

# Planning Committee

Thursday, 24th June, 2021

## SPECIAL MEETING OF THE MEMBERS OF THE PLANNING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

- Members present: Councillor Carson (Chairperson);  
Councillors Brooks, Matt Collins,  
Garrett, Groogan, Hanvey, Hussey,  
Hutchinson, Maskey, McCullough, McMullan,  
Murphy, O'Hara and Whyte.
- In attendance: Mr. A. Reid, Strategic Director for Place and Economy;  
Mr. E. Baker, Planning Manager  
(Development Management);  
Ms. N. Largey, Divisional Solicitor;  
Ms. E. McGoldrick, Democratic Services Officer; and  
Mrs. L. McLornan, Democratic Services Officer.

### **Apologies**

No apologies were reported.

### **Declarations of Interest**

Councillor Whyte declared an interest in item 2a, 12 - 30 Wellington Place and 42 - 46 Upper Queen Street, in that he was previously employed by and retained a beneficial interest in a company which provided consultancy services to the company which owned the building. He left the meeting for the duration of the discussion on the item and did not participate in the vote.

Councillor McCullough also declared an interest in item 2a, as a Member of his family worked for PwC, the tenant of the building. He left the meeting for the duration of the discussion and did not participate in the vote.

Councillor Hussey declared an interest in Item 2b, Chancery House, in that he was a Member of the Bar Library, who had lodged an objection to the application, and so he left the meeting and did not participate in the vote.

### **Miscellaneous Items**

#### **Casement Park - Section 76 Consultation**

The Members considered the undernoted report:

#### **“1.0 Purpose of Report and Summary of Main Issues**

- 1.1 This report was originally scheduled for consideration at the meeting of the Planning Committee members on 15 June. However, it was deferred to give Members more time to consider the report and documentation. It was also agreed to request that the Department for Infrastructure engages with local residents on the proposed S76 planning agreement.

Officers have since put this request to the Department. The Department has also been invited to attend the meeting of the Planning Committee members on 24 June 2021 to field any questions that Members may have about the proposed S76 and process.

- 1.2 The original report to the 15 June meeting is reproduced below.
- 1.3 The Council has received correspondence from the Department for Infrastructure (the Department) in relation to planning application LA04/2017/0474/F for the redevelopment of Casement Park to provide a new stadium. The proposal is of regional significance and the application is being dealt with by the Department rather than Belfast City Council.
- 1.4 In accordance with Section 76(3) of The Planning (Northern Ireland) Act 2011, the Department is consulting the Council, seeking its comments on the draft Section 76 Planning Agreement (S76) negotiated with the applicant, Ulster Gaelic Athletics Association (GAA). The draft S76 includes clauses relating to the appointment of a Stadium Manager, Travel Plan Co-ordinator, Event Safety Manager, Event Management Group and Traffic Management Contractors. There are also clauses regarding economic requirements for employment and ongoing monitoring.

2.0 Recommendation

- 2.1 It is recommended that the Chief Executive, or her nominated officer, uses her delegated authority to offer no objection to the proposed S76 as set out in the Department's letter of 10 June 2021 and respond to any further changes to the proposed S76 Planning Agreement, provided that those changes are of a minor or technical nature.

3.0 Main Report

Background

- 3.1 The Council has received correspondence from the Department in relation to planning application LA04/2017/0474/F for the redevelopment of Casement Park to provide a new stadium (see Appendix 1). The proposal is of regional significance and the application is being dealt with by the Department rather than Belfast City Council. The Department is formally consulting the Council, seeking its views on the proposed S76 (see Appendix 2). The Department has given the Council six weeks to respond i.e. by 22 July 2021, hence reporting this matter to the Committee as a late item.

