

Planning Committee

Tuesday, 19th January, 2021

MEETING OF PLANNING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Hussey (Chairperson);
Councillors Brooks, Carson, Matt Collins,
Garrett, Groogan, Hutchinson,
Maskey, McCullough, McKeown,
Murphy, Nicholl and O'Hara.

In attendance: Mr. A. Thatcher, Director of Planning and
Building Control;
Mr. E. Baker, Planning Manager
(Development Management);
Ms. N. Largey, Divisional Solicitor;
Mr. J. Hanna, Senior Democratic Services Officer;
Ms. C. Donnelly, Democratic Services Officer; and
Mrs. L. McLornan, Democratic Services Officer.

Apologies

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

Minutes

The minutes of the meetings of 15th December were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 7th January, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor Groogan declared an interest in item 7c – the Centralised Anaerobic Digestion (CAD) plant at lands to the northwest of existing Belfast City Council Waste Transfer Station, 2a Dargan Road, in that she had asked questions in relation to the application but that, as she had not expressed a view in respect of it, she was content that she could participate in any discussion on the matter.

Councillor O'Hara also declared an interest in Item 7c – the CAD plant, in that he was on the Board of Belfast Harbour Commissioners as a political appointment, and that it had objected to the application. He advised that, as it was a Council appointment and as he did not have a pecuniary interest, he could fully participate in the discussion on the item.

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Councillor Nicholl declared an interest in Item 8a, the Proposed listing of nine Street Signs, in that a party colleague lived in one of the streets and she did not participate in the vote on the item.

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 Committee meeting during discussion of these items as, due to the nature of the items, there would be a disclosure of exempt information as described in Section 42(4) and Section 6 of the Local Government Act (NI) 2014.

Finance Update

The Committee was provided with an update on the impact of the Covid-19 pandemic on the Council's financial position, and a strategy to address the forecast deficit and the mitigation measures which had and would be taken as the situation evolved.

Noted.

Abandonments

The Committee noted that the Department for Infrastructure (DfI) proposed to abandon an area of footway at Albert Street/rear of Quadrant Place under Article 68(1) of the Roads (Northern Ireland) Order 1993.

Committee Site Visit

The Committee noted that a site visit had been undertaken, on 13th January, to LA04/2019/2653/F - Demolition of existing property and erection of a 9 storey building (overall height 37m) comprising a ground floor retail unit together with cycle parking and plant areas and 8 floors of Grade A office accommodation at Chancery House, 88 Victoria Street.

Planning Decisions Issued

The Committee noted a list of decisions which had been taken under the delegated authority of the Director of Planning and Building Control, together with all other planning decisions which had been issued by the Planning Department between 14th December, 2020 and 11th January, 2021.

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,

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together with the outcomes of a range of hearings which had been considered by the Commission.

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 Item

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

- LA04/2020/0426/F - Reconstruction of petrol station and ancillary retail unit including the replacement of fuel tanks, pumps and canopy alterations. Hot food takeaway unit, ATM, compactor and provision of an EV charging facility at 228 -232 Stewartstown Road.

LA04/2019/1540/F - Centralised Anaerobic Digestion (CAD) plant to include a bunded tank farm, (6no. digester tanks, 2no. buffer tanks, 1no. storage tank and associated pump rooms), biogas holder, biogas conditioning system, temperature control system, waste-water treatment plant (WWTP), motor circuit control room building, hot/cold water recovery system, feedstock reception and digestate treatment building, product storage building, odour control system and associated tanks, emergency gas flare, back-up boiler, administration/office building, car parking, 3no. Weighbridges, fire water tank and pump house, pipelines to existing combined heat and power (CHP) plant engines, switchgear, earth bunding, 3no. Accesses to existing Giant's Park Service road infrastructure and ancillary plant/site works on lands to the northwest of existing Belfast City Council Waste Transfer Station (2a Dargan Road)

Moved by Councillor Groogan
Seconded by Councillor Garrett and

Resolved - That the Committee agrees to:

1. defer consideration of the item to request further information on the Habitats Regulations Assessment (HRA) which had been carried out by Shared Environmental Services (SES), and;
2. to hold a non-mandatory Pre-Determination Hearing in respect of the application in due course.

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**(Reconsidered item) LA04/2019/1833/F –
New dwelling to replace previous dwelling on
site at 11 Ashley Park, Dunmurry**

The Principal Planning officer reminded the Committee that, at its meeting on 15th December, it had agreed to defer consideration of the application to enable a site visit to be undertaken to allow the Committee to acquaint itself with the location and the proposals at first hand. The site visit had been scheduled to take place on 13th January, 2021, but no Members attended.

She provided the Committee with the details of the proposal for a new dwelling to replace the previous dwelling on site, with connection to all existing services to the site and the use of the existing vehicular access into the site. The site had previously contained a dwelling which was demolished between 2012 and 2015. She explained that the site was white land within the BUAP and was in the Dunmurry draft Area of Townscape Character as designated within dBMAP.

