes from central government.

- 4.10 Councils are therefore largely dependent on central government to make decisions and there are substantial problems with the statutory consultee process in terms of poorly resourced consultees with often very slow response times, causing significant delays and uncertainty to the planning application process. In addition, statutory consultees are culturally desperate from councils with a lack of alignment in terms of overall objectives and service priorities. In these regards, the NIAO report accurately captures the 'silo working' and lack of overall accountability of the NI planning system.
- 4.11 If Belfast is to truly maximise its potential for place-making and effectively compete with other regional cities in GB and ROI, it must have unitary authority status with additional core responsibilities enjoyed by other major cities.
- 4.12 The NIAO report rightly places emphasis on improving planning application performance but officers disagree with the focus being on the most important application. Each and every application is important to the customer and City to one degree or another, and there must be emphasis on improving the application system as a whole.

Planning Committee

- 4.13 The NIAO Report recommends greater transparency around Committee decision making in NI, particularly the recording of why some normally delegated applications are referred to Committee and minuting the reason/s why the Committee has overturned an officer recommendation. These are matters that the Council already addresses.
- 4.14 NIAO also recommends that the Committee regularly reviews a sample of its previous decisions to enable understanding real-world outcomes, impacts and the quality of completed projects. This recommendation is welcomed and offers propose to build this into the Committee's continuous development programme. Other recommendations include the need for appropriate Member training with the Department ensuring regional consistency.

Financial Unsustainability

- 4.15 The NIAO report rightly highlights the financial unsustainability of the present system. In January 2021, the Council reported to NIAO that the net cost of its Planning Service is nearly £1.2m after fee income. Planning is far from cost neutral. NIAO's recommendation that the NI planning system works towards financial sustainability is therefore welcomed.
- 4.16 It is understood that the Council remains the only planning service in NI to currently charge for PAD advice, which it has done since 2017. This has helped to fund additional staff to provide a better Planning Service overall. The Department is currently scoping a review of regional PAD guidance, including potentially encouraging more widespread charging.

Departmental Oversight

- 4.17 The NIAO Report remarks that there is a lack of accountability for the NI planning system. Whilst DFI has overall oversight of planning, there is no one taking overall responsibility. This is particularly challenging given how fragmented the system is with different central government Departments playing key roles alongside councils. Whilst the Department has an important leadership role, given the range of significant stakeholders in the system, it cannot have sole autonomy in addressing the substantial issues raised by the NIAO Report. Officers are very clear that the solutions can only be found by the various stakeholders working together with a common goal of significant improvement.

- 5.0 Dfi Review of implementation of the Planning Act (Northern Ireland) 2011

Background

- 5.1 Section 228 of the Planning Act (Northern Ireland) 2011 ('the Act') requires Dfi to undertake a review of the implementation of the Act. Members may recall that the Planning Committee considered its response to Dfi's 'call for evidence' in respect of this review in March 2021. A copy of the Council's response is provided at Appendix 2. Further engagement with local government included a 'workshop' Dfi to the Heads of Planning of the 11 councils in June 2021. Dfi recently published its report on the review on 27 January 2022. A copy of this report is provided at Appendix 3a. For ease of reference, the report's recommendations are listed at Appendix 3b.

Scope of the Review

- 5.2 In its report, DfI confirms that it has not undertaken a ‘root and branch’ review of the Act given that seven years in from transfer of most planning powers to councils, it is still ‘relatively early days’ in the delivery of the new planning system. The Department’s focus is on whether the original objectives of the Act have been met. They confirm that this will inform whether it is necessary to retain, amend or repeal any provisions of the Act.
- 5.3 The original objectives of the Act were:
- the continued formulation and co-ordination of planning policy by the Department;
 - councils preparing local development plans;
 - councils determining the majority of planning applications for development and additional planning related consents; and
 - councils taking appropriate enforcement action where a breach of planning control may have taken place.