- 3.2 The Council provided its substantive consultation response to the planning application in August 2017. The Planning Committee offered no objection to the application but made the following specific comments:
- Further detailed cross sections through the entire site and surrounding properties were recommended
  - Further images to demonstrate impact on the skyline and key views were recommended
  - Greater certainty around travel, transport and traffic should be provided.
- 3.3 The application was considered by the Planning Committee again in September 2019 following reconsultation. The Committee agreed to provide no further comments but that the Director of Planning and Building Control would write to the Department and recommend that the residents' association known as MORA be given the opportunity to meet the Department and discuss their concerns.
- 3.4 A final consultation was undertaken in February 2020 in relation to technical information regarding traffic and access. As the additional information was limited, the matter was dealt with under delegated powers with no further comment provided.
- 3.5 The Department subsequently issued a Notice of Opinion in November 2020 advising of its intention to grant planning permission and listing the proposed conditions. The Planning Service responded to the Notice of Opinion advising that the Council is content for the Department to proceed with determination of the planning application.
- 3.6 The Department further consulted the Council on 17 May 2021 regarding proposed changes to conditions 14 and 36. The Department was seeking the Council's agreement to these changes so that the drafting of the S76 could be finalised.
- 3.7 The proposed changes were presented to the Committee in May 2021. No objections were offered and it was also agreed that delegated authority is given to officers to respond to any further changes to the proposed conditions, provided that those changes are of a minor or technical nature.

**3.8 The current consultation relates to the Department's draft S76. The obligations contained in the draft S76 are as follows:**

- Appointment of a Stadium Manager;
- Appointment of a Travel Plan Co-Ordinator;
- Appointment of an Event Safety Manager;
- Appointment of an Event Management Group;
- Appointment of a Traffic Management Contractors;
- Economic Development (clauses requiring at least 46 Long-term unemployed and at least 27 apprentices to be employed in the construction of the development);
- Submission of an Annual Performance Report, and;
- Payment of an annual Service Contribution to the Department.
- The draft agreement also sets out at Annex 7, the Resident Representative Appointment process to the Event Management Group.

**3.9 Additional documents attached as annexes to the draft S76 and referred to in the above clauses (see Appendix 2) include:**

- The Event Management Plan
- The draft Decision Notice
- Sustainable Travel Plan
- List of Travel Plan Co-ordinator duties

**3.10 It is considered that the the draft S76 addresses the key issues for a development of this scale including event management, traffic management, sustainable transport, sustainable employment and ongoing monitoring.**

**3.11 Officers consider that the clauses are in principle appropriate, reasonable and necessary to ensure a satisfactory form of development. It should be for the Department's legal advisors to advise of the appropriateness of the precise wording of the S76.**

**3.12 It is recommended that the Chief Executive, or her nominated officer, uses her delegated authority to offers no objection to the proposed S76 as set out in the Department's letter of 10 June 2021, and respond to any further changes to the proposed S76 Planning Agreement, provided that those changes are of a minor or technical nature.**

**4.0 Finance and Resource Implications**

**4.1 None identified.**

**5.0 Equality or Good Relations Implications/  
Rural Needs Assessment**

**5.1 None identified.”**

The Members’ attention was drawn to the Late Items pack. The Planning Manager explained that, following the meeting on 15th June, officers had written to the Department for Infrastructure, requesting that it would share the draft Section 76 Agreement with residents to seek their views. Officers had also asked a representative from DFI to attend the meeting on 24th June to answer any technical or procedural questions that Members might have had around the proposed Section 76 agreement.

The Members were advised that the Department had responded on 21st June and advised that it would not be consulting the public on the proposed Section 76 Agreement and that it had fulfilled its consultation duties in relation to the application in accordance with legislative requirements. The Department outlined that it had no objection to the Council seeking views from the public. Unfortunately, due to other commitments, the Department was unable to attend the meeting.

The Planning Manager reported that the proposed Section 76 Agreement and the associated procedures had been considered by the Planning Service, Health and Safety (which was responsible for Safety Certificates for sporting venues), Building Control (which was responsible for large scale entertainment events) and Legal Services. He explained that it was considered that the proposed arrangements, including those relating to how local representatives were selected to sit on the Event Management Group were reasonable. In addition to local residents and businesses being represented, those statutory agencies responsible for safety at and around the venue were also proposed to be members of the Group.

He outlined that a proposed amendment was suggested in relation to the Travel Plan Co-Ordinator Duties, set out in Annex 6 of the Agreement. In terms of litter and anti-social behaviour, the draft currently stated that the Travel Plan Co-Ordinator (‘TPC’) would be “required to deliver appropriate proposals as agreed with Belfast City Council to address these issues”. It was recommended that this would be revised as follows:

“The TPC will be responsible for putting in place arrangements to effectively deal with litter and any other anti-social behaviour associated with the operation of the venue in consultation with the EMG subject to any reasonable advice or requirements imposed by the Council in writing.”