She explained the key issues which had been considered in the assessment of the application, including the principle of a dwelling in that location, the character, layout, design, private amenity, access/parking and the impact on neighbouring amenity.

She explained that the surrounding area comprised of dwellings which were set back from the road and contained driveways to the side. The proposed dwelling in the application was, in that regard, out of character. However, it was considered that the proposed dwelling was in a similar location to the previously demolished dwelling and it was therefore considered that, while the previous dwelling was demolished a number of years ago, it would attribute to the character of the area. She outlined that, in considering the previous dwelling, it was deemed that the proposal respected the surrounding context and was appropriate.

She added that, when the designation of draft ATC was applied, the previous dwelling would have been in situ and, therefore, the proposal would not impact the character of the draft ATC given its similarities in location and massing to the previous dwelling. The proposal therefore complied with policy ATC 1 of the addendum to PPS 6.

The Members were advised that the principle of a dwelling in the location was acceptable. The Principal Planning officer advised that the design and layout was compatible with PPS7 and would not impact on the character of the area or result in an unacceptable impact to neighbouring amenity.

However, she pointed out that an application could only be considered a replacement dwelling when there was a physical structure on the site to be replaced. PPS21 stated that the dwelling to be replaced must, as a minimum, have all external walls intact and that the access was also linked to the dwelling. She explained that, as the previous dwelling had been demolished, the development as a whole must be assessed as a new dwelling and considered under its own merits. The demolition of the previous dwelling meant that any new development and associated access had to adhere to current policy and guidance.

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She advised that DfI Roads had objected to the proposal, as it was contrary to policy Access, Movement and Parking (AMP) 2 of PPS 3, whereby the proposed access would prejudice road safety as the visibility splay to the west fell considerably short of the requirement and was deemed to be inadequate.

The Principal Planning officer explained that the previous dwelling contained a vehicular access bounded with a boundary wall and which contained a large gate. She explained that the previous dwelling and access had since been demolished. As the previous dwelling and access had been demolished, the Committee was advised that the proposal was treated as a new development and therefore paragraph 5.15 of AMP 2 of PPS3 applied.

She explained that Paragraph 5.15 required that applicants must have control over the land required to provide the requisite visibility splays and to ensure that they were retained free from any obstruction. The Members were advised that the proposal contained direct access from the driveway to Ashley Park. DfI Roads had advised that the visibility splays were inadequate. It stated that the neighbouring land contained a brick wall which would obstruct visibility and a representation received from the occupants at no. 10a confirmed that it was within their ownership.

Given that the applicant had not amended the red line to include the neighbouring brick wall, and subsequently not served notice on the landowner, it could not be considered that the applicant had any prospect of gaining control of the third party lands in order to carry out the works necessary to comply with the required sightlines, as the area required did not form part of the application.

The Committee's attention was drawn to the Late Items pack, whereby correspondence had been received from the agent and the Members were provided with the Planning officer's response to the points raised.

The Chairperson then welcomed Mr. T. Gourley, agent, to the meeting. He advised the Committee that:

- PPS 21 was not relevant to the application as it only applied to rural settings and the site was in an urban area;
- the existing site was derelict and vacant;
- the existing access was a key consideration – the previous dwelling had vehicular access, illustrated by a dropped kerb, and the site had been fenced off with an openable gate;
- there was no intensification on the site, in that it was a like-for-like replacement of a single dwelling;
- the previous vacant dwelling had been demolished at the request of the Council, as it had been subject to a fire a few years previously;
- it was a sustainable development as services were already on the site, and access already existed to the site;
- it was within a residential area;
- visibility splays were only required for new developments or intensification of developments, and this was neither;

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- a number of the residents in the immediate area were keen that the development would proceed in order to bring the site back into use, given the unsightly nature of the derelict site;
- it complied with land use zoning and a number of planning policies, including reducing dereliction; and
- there had been no history of vehicular accidents on the site and no access issues had arisen previously.

In response to a Member's query as to whether the applicant was seeking to gain access or control of the brick wall in question, Mr Gourley advised that there was a limited frontage to the site and no opportunity to undertake the works required. He reiterated that there had been no issue in terms of traffic safety previously.

The Chairperson advised the Committee that Mr. G. Lawther, DfI Roads, was in attendance and he was welcomed to the meeting. He explained that the application was considered a new dwelling and, as such, Development Control advice note 15 applied, which required a wide distance of 45metres and the applicant was unable to achieve that. The other issue was the width of the footway, which was required to be 2metres, and that this had also not been met.

A Member queried whether an existing access to a site was extinguished even if a site had not wilfully been abandoned.

