

Planning Committee

Tuesday, 24th August, 2021

MEETING OF THE PLANNING COMMITTEE

Members present: Councillor Carson (Chairperson);
Councillors Garrett, Groogan, Hanvey,
Hussey, McCullough, Murphy
and O'Hara.

In attendance: Mr. A. Reid, Strategic Director of Place and Economy;
Ms. K. Bentley, Director of Planning and Building Control
Mr. E. Baker, Planning Manager
(Development Management);
Ms. N. Largey, Divisional Solicitor;
Mr. H. Downey, Democratic Services Officer; and
Mr. J. Hanna, Senior Democratic Services Officer.

Apologies

Apologies for inability to attend were reported on behalf of Councillors Brooks, Matt Collins, Hutchinson, Maskey, McMullan and Whyte.

Declarations of Interest

Councillor O'Hara declared an interest in Item 2a - LA04/2019/1540/F, 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 he did not have a pecuniary interest, he could fully participate in the discussion on the item.

Planning Application

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

(Reconsidered Item) 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

The Chairperson advised that, whilst both the agent/applicant and the objectors had already addressed the Committee in relation to this application, a request had been submitted to address the Committee again under exceptional circumstances.

Moved by Councillor Garrett and
Seconded by Councillor Murphy,

That the Committee agrees to refuse the request for additional speaking rights on the basis that deputations had been heard on a number of occasions, and that it was unlikely that any further information would be provided that would have an impact the Committee's ability to make a decision on the application.

On a vote, 5 Members voted for the proposal and 3 against, and it was accordingly declared carried.

The Committee considered the following report:

"1.0 Background

1.1 Addendum Report 3 should be read in conjunction with Addendum Report 2 (April 2021), Pre-Determination Report (February 2021), Addendum Report 1 (January 2021) and original Committee report (August 2020), together with associated Late Items. These reports are appended.

1.2 At the April 2021 Planning Committee, Members agreed to defer consideration of the application and asked that officers draw up planning reasons for refusal based on the following concerns:

- That the proposed development is incompatible with adjacent land uses and is contrary to Policy WM1 of Planning Policy Statement 11, in that it is incompatible with the character of the surrounding area and adjacent land uses, namely with the adjacent film studios and its expansion and also with the GPBL proposals; and**
- That the film studio extension has been built in the zone which was zoned for Waste Management in the Masterplan, and that the waste management element therefore no longer existed.**

1.3 The following report sets out planning refusal reasons based on the above, including consideration of those reasons and officer recommendation.

2.0 Refusal Reason 1 – incompatibility with film studios and GPBL proposals

**2.1 The Planning Committee is concerned about the compatibility of the proposed CAD facility with two receptors: the film studios to the east; and the GPBL proposals for mixed use development to the north and west. The impact on each is dealt with in turn.
Compatibility with the film studios**

- 2.2 The film studios are located to the east of the site. Phase 1 was granted planning permission in 2016 (LA04/2015/1605/F) and has since been implemented. Phase 2 was granted permission in 2020 (LA04/2020/0474/F) and has yet to be constructed. An application to vary the conditions under permission LA04/2020/0474/F was validated in May 2021 and is scheduled for the Planning Committee on 19 August 2021 (LA04/2021/1358/F).
- 2.3 In October 2020, the applicant submitted Addendum 2 to its Environmental Statement. This dealt with the cumulative impact of the proposed CAD facility with the addition of Phase 2 of the film studios. The Environmental Statement (ES) dealt with a range of environmental considerations, both during construction and operation, including but not limited to air quality and odour; noise and vibration; and lighting. The Council's Environmental Health team assessed the ES and provided specialist advice to the Planning Service regarding the compatibility of the proposed CAD facility with adjacent land-uses, including both phases of the film studios.
- 2.4 In addition, for the purposes of this Addendum Report 3, Environmental Health (EH) has provided an additional note on the compatibility concerns raised by Members. This note has been uploaded to the Planning Portal and is appended to this report at Annex 1.