‘Call for evidence’

- 5.4 DfI issued an 8-week ‘call for evidence’ in February 2021. It attracted 55 responses. Almost two-thirds of the Act were not remarked on with the vast majority of comments relating to Local Development Plans (LDPs), development management (planning application process) and enforcement.

Report’s Key findings and recommendations

- 5.5 The regulations require DfI to report on the following:
- the objectives intended to be achieved by the Planning Act
 - to assess the extent to which those objectives have been achieved
 - to assess whether it is appropriate to retain, amend or repeal any of the provisions of the Planning Act or subordinate.
- 5.6 The Department’s review found that the vast majority of provisions within the Planning Act have been implemented and that the transfer of responsibility for the majority of planning functions to locally accountable councils has been achieved, together with the establishment of the two-tier planning system.
- 5.7 DfI notes that councils are preparing local development plans for their areas, have published statements of community involvement

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

and now determine the vast majority of planning applications. Changes to the decision-making process including pre-application community consultation and pre-determination hearings have further enhanced community engagement and have allowed greater public involvement and transparency in the determination of planning applications.

- 5.8 Councils are also exercising their planning enforcement duties, investigating alleged breaches of planning control and taking action as appropriate. The Department is determining applications for 'regionally significant development' under section 26, or applications 'called-in' under section 29 of the Planning Act.
- 5.9 Since the commencement of the Act, the Department has also published the Strategic Planning Policy Statement for Northern Ireland (SPPS) setting out the Department's regional planning policies in a shorter more focused document and has published extensive guidance by way of Practice Notes on the reformed planning system.
- 5.10 The review also found that 162 sections of the Act, or just under two-thirds of its provisions had not been remarked upon in the call for evidence and DfI has, therefore, drawn the conclusion that these should largely be retained as structured.
- 5.11 DfI reports that key issues emerging from the responses to the call for evidence include:
- the timeliness of councils bringing forward their local development plans and delays in processing times for some planning applications, particularly major applications; and
 - the need for potential legislative changes which might address perceived obstacles in the system.
- 5.12 In seeking to address the findings from the review, DfI has made 16 recommendations / actions covering aspects of the Planning Act governing, Plan-making, Development Management, planning enforcement and additional planning control. For ease of reference, these recommendations are provided at Appendix 3b.

Officer commentary on DfI report

- 5.13 In commenting on whether the objectives of the Act have been met, DfI observes that the vast majority of provisions within the Act have been commenced, resulting in its successful implementation. Officers take issue with the suggestion that the implementation has been 'successful'. The NIAO Report clearly confirms that the NI planning system is not working efficiently and, in many aspects, is failing to deliver for the economy, communities or the

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

environment. Clearly, there is much further work to do to improve how the planning system operates in terms of the LDP process, Development Management and general administration of the system.

- 5.14 DFI acknowledges that the '*...planning system, in some parts, hasn't achieved the level of performance envisaged.*' It refers to indicative timetables for bringing forward LDPs not being achieved and whilst targets for processing Local applications have been met, targets for Major applications have not. The Department states that there are a number of factors that have contributed to this and that it is seeking to address these, albeit they are largely outside the scope of DFI's review.
- 5.15 The Department makes 16 recommendations (see Appendix 3b). None of the recommendations are time bound and DFI states that legislative change around these recommendations will have to be brought forward under the next NI Assembly mandate. Officers have concerns about how long it will take to bring about much needed change.

Local Development Plans

- 5.16 DFI acknowledges the calls for fundamental reform of the LDP process but does not consider that a fundamental review is required until a number of council LDPs have been adopted so as to better understand and evaluate the potential for change. The Department believes that the current process is appropriate and that issues can be addressed through better guidance and reviewing the statutory list of consultees.
- 5.17 Whilst it was recognised that there would be challenges arising from the introduction of a completely new process for the production of development plans this has been unnecessarily further complicated by the role the Department has adopted. The anticipated supportive and collaborative relationship between the Department, as the body responsible for strategic direction or oversight, and the councils as the new local plan making bodies, has not developed. The Department approach engagement and oversight has resulted in unnecessary delays as their role has become more interventionist than strategic oversight.
- 5.18 The new system sought to provide the flexibility for councils to respond to their unique challenges and circumstances through the introduction of plans and policies that reflect the aspirations of their Community Plans. However, the experience has not reflected this positive and innovative aspiration with a more controlling and directive position adopted by the Department in relation to both

guidance and engagement with councils in the development of their LDPs.