The Members were advised that, in relation to the substantive issue regarding public consultation, Legal Services noted that the legislation had clearly set out how it expected Planning Authorities to carry out public consultation in the course of determining a planning application. There was an express requirement for DfI to consult with a Council where it intended to enter into a Section 76 Agreement in its district, which was in addition to the standard consultation requirements. In that context it was considered that embarking upon a non-statutory public consultation without any established process in place by which to do and in circumstances where the decision maker itself had carried out a consultation process, would leave the Council highly susceptible to legal challenge from both from the planning applicant and those dissatisfied with the consultation process devised by Council.

A Member stated that they had concerns in light of the fact that DFI would not be consulting the residents on the Section 76 Agreement, and that DFI had not been able to attend the meeting in order to discuss concerns. He highlighted concerns with parking and the Event Management Plan. He suggested that the Members could defer consideration of the Section 76 Agreement in order to request that a representative from DFI would attend a future meeting in order to discuss his concerns.

Further Members stated that the process had taken a significant period of time to date and that they were content with the contents of the Section 76 Agreement.

In response to further comments, the Planning Manager and the Divisional Solicitor advised the Members that they could submit separate comments to the consultation as elected representatives or as a Political Party.

The Members of the Committee recommended that, in accordance with the Council decision of 4th May 2021, the Chief Executive would exercise her delegated authority to:

- offer no objection to the proposed Section 76 Planning Agreement, as set out in the Department's letter of 10th June 2021, subject to the proposed amendment in relation to the Travel Plan Co-Ordinator Duties as set out in the Late Items report; and
- to respond to any further changes to the proposed Planning Agreement, provided that they were of a minor or technical nature.

### **Listing of Various Structures**

The Planning Manager outlined that correspondence had been received from the Historic Environment Division (HED) regarding the proposed listing of 11 no. boundary markers. He explained that Article 80 (3) of the Planning Act (NI) 2011 required that HED consulted with the Council before placing any building on the statutory list of buildings of special architectural or historic interest. The Members were advised that the Department, based on the completion of detailed surveys, was considering the listing of the following 11 boundary markers at:

- Kensington Road, Tullycarnet, Belfast
- Grosvenor Grammar School, Marina Park, Belfast
- Orangefield Presbyterian Church, 464 Castlereagh Road, Belfast
- Ladas Way/Ladas Park, Belfast
- Glenside Bridge, Belmont Road, Belfast
- 84 Castlehill Road, Belfast
- Near St Molua's Church, Upper Newtownards Road, Belfast
- Near 'The Weir', 276 Malone Road, Belfast
- Outside 593-595 Falls Road, Belfast
- Horse Shoe Bend, Crumlin Road, Ligoneil, Belfast; and
- 622 Ballysillan Road, Belfast.

The Members of the Committee recommended that, in accordance with the Council decision of 4th May 2021, the Chief Executive would exercise her delegated authority to offer no objection to the proposed listing of the structures.

### **Planning Committee Training**

The Members considered the undernoted report:

#### **“1.0 Purpose of Report and Summary of Main Issues**

**1.1** The purpose of this report is to advise the Committee of NILGA's 2021 Planning Training Programme for elected members (Appendix 1, available on mod.gov); seek permission for up to three Planning Committee members to participate in the full programme.

#### **2.0 Recommendation**

**2.1** The Committee is asked to:

- note the appended NILGA 2021 elected member Planning Training Programme; and
- approve the attendance of the Chair, Deputy Chair and up to one other member of the Planning Committee, or their nominees, to participate in the Programme.

#### **3.0 Main Report**

##### **3.1 NILGA 2019 Planning Training Programme Invitation**

NILGA has designed a regional elected member development programme for implementation during 2021/22 following on from the 2018 and 2019 programmes. The programme builds on the NILGA training initiative co-designed with the elected member development groups and the Regional Working Group.

**3.2** The overall NILGA elected member development programme includes a strand in respect of a Local Planning Programme for elected members, a copy of which is set out at Appendix One. NILGA has commissioned the seven module programme, which will run from September 2021 into March 2022 based on the experience from the previous experience and feedback. Each module will be held on a Friday afternoon with a proposed study trip in March 2022. At this stage the venue for the training has not been confirmed.

**3.3** The programme will be interactive in nature and have previously been delivered by a pool of planning practitioners. The programme will include short presentations; discussions; case studies and benchmarking practice in other jurisdictions; workshops with role play; question & answer sessions; and the optional site visit.