Mr. Gourley advised that he believed the case law was clear, and, as there had been no wilful abandonment and there was an extensive planning history on the site, therefore the access still existed. He stated that the applicant and the previous owner always had the intent of retaining the use of the site as a dwelling with access to the road.

The Planning Manager advised the Committee that the case law provided that, as soon as a building had been demolished, the use of the land had a nil use, as opposed to the issue of abandonment, where the use was given up. He added that the applicant was proposing to introduce a new use, a dwelling, with the use of an access which was quite severely substandard in one direction and which would create a road safety issue.

Mr. Gourley stated that he disagreed with the Planning Manager and that the key to this application was that it was an established use on the site, in a residential area, and that the use endured until someone wilfully abandoned it or changed its use. He also reiterated that there had been no history of traffic accidents at the site.

The Divisional Solicitor urged the Committee to be mindful of the fact that the statutory agency had highlighted that there was a road safety issue with the application and also that the intentions of any previous owner of the site were not wholly relevant to the application. She explained that she could not advise the Committee in relation to the legal position in respect of the current status of the site, regarding wilful abandonment and demolition, and would need some time to consider it.

After discussion, the Committee agreed to defer consideration of the application in order that clarification on the legal status of the site would be provided to the Committee.

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LA04/2018/2659/F - 22 residential units in a mix of 20 detached dwellings and 2 apartments with associated site works, parking and landscaping on lands on McClure Street to include land south of Railway and north of Powerscourt Place; between 10 Cameron Street and 85 Ormeau Road

The Principal Planning officer provided the Committee with the key aspects of the scheme.

She outlined the issues which had been considered in the assessment of the development, including the principle of development, the design, layout, impact on character and appearance of the area, parking and access, amenity space provision, drainage and flooding, infrastructure, contamination and ecology.

The Committee was advised that the Council was the landowner and that the site was located adjacent to a railway line and comprised two landscaped areas separated by McClure Street. The Principal Planning officer advised that the site was located on the boundary of the city centre and was identified as open space in both versions of dBMAP.

She provided the Members with the planning history of the site, which she advised was an important consideration of the current proposal. She explained that application Z/2014/0586/F had been refused permission for 27 dwellings with no in curtilage car parking on the site. The Committee was advised that the proposal was dismissed at appeal, however, the Commission had determined that the principle of the use of the site for social housing represented substantial community benefit to outweigh the loss of the open space to meet an exception to Policy OS1 of PPS8.

The Committee was advised that the current application had a reduced number of units, from 27 down to 22, and that it incorporated in curtilage parking. The Principal Planning officer explained that the application was also accompanied by Flood Risk and Drainage Assessments.

She highlighted to the Committee that 6 letters of support, 49 objections and 2 petitions of objection with 36 signatories had been received in respect of the proposed development. The objections were received from 32 different persons/addresses and raised issues primarily with respect to parking, traffic, noise, loss of open space, amenity and the character of the area. She explained that the issues had been addressed in the case officer's report. The Members were advised that the most recent amended layout had been re-advertised and neighbour notified, with two representations having been received from one objector and one letter of support.

The Committee noted that Environmental Health, DFI Roads, NI Water, Rivers Agency, NITHC, NIHE and NIEA had all been consulted and had offered no objection to the proposal.

The Principal Planning officer drew the Committee's attention to the Late Items pack, whereby correspondence had been received from an objector. She outlined the

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Case officer's response to the issues raised, including that DfI Roads had required a number of amendments to the application and that, during the processing of the application, an adjacent development on the lands had been approved by the Planning Appeals Commission, which required the application to be amended to take account of that committed development.

In relation to the social housing element, the Principal Planning officer explained that officers had since considered that a legal agreement might be more appropriate to secure the social housing use on the site. She explained that the Council's Physical Programmes Department had confirmed that it was content that the sales contract for McClure Street could specifically state that the site could only be developed for social housing purposes.

She outlined that each dwelling benefitted from private garden amenity provision to the side and garden space to the front. Overall, the officers felt that the proposal respected its surrounding context and would not cause significant harm to the amenity of neighbouring properties and would provide sufficient amenity space for future occupants in accordance with the SPPS, PPS7 and its addendum and Creating Places.

In relation to parking, she pointed out that 20 in curtilage spaces were provided for the 20 separate dwelling units and an in curtilage space was provided for each of the 2 apartments, with 3 visitor spaces also provided within the apartment unit curtilage. She explained that, given that the site was on the boundary of the City Centre, adjacent to an arterial route and within an Area of Parking Restraint, where the requirement ratio of 1:1 parking was fulfilled, it was considered that adequate parking was provided.

A Member queried whether the ongoing Covid-19 pandemic had perhaps hindered the objectors making representation at the meeting. The Principal Planning officer reiterated that the scheme had been re-advertised and that neighbours had been re-notified in respect of the amendments and advised the Committee that the post and email systems were still being monitored by staff. No requests to speak in objection to the application had been received.