Development Management

- 5.19 DfI considers the existing framework of roles and responsibilities within the Development Management process remains appropriate. However, officers fundamentally disagree with this statement for the reasons set out previously, concurring with the NIAO Report's conclusions that the system is highly disjointed and involves far too much silo working. The long-term objective must be for Belfast to become a unitary authority with wider powers and increased responsibilities.
- 5.20 Responding to the Department's recommendations, officers welcome exploration of further digitisation of the planning process, over and above the implementation of the new regional Planning IT system, expected to 'go live' late summer 2022. This would follow English and Scottish Governments publication of white papers on promoting innovation and improving digitisation of the Scottish and English planning systems.
- 5.21 DfI's commitment to bringing forward proposals for both online and in person engagement in the Pre-Application Community Consultation process is also sensible, with temporary regulations having been introduced to facilitate online engagement during the pandemic. This will also consider the emerging recommendations from the regional Planning Engagement Partnership, providing opportunity for improved engagement in the process.
- 5.22 The commitment to review direction call-in criteria is also welcomed but this should be extended to a fundamental overhaul of the notification process as there are considered to be far too many instances whereby the Council has to refer applications to the Department before it can make a decision, resulting in uncertainty and unnecessary delay.
- 5.23 Officers welcome the Department's commitment to bring forward legislation to improve the quality of applications on submission. This would in effect make the Council's own *Application Checklist* a statutory document. However, it should be pointed out that the Council first raised the need for legislative change in this area as far back as 2016. It is very disappointing that it has take over five years for a formal decision to be made on this.
- 5.24 The Department states that it will explore further and give consideration to the legislative requirements around statutory consultations including timeframes for consultation responses, penalties for late responses and how councils can proceed if

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

statutory consultees do not respond within the required timeframes. The issues around consultees goes to the core of some of the major challenges the NI planning system faces. As previously stated, the long-term objective must be for Belfast to have unitary authority status so that it is not reliant on outside bodies to make local decisions. In any case, changes are essential to significantly improve the statutory consultation process now and make the system much more integrated and outcomes orientated. This must include ensuring that statutory consultees are effectively resourced. The Department has recently written to other government departments on foot of the NIAO Report, highlighting the need for significant improvement in these areas.

- 5.25 The recommendation to make Pre-Determination Hearings discretionary is considered to be very sensible as statutory PDHs are unnecessary and result in much uncertainty and delay for applicants.
- 5.26 The Department's recommendation to supplement existing section 59 provisions which would disallow the variation of a development proposal at appeal would be a good step forward. It would prevent appellants making changes (sometimes significant) at the appeal stage when the Council has not had proper opportunity to consider them. Moreover, it should focus applicants on improving the quality of the submissions when made to the Council. However, it is disappointing that DFI has not taken up the Council's request for legislative change that gives Planning Authorities discretion as to when they accept amended plans or additional information. This proposal was supported by a number of other councils and local government should continue to lobby on this issue, particularly in discussions about how to improve the quality of applications and overall performance.
- 5.27 In terms of enforcement, the Department's commitment to exploring use of Fixed Penalty Notices and multiple fees for retrospective applications is welcomed as deterrents to unauthorised activity.
- 5.28 Lastly, officers welcome the recommendation to undertake a general review of planning fees including an automatic annual inflationary uplift. The NIAO Report stresses the financial unsustainability of the current planning system. It will therefore be necessary to undertake a fundamental review of planning income, including a review of planning application fees, introducing charging for current no-fee applications (such as Discharge of Condition applications, Non Material Changes and PANs), and potentially allowing councils to set their own planning fees.