3.4 A pre-requisite for the enrolment in the programme is that elected members who are nominated to attend must be in a position to complete all seven modules. Elected members who successfully complete the full programme, to a satisfactory standard, will be accredited with an endorsed Institute of Leadership and Management (ILM) development award.

3.5 **Finance and Resource Implications**

The projected training costs associated with this report (£300-475 per participant and potential additional optional Study Visit cost) can be met from existing training budgets.

**Equality or Good Relations Implications/  
Rural Needs Assessment**

3.6 There are no equality or good relations implications associated with this report.”

The Members of the Committee agreed to endorse the recommendations within the report.

**Request for a Special Meeting**

The Members considered the undernoted report:

“1.0 **Purpose of Report or Summary of main Issues**

1.1 Members of the Planning Committee are asked to agree to hold a Special, in-person, Planning Committee meeting in August to consider planning application LA04/2019/1540/F proposed Centralised Anaerobic Digestion facility at Dargan Road.

2.0 **Recommendations**

2.1 That Members agree to hold a Special, in-person meeting, at a date and time in August to be agreed in consultation with the Chairperson.

3.0 **Background**

3.1 **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 on lands to the northwest of existing Belfast City Council Waste Transfer Station, 2a Dargan Road

- 3.2 Members will be aware that, under the current decision making arrangements, as agreed by the Council on 4th May 2021, *'for those decisions in respect of which the Chief Executive has a conflict of interest or which have a political sensitivity, she may decline to exercise delegated authority. Such decisions will be deferred until governance arrangements can be resumed or if necessary due to urgency through a physically convened meeting.'*
- 3.3 Following a request from the applicant, the Chief Executive, in consultation with the Strategic Director of Place and Economy, has agreed that a Special, in-person, meeting will be held to consider the aforementioned planning application.
- 3.4 As background, the application was submitted in June 2019 and first brought to the Committee for its consideration in August 2020, where it was deferred, due to a late objection having been received and for the Committee to undertake a site visit. The application was brought back to the Committee in January 2021 and was deferred again, to allow a Non-Mandatory Pre-Determination Hearing, which was held in February 2021. The application was brought back to Committee again in April 2021, where the Committee resolved for Planning Officers to consider proposals to refuse planning permission.
- 3.5 Members of the Planning Committee are asked to agree to hold a Special, in-person, meeting in August to consider the application. It is proposed that the time and date for the meeting will be agreed in consultation with the Chairperson.
- 3.6 The Planning Committee has two meeting dates scheduled in August. Given that there are no meetings in July, there is likely to be a high volume of applications which are required to be considered on the meeting on Tuesday, 17th August.
- 3.7 A Design and Conservation Member Training Workshop is currently scheduled to take place on Thursday, 19th August.

It is also felt that, if any applications cannot be considered due to time pressure on Tuesday 17th August, the Thursday can be used as a reserve meeting if necessary. Officers are therefore exploring the potential to hold the Special, in-person, meeting on another date.

**Financial & Resource Implications**

3.8 None identified.

**Equality or Good Relations Implications/  
Rural Needs Assessment**

3.9 None identified.”

The Planning Manager advised that the planning application for the CAD facility (LA04/2019/1540/F) would now likely be heard on Thursday 19<sup>th</sup> August 2021, being the reserve day for the Planning Committee. However, Members’ agreement was being sought for an additional meeting date in the event that it was required.

The Members of the Committee agreed to endorse the recommendations within the report.

**Issue Raised in Advance by a Member –  
Cllr Groogan**

Councillor Groogan advised the Members that, at the meeting held on 15th June, a Planning Agent had made an inappropriate remark which appeared to have been made in reaction to her asking a question.

The Members of the Committee agreed to recommend that, in accordance with the Council decision of 4th May 2021, the Chief Executive, or her nominated officer, would exercise her delegated authority to send a letter to Turley Planning, reminding them that asking questions was an essential part of role the Members of the Planning Committee in order to scrutinise each planning application, and that agents should be mindful of their professional conduct at meetings.