Further Members noted that the majority of the objections were from nearby office buildings and welcomed the scheme for much-needed social housing in the area, which met the required space standards and separation distances.

The Committee granted approval to the application, subject to the imposing of the conditions set out within the case officer's report, and delegated power to the Director of Planning and Building Control for the final wording of the conditions and to secure an appropriate agreement, if required, with respect to securing the social housing use of the site.

LA04/2019/2229/F - 17.5m telecommunications column, with 6 antennae (3 enclosed within a shroud. 3 not enclosed) 3 radio units and 4 new equipment cabinets and associated ground works on footpath adjacent to no 318 Ravenhill Road

The Planning Manager provided the principal aspects of the application for a 4G mast, with associated cabinets, to the Committee.

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The main issues which had been considered in the assessment of the case were the principle of development, the impact on the character and appearance of the area, mast sharing and the potential to share existing structures, health considerations and road safety.

He explained that no third party objections had been received.

The Committee was advised that Dfl Roads objected to the proposal. He drew the Committee's attention to the Late Items pack, whereby DFI Roads had clarified their objection to the proposal, in that they felt that the column and cabinets would partially obscure the view of the existing advertising signage on the side of the shop. Dfl Roads advised that it felt that drivers might avert their attention from the road ahead for a greater period than would be required if the signage were unobstructed, as they tried to interpret what the signs were advertising. Driver distraction was one of the main causes of road traffic collisions.

The Planning Manager outlined that the signage referred to by Dfl Roads was, in fact, unauthorised, and that an enforcement case had been opened in respect of it. He explained that it was considered that the applicant should not be prejudiced because of unauthorised works by another party.

He explained that Dfl Roads had raised no other issues and that the mast was considered acceptable in other respects. The Committee was advised that the applicant had amended the proposal in an effort to reduce the extent to which the signs were obscured, with the proposed equipment only marginally obscuring part of one of the two signs.

A Member queried what the outcome would be if the Committee was to approve the application for the mast while the unauthorised signage remained in place.

The Planning Manager advised the Members that the agent for the application was in attendance and might be better placed to advise the Committee of their timeline between the approval of a planning application and the construction work on the mast. He added that, if approval was granted to the mast, his expectation would be that Planning would promptly undertake enforcement action to remove the signs due to the potential for conflict.

A further Member queried how long the signage had been there and whether the situation could arise whereby the Committee approved the mast and associated cabinets, and that the signage were also to remain as a result of having exceeded the timeline for enforcement action to be taken. The Planning Manager confirmed to the Committee that officers had already considered that eventuality and he confirmed that the signage had not been in existence beyond the 10 year limit.

In response to a request from a Member regarding the uncertainty around the permissions required for advertisement signage, the Director of Planning confirmed that the Committee was scheduled to receive training on enforcement in March 2020 and that the issue could be covered as part of that.

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The Chairperson advised the Committee that Mr. G. Lawther, DfI Roads, was in attendance. He advised the Committee that, while it was quite an unusual circumstance, the Department was attempting to provide a consistent approach in respect of advertisements. He outlined that, at present, the signs, regardless of their legal status, could be easily seen by road users, and that any obstruction to them could cause a distraction to drivers, causing them to avert their attention from the road ahead for a greater period.

The Chairperson advised the Members that Ms. H. Dallas, agent, was in attendance and she was welcomed to the meeting. She explained that the applicant was effectively being punished for somebody else's wrongdoing. She also pointed out that only one of the signs would be obscured with the equipment. In regards to timescales, she advised the Members that the client was keen to install the equipment as quickly as possible to ensure better 4G coverage in the surrounding area but that it would likely take a few weeks for works to commence on site.

The Committee granted approval to the application and delegated power to the Director of Planning and Building Control for the final wording of the conditions.

Miscellaneous Items

Proposed Listing of Nine Street Signs

The Director of Planning and Building Control advised the Committee that correspondence had been received from the Historic Environment Division (HED) regarding the proposed listing of nine street signs in Belfast. He explained that Article 80 (3) of the Planning Act (NI) 2011 required that HED consulted with the Council before placing any such sign on the statutory list of buildings of special architectural or historic interest.

The Committee agreed to recommend to the Historic Environment Division that it should proceed with the proposed listing of the following nine street signs, situated at the junctions of:

- Beersbridge Road and Upper Newtownards Road;
- Summerhill Parade and Barnett's Road;
- Knockland Park and Barnett's Road;
- Cherryvalley Park and Kensington Road;
- Kensington Road and Knock Road;
- Eastleigh Drive and Kincora Avenue;
- Clonlee Drive and Upper Newtownards Road;
- Belmont Church Road and Sydenham Avenue; and
- Carolhill Gardens and Holywood Road.

Chairperson