6.0 Current operational challenges

Development Management

6.1 The Council's Planning Service remains under significant operational pressure, brought about by many of the issues that the NIAO Report identifies in particular. The Council currently has around 1,200 live applications, up from around 850 since before COVID-19. This 40% increase in live applications initially resulted from the impacts of the first lockdown between March and June 2020. The office was initially closed and applications could not be received or processed, some staff were furloughed, site visits were temporarily suspended for health and safety reasons which meant that assessments could not be completed, and new IT had to be rolled out to support remote working.

6.2 However, despite having been almost fully being operational since summer 2020, it has proven extremely difficult to reduce live application numbers back down to more manageable, pre-COVID numbers. This has been due to a range of factors including:

- Planning application numbers returning to normal pre-COVID-19 levels fairly quickly after the initial lockdowns. This has meant that whilst a healthy number of decisions are being made, this has been more or less matched by new incoming applications, meaning that it has not been possible to make meaningful inroads into reducing the total live number of planning applications.
- In some areas there has actually been in a rise in applications, most notably an increase in householder applications as people are trying to achieve more space in the light of the pandemic (this is a trend experienced throughout the UK). The Planning Service also continues to receive a high volume of Lawful Development Certificate applications for HMOs under the new HMO licensing requirements.
- A marked deterioration in the quality of service provided by statutory consultees. In many cases there are very slow consultation responses, holding up applications and resulting in significant delays to applications decisions. This is a key issue identified by both the NIAO and DfI reviews.
- Intermittent technical problems with the NI Planning Portal Public Access and back-office software (this was particularly an issue towards the end of 2020 and since January 2022).

Planning Consultations

- 6.3 The most significant challenge – which is also outside the control of the Council – is the statutory consultation process. As mentioned, for many applications, the Council is reliant on advice from central government departments before it can make a planning decision. In many cases, there are significant delays in statutory consultees providing consultation responses, often borne of lack of resources. It is understood that DfI Rivers is only operating at 40% staff capacity. There are also staff shortages within DAERA. DfI Roads (the most prevent consultee in terms of the number of consultation requests) continues to provide many of its consultation responses well outside the statutory consultee period.
- 6.4 Unverified data for Belfast indicates that around only 40% of statutory consultee responses are provided within time for Major development applications. This rises to approximately 65% within time for Local applications with 63% overall for all applications.
- 6.5 In terms of official data, for NI as a whole, the latest statutory consultee performance for 2021/22 Q2 indicates the following:
- Total number of consultations issued was 7,195 (up 12% over the previous year)
 - Only 64% of statutory consultations were received within time (down from 77% the previous year)
 - DfI Roads – 66% consultations within time (77% previous year)
 - DAERA – 71% (68%)
 - DfI Rivers – 29% (64%)
 - NIW – 97% (88%)
 - DfC/HED – 61% (76%)
- 6.6 In some cases, it has taken consultees many months to provide a substantive consultation response. These delays preclude officers from identifying and resolving issues with applicants much earlier in the process, and prevent officers making a decision or referring applications to the Committee.
- 6.7 Belfast City Council has called for more sophisticated reporting on statutory consultee performance by the Department including measurement of how long it is taking on average for specific consultees to respond and reporting by District Council area.
- 6.8 Members will also be aware of the recent and widespread objections to applications by NIW, also a statutory consultee. Officers are continuing to work with NIW to try to resolve the wider

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

strategic issues around these objections, but as it stands approximately 100 applications (about 10% of all applications) are stalled in the system because of this issue.

- 6.9 There are also some internal challenges with around 110 applications awaiting a consultation response from Environmental Health (the Council is planning to procure temporary external consultancy support to reduce the backlog of consultations and assist with consultations on new applications).