**Planning Applications**

**THE MEMBERS OF THE PLANNING COMMITTEE CONSIDERED THE FOLLOWING  
ITEM IN ORDER TO MAKE RECOMMENDATIONS TO THE CHIEF EXECUTIVE  
IN PURSUANCE OF THE POWERS DELEGATED TO HER BY THE COUNCIL  
ON 4TH MAY, 2021**

**LA04/2020/1353/F - Erection of additional roof  
top plant, ventilation and ductwork (retrospective) at  
12 - 30 Wellington Place and 42 - 46 Upper Queen Street**

(Councillors McCullough and Whyte, having declared an interest in the item, left the meeting for the duration of the item and did not participate in the vote)

The Principal Planning officer provided the Members with the details of the retrospective application. She reminded the Members that the full application was previously considered by the Planning Committee on 15th December, 2020. The Members were advised that the key issues were the impact on the setting of nearby Listed Buildings and the character and appearance of the Conservation Area. She outlined that both Historic Environment Division (HED) and the Council's Conservation Officer had expressed concerns and that the application was recommended for refusal. At that meeting, the Committee had deferred the application to allow for further discussion of alternative options for the plant/plant screen.

She explained that several meetings had been held between the applicant/agent, architects, HED, the Conservation Officer and the Planning Officers, and that the overall design of the proposal had evolved from the initial proposal, with all viable options for the plant having been considered. The Members were advised that discussions had taken place to achieve a proposal which would serve the purpose required for the applicant and the tenants of the building, while minimising any potential impact on the setting of nearby listed buildings and the Belfast City Centre Conservation Area.

The amendments to the original proposal included the following changes to the right-hand side of the pediment (of the Listed Scottish Provident building facing Donegall Square West):

- the 3.1m high aluminium screen had been removed;
- the Air Handling Unit (AHU) had been lowered and moved 1.5m away from Donegall Sq East, closer to the internal courtyard;
- the high level (upper) duct from the AHU had been removed and repositioned lower at
- roof level, reducing the overall height; and
- the ducts had been moved away from Donegall Sq East, closer to the courtyard.

The following change had also been included to the left-hand side of the pediment:

- the high level (upper) duct from the second AHU, adjacent to Wellington Street, had been removed and repositioned and now ran behind the AHU rather than in front.

The Principal Planning Officer reported that HED had been heavily involved in discussions with the agent and had played a major part in informing the amendments. She explained that HED's main concern was the impact of the proposals on the setting of the Listed Scottish Provident Building and that HED had since advised that they were content with the proposals to remove the intrusive screen to the rooftop and also the proposed relocation of ductwork and a moveable / collapsible edge protection system. The Members were advised that HED's final response had indicated that the proposal to remove the upper duct of the plant located to the left hand side of the Scottish Provident Building pediment was also welcomed.

The Members were advised that the agent had provided additional information to HED including an image and CGI showing the mitigated impact of the removal of the

upper duct on the Scottish Provident Building. HED had confirmed that they accepted that the removal of the upper duct would reduce the visual clutter of the roofscape of the application site, lessening the visual impact of the new roof on the backdrop of the Scottish Provident Building. She reported that, following on-site discussions with the agent, HED had noted that the relocation of the AHU plant could not be accommodated due to the complexities of the duct sizes, layout and existing service risers within the building. In conclusion, HED recognised that the overall impact of the plant had been substantially softened and that the proposal had been greatly improved. HED clarified that extensive options had been explored and exhausted and that the current application illustrated the best realistic option considering the retrospective nature of the application.

The Conservation Officer had also welcomed that the plant/screen had been reduced to limit the impact on the historic buildings roof line, and that the plant/screen to the right hand side of the pediment had been greatly reduced to the point where it would be barely visible when viewed from within the grounds to the front of the City Hall and Donegal Square East. However, the Conservation Officer advised that the plant to the left hand side of the pediment remained prominently visible and would in their opinion, negatively impact on the setting of the Scottish Provident Building when viewed from Donegal Square East and within the grounds to the front of the City Hall. The Conservation Officer concluded that there would be an unavoidable negative impact, no matter how minimal as a result of the proposals but that it was recognised that the proposal had evolved positively from what existed and that all viable options had been explored to mitigate against the visual impact of the plant (including the AHU). The Conservation Officer noted that justification had been provided for the AHU remaining in its current location and appreciated the efforts made in producing a solution to what would be considered as a betterment to what currently existed.

The Principal Planning officer reported that there was little room to move the plant in a practical or operational sense and an added complication was that a crane could not now reach the unit and that it would have to be manually jacked and skidded over the roof, which provided a significant health and safety risk, and such works would take 4-5 weeks to complete. It was reported that that part of the building would need to be closed down to facilitate the works.

She outlined that, in considering all the information, together with the updated responses from both HED and the Conservation officer, Planning officers considered the proposal, on balance, to be acceptable. She explained that it represented a significant improvement to what currently existed on the roof top of the building.

The Members were advised that, having regard to the advice from HED, whilst it was considered that the proposal was not fully compliant with Policy BH11 of PPS 6, it was considered that all practicable options had been considered and that the setting of the Listed Scottish Provident building would not be unacceptably harmed or compromised.

Whilst the proposal would fail to preserve or enhance the character or appearance of the Conservation Area, contrary to Policy BH12, she explained that the impact would not be significant. The Members were advised that the policy tests must be considered in the round, having regard to the economic considerations associated with the occupation of the office building for which the proposed plant would serve and the practicalities of servicing this building. In that context, the proposal was also considered acceptable having regard to Section 104 of the Planning Act (Northern Ireland) 2011.

She outlined that the officers' recommendation to approve the application included a time bound condition requiring the applicant to complete the works in accordance with the approved plans within six months of the date of the permission.

The Chairperson welcomed Mr. M. Gordon, agent, to the meeting. He advised the Committee Members that he wished to put on record his thanks to the Planning officers and to Ms. N. Donnelly, HED, for the opportunity to work through the issues with them. He added that, if approved today, the applicant intended to undertake the works almost immediately.

A Member queried why the original planning permission had not been adhered to and why it had been breached. Mr. Gordon explained that the plant design had only been finalised after the planning permission was granted. PwC, as the occupier, required very high performance requirements for a building which would be operational 24/7, and unfortunately they were constrained by the limited space available on the roof and there were certain areas where the plant had to be located. He advised that he was aware that the situation was not satisfactory and that lesson had been learned throughout the process. He advised the Members that the applicant had attempted to minimise the negative impacts as much as possible.

In response to a Member's question in respect of the retrospective application, Ms. Donnelly, HED, advised that they looked at retrospective applications with the knowledge that they had already been built. She outlined that, in HED's view, they would unlikely be able to sustain an objection to the proposal in the event of an appeal to the Planning Appeals Commission. Whilst the proposal did not quite comply with policy, they were mindful that the agent had taken steps to address the screen and the upper duct. She explained that their remaining concerns were around the Air Handling Unit and that it was disappointing that the plant top was built prior to their input but that HED recognised that the overall impact of the plant had been substantially softened and that the proposal had been greatly improved.

Accordingly, the Chairperson put the officer's recommendation, that, in accordance with the Council decision of 4th May 2021, the Chief Executive would exercise her delegated authority to approve the application, subject to conditions, including a time bound condition to remedy the current situation on site and that she would finalise the conditions. On a vote, eight Members voted for the proposal and four against and it was declared carried.

**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**

(Councillors McCullough and Whyte re-joined the meeting at this point)

(Councillor Hussey, having declared an interest in the item, left the meeting for the duration of the item and did not participate in the vote)

The Planning Manager reminded the Members that the application had been due to be considered by the Planning Committee in April 2021. However, the Committee had deferred the application because Members had been unable to access all the relevant documents through the Planning Portal. The application was then scheduled to be considered by the Committee in May 2021, however, it was withdrawn from the agenda in light of further information having been received from the applicant.

The Members were advised that the application sought full planning permission for the construction of new 9 storey (37m tall) building comprising of ground floor retail space with 8 floors of Grade A office space above. The existing building had since been demolished under the terms of a previous planning permission which meant that the previous permission was extant in perpetuity. The current application followed Pre-Application Discussions with officers.

The Members were advised that the site already benefitted from an extant planning permission for the erection of a seven storey office building (Z/2011/0380/F) with retail use on the ground floor and offices above. The principle of retail and office development had already been established and was acceptable at the city centre location. The Planning Manager advised that the proposal would support jobs and contribute to the economy.

He outlined the main issues which had been considered in the assessment of the proposal, including:

- the principle of office and retail uses at that location
- the demolition of the existing building;
- the impact on the character and appearance of the area and ATC;
- the impact upon the setting of nearby listed buildings;
- the impact on amenity;
- water infrastructure and flood risk; and
- access and parking.

He provided the Members with views of the following Listed Buildings which were in proximity to the site:

- Old Town Hall (Grade B1)
- Royal Courts of Justice (Grade A)
- Nos. 161 – 163 Victoria Street and No. 2 Gloucester Street (Grade B1)
- Former Northern Bank 108 – 110 Victoria Street (Grade B2)
- Albert Clock Queen's Square (Grade A)

He outlined that the site was located within the development limits for the city, as designated within the BUAP, dBMAP 2004 and 2015 and was within the proposed Victoria & Oxford Street Area of Townscape Character (ATC).