Impacts

- 6.10 The impacts of these operational challenges are:

- Higher case numbers for individual case officers – this makes managing caseloads much more difficult, with a resulting negative impact on performance, less scope for feedback to customers and significant additional pressure on staff.
- Poor performance overall with slower decision making (current performance for the year to December is average 38.2 weeks to determine Major applications against a target of 30 weeks; and average 16.8 weeks for Local applications against a target of 15 weeks. These statutory targets are not themselves especially stringent).
- Significant reduced customer satisfaction with frequent frustration about the length of time to process planning applications.
- Delays to, and potential withdrawal of, investment in the city.
- Belfast is seen as a less attractive place to invest and do business.

7.0 **Next Steps**

- 7.1 This is a pivotal time for the NI planning system and publication of the NIAO and DfI reports represents a significant opportunity for much needed change and improvement. It is also essential that the right decisions are taken now – both locally and regionally – to address the fundamental shortcomings that have been identified.

- 7.2 Officers advise of the following next steps.

- i A Public Accounts Committee at the NI Assembly on 'Planning in NI' is scheduled for 10 and 17 February 2022 on foot of the NIAO report. A small number of local government Chief Executives have been invited to give evidence and BCC has nominated itself to be part of this group.

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

- ii **Mobilisation of the 11 councils as a cohesive unit through the Heads of Planning group to ensure a strong, united local government voice, with potential support from the Northern Ireland Local Government Association (NILGA).**
- iii **Formation of a cross sector group tasked with identifying solutions and addressing the fundamental issues identified by the reviews. It is essential that the core sectors of central and local government, development industry, elected members and communities are fairly and equally represented. There should also be an independent ‘outside voice’ on this group to widen experience and scope for improvement. The Department and local government should have co-ownership of implementing the necessary changes.**
- iv **Engagement with the RTPI and IPI professional bodies**

7.3 The aforementioned steps are regionally focused. At a local level, the Council’s Planning Service will continue to bring forward the following actions.

- **Ongoing development and implementation of the Continuous Improvement Plan;**
- **Implementation of the new regional Planning IT system in late summer 2022 (to replace the current NI Planning Portal and bring forward significant digital enhancements and improved working practices); and**
- **Redesign of Development Management processes using lean systems principles to significantly improve the efficiency and quality of service.**

8.0 Financial & Resource Implications

8.1 The existing NI planning system is inefficient and underperforming and this inevitably means that it also costly and not value for money. The NIAO report rightly highlights the financial unsustainability of the present system. In January 2021, the Council reported to NIAO that the net cost of its Planning Service is nearly £1.2m after fee income. Planning is far from cost neutral. NIAO’s recommendation that the NI planning system works towards financial sustainability is therefore welcomed.

9.0 Equality or Good Relations Implications / Rural Needs Assessment

9.1 No adverse impacts identified.”

**Meeting of Planning Committee,
Tuesday, 15th February, 2022**

A Member thanked the Planning Department for their hard work in respect of their consideration of the review.

The Committee noted the contents of the report.

Restricted Item

The information contained in the report associated with the following item is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.

Resolved – That the Committee agrees to exclude the members of the Press and public from the meeting during discussion of the item as, due to the nature of the item, there would be a disclosure of exempt information as described in Section 42(4) and Section 6 of the Local Government Act (Northern Ireland) 2014.

(Councillor Spratt left meeting at this point in proceedings)

Update on Local Development Plan

The Director of Planning and Building Control and the Planning Manager (Policy) presented the Committee with an update on documentation which had been received from the Department for Infrastructure in relation to the results of the Independent Examination and the main issues which had arisen from the statutory Direction which had confirmed that the Planning Appeals Commission conclusion that the Local Development Plan draft Plan Strategy (LDP dPS) could, with modifications, be considered “Sound”.

A number of Members paid tribute to the hard work of the Local Development Plan team for reaching such a significant milestone.

The Committee noted the update which had been provided.

Deputy Chairperson