In terms of its relationship with neighbouring buildings, it was considered that the impacts on outlook and natural light would not be significantly greater than those arising from the extant permission.

He reported that HED had advised that the scale and design of the proposal had the potential to adversely impact on the setting of nearby listed buildings. However, officers considered that the scale and design of the building to be appropriate to its context, which included several substantial buildings in the area, and that the setting of listed buildings would not be harmed.

The Members were advised that the proposal had been assessed against the SPPS, PPS 3: Access, Movement and Parking, PPS 4: Planning and Economic Development, PPS 6: Planning, Archaeology and the Built Heritage and Addendum, Areas of Townscape Character, PPS 15 Planning and Flood Risk.

The Planning Manager reported that there were additional confidential issues to consider which would be discussed with the Committee Members later in the meeting.

He reported that objections had been received from third parties, citing issues around the excessive scale of the building, adverse impact on surrounding buildings and site access.

The Bar Library Service objected to the scale and height of proposal and the potential impacts on neighbouring buildings, both listed and non-listed buildings. They also raised concern with respect to loss of light/privacy and proposed glazing on the party boundary wall.

Similarly, the Law Society of Northern Ireland objected on heritage grounds. A report had been provided by Stelfox Conservation Consultants on behalf of the Law Society. The objection indicated that the proposal was in breach of planning policies for ATCs and raised concerns regarding excessive size and height, and that the proposal would have an adverse impact on surrounding buildings. referred to policies set out in PPS 6 and indicated that the proposal failed to satisfy policy. It also referred to the draft designation of the Victoria Street/Oxford Street ATC and the adverse impact of the proposal on the ATC. It also assessed the potential impacts the proposal would have on the surrounding area and neighbouring listed buildings. The Law Society also had concerns about the impact of construction traffic and service deliveries on objectors' properties and the impact of construction works on surrounding buildings.

The Northern Ireland Courts and Tribunal Service had lodged concerns that the proposal was in breach of planning policies for ATCs; the excessive size and height would have an adverse impact on surrounding buildings; the impact of construction works on the structural stability of the Old Town Hall.

Belfast Civic Trust objected to the height of the building and the choice of construction materials. They believed that the proposal was too high and wanted red brick to be used within the construction.

The Members were advised that DfI Roads, NI Water, Rivers Agency and the NIEA had all been consulted and had no objection to the proposal.

The Chairperson welcomed Mr. G. Rolston, Clyde Shanks, who was representing Mr. D. Mulholland, Chief Executive of the Bar of Northern Ireland. He outlined to the Members that:

- they had raised concerns regarding the assessment of the height and scale of the proposal compared to how the approved 7 storey building was assessed;
- the accuracy of the information which had been used by the Council to compare the height of the 9 storey building to the previously approved building;
- it was a fundamental principle of the planning process that decision makers should behave consistently and, particularly so, where there had been no material change in policy since a previous decision;
- where officers proposed to depart from a previous decision, there should be robust planning reasons for doing so and should be clearly explained;
- it was referenced in the committee report that a seven storey building was approved in August 2015, however, whilst approval was ultimately granted, the application had been submitted as an eight storey building;
- during the process of the approved application, HED had considered the eight storey proposal unacceptable, under BH11 of PPS6, for reasons of the impact of the height, scale and massing of the proposed building on surrounding listed buildings;
- the Councils' Conservation officer agreed that an eight storey building would have an unacceptable impact on its surroundings;
- the Planning officers had agreed with HED and insisted that the height of the building was reduced to seven storeys with the top two storeys to be set back and the applicant agreed to that;
- that was the context in which the current application must be considered;
- there was a conflict between the Planning officers' position in August 2015, where an eight storey was not considered acceptable on the site, and the current position, where a nine storey building was being recommended for approval;
- they could find no justification for the change in position given there had not been a change in planning policy;
- it was notable that HED had queried the Council's position in regards to the nine storey building;
- the Conservation officer still objected to the nine storey building which was consistent with their position during the processing of the approved planning application;
- it would not be fair or reasonable for the current application to be approved in the absence of addressing the clear inconsistency between the processing of the two applications, and would leave it vulnerable to challenge;
- they had concerns in respect of the measurements in the Committee report, whereby the seven storey building had a height of 28.7metres, with the plant hidden at the back of the roof and not visible from pedestrian level, and that the difference between the extant and the proposed building height was not 5.5metres but, in fact, 8.3metres;
- the CGI image shown by officers of the approved building was not the correct image, it showed a six storey building with a single recessed

storey on top, when the approved building was a five storey building with two recessed storeys on top;

- they agreed with HED and the Conservation officer that the proposal was an unacceptable increase in height in respect of its immediate neighbours, the Bar Library, Law Society House and the listed Old Town Hall, and that the recommendation to approve the nine storey building was inconsistent with the position of Planning officers through the processing and determination of the approved seven storey building.

The Chairperson then welcomed Ms. A. Wiggam, Turley, who were the agent for the application. She advised the Members that:

- Conservation was about managing change and that buildings had to respond to the changing context around them in order to remain sustainable, contemporary and attractive;
- the application site had the benefit of an implemented planning permission for a seven storey office building at 31.5metres in height;
- the design responded to the immediate context of the site and its surroundings, and would improve the setting of the Old Town Hall through the development of a high quality design which defined the location with a building which added vibrancy to the important nodal point;
- the contrast in scale, massing and the choice of materials between the Old Town Hall and the proposed development would allow the Old Town Hall to be read separately and ensure that the building retained its dominance onto Victoria Street, due to its proportions, materials and architectural detailing;
- the proposals would provide 4,086 square metres of Grade A office/retail accommodation and would assist in addressing an identified need in the market place to serve indigenous businesses which were expanding and wanted to make the transition from a serviced office accommodation to a small office floor plate within the city centre;
- it was estimated that, during the construction period, 150 jobs could be created over the 18 month build period and, once completed, the development could accommodate between 250 – 300 office workers, whose expenditure would assist in supporting retail and service outlets in the city centre;
- the proposal was not reliant on funding from third parties and therefore could commence quickly following the grant of planning permission; and
- there were no technical or environmental constraints that would preclude the redevelopment of the site, and the proposals largely accorded with current planning policy and with the Council's City Centre Investment Plan.

A Member requested clarity regarding the difference in approach by officers in relation to what was deemed an acceptable height of the extant proposal and the current

proposal, which was taller. The Planning Manager advised the Members that the architectural approach to the current proposal was quite different to the extant design. He stated that the current proposal was a more lightweight and elegant design that would sit more comfortably with the nearby listed buildings, as it was a more restrained backdrop building than the current approval.

A Member requested information from officers as to how the application met planning policy when policy stated that seven storeys was the maximum. The Planning Manager advised the Members that if something was contrary to planning policy, the Planning Authority was still required to demonstrate that there would be demonstrable harm to the public interest resulting from the proposal. The policy was to provide guidance on what may or may not be acceptable in the interest of the preservation of the character and appearance of the draft Area of Townscape Character. He outlined that officers felt that there would be no overriding harm to the public interest because of the way that the building had been designed.

**The information contained in the appendices associated with the item were 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 the 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.

The Planning Manager provided the Committee Members with the issues which had been addressed within the restricted report and the appendices which had been circulated.

The Members received depositions from both objectors and the applicant in relation to the restricted report.

Resolved – That the Committee agreed to re-admit the members of the Press and public to the Committee meeting.

Moved by Councillor Groogan  
Seconded by Councillor Collins

That, in accordance with the Council decision of 4th May 2021, the Chief Executive exercises her delegated authority to refuse the application due to the inappropriate scale, height and massing of the building, which would be harmful to the setting of the Listed Buildings contrary to Policy BH11 of PPS6; and was harmful to the character of the draft Area of Townscape Character, contrary to the PPS6 Addendum.

On a vote, five Members voted for the proposal and eight against and it was declared lost.

Accordingly, the Chairperson put the officer's recommendation, that, in accordance with the Council decision of 4th May 2021, the Chief Executive be minded to approve the application, subject to the following conditions which were discussed during the restricted section of the meeting:

1. that formal consultation be undertaken with objectors in relation to the restricted matters;
2. that the proposed Section 76 Planning Agreement be drafted in consultation with those who spoke in relation to the restricted report; and
3. that the application would be brought back to the Members of the Planning Committee for final agreement, to include the outcome of the formal consultation referenced above and presentation of the draft Section 76 Planning Agreement before a final decision is taken.

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

Chairperson