Ambient Air Quality

- 2.5 Ambient air quality is considered in Chapter 6 of the ES. The ambient air quality impact assessment took account of emissions from the proposed CAD facility and associated gas generating engines.
- 2.6 An air quality impact assessment was undertaken by the applicant for nitrogen dioxide, sulphur dioxide and carbon monoxide ambient pollutants associated with operation of the proposed CAD facility. UK government technical guidance advises that air quality regulations require exceedances of objectives to be assessed in relation to *'the quality of the air at locations which are situated outside of buildings or other natural or man-made structures, above or below ground, and where members of the public are regularly present'*. Moreover, longer term objectives such as annual mean or 24 and 8 hour objectives typically apply only at the façades of residential properties or other places of residence such as schools, hospitals and care homes, etc. Shorter term objectives apply where members of the public might reasonably expect to spend 15 minutes or 1 hour. Such short-term objectives have, however, been established only for nitrogen dioxide and sulphur dioxide. Importantly, the government guidance further advises that air quality objectives are not relevant to places of work or to other locations where members of the public do not have regular access.

- 2.7 Emission factors for the various pollutants under consideration were derived using atmospheric dispersion modelling software. Vehicle movements were screened out of the air quality impact assessment as they fall below thresholds detailed within the Design Manual for Roads and Bridges and the Institute of Air Quality Management Land-Use Planning & Development Control: Planning for Air Quality guidance. A range of seven residential and commercial receptor locations were initially identified both on and off the North Foreshore site, including offices on Dargan Road, residential properties on the Shore Road and at Mount Vernon, the council's waste transfer station on the North Foreshore site and the closest building within the Phase 1 of the Belfast Harbour Studios.
- 2.8 Dispersion modelling was undertaken by way of a sensitivity test. The ES states that the modelled concentrations of nitrogen dioxide, carbon monoxide and sulphur dioxide were all predicted to be below their respective standards. Consequently, the ES concludes that proposed and existing sensitive locations will not experience a significant air quality impact as determined from the results of the air quality assessment, which predicted pollutant concentrations to be significantly lower than the appropriate guideline limits during the operational phase. As previously mentioned, the outworking of the ambient air quality assessment needs to be considered in terms of government guidance that air quality objectives are not relevant to places of work or to other locations where members of the public do not have regular access.
- 2.9 Addendum 2 of the ES deals with the cumulative impact of the proposed CAD facility taking into account the planning permission for Phase 2 of the film studios. The proposed target levels and method of assessment was extended with two additional receptor locations to account of Phase 2. The additional receptor locations were representative of 1) the closest external area to the application site; and 2) the closest building to the application site.
- 2.10 Addendum 2 of the ES states that the Phase 2 site is in a non-residential area, which is commercial in nature and has been defined within the planning application for the Phase 2 development as operating internally only with no open doors or windows. Notwithstanding this, and consistent with the conservative approach to the existing film studio complex in the original ES, the limits applicable to human health receptors were applied in a manner similar to what would have been applicable to residential receptors to ensure a worst case scenario.

- 2.11 An air quality impact assessment was therefore undertaken by way of dispersion modelling for the two additional receptor locations within Phase 2 of the film studios. The ES concludes that predicted ground level concentrations in each year, as well as the 5-year average were significantly below the limit values or objectives for nitrogen dioxide (NO₂), carbon monoxide (CO) and sulphur dioxide (SO₂). EH reiterates UK Government guidance which advises that air quality objectives are not relevant to places of work or other locations where members of the public do not have regular access.
- 2.12 Addendum 2 of the ES again refers to the previous transport assessment, advising that existing traffic flows were reviewed as part of the Further Environmental Information to consider the traffic attributable to the Phase 2 permitted development. The updated Transport Assessment confirms that the percentage increase of the proposed CAD facility traffic on the Giant's Park access road and on Dargan Road remain beneath the threshold of significance, primarily due to the fact that baseline traffic has increased with the Phase 2 permitted development. EH also notes that the traffic numbers also fall below the thresholds for an air quality impact assessment established in the 2017 Institute of Air Quality Management, 'Land-Use Planning & Development Control: Planning For Air Quality' publication; an increase in light duty vehicle of 500 AADT and an increase in heavy duty vehicles of more than 100 AADT.
- 2.13 Should Members be minded to grant permission, a planning condition is recommended to deal with dust impacts during construction through the submission of a Construction Environmental Management Plan.
- 2.14 Given the above assessment, it is considered that the film studios and proposed CAD facility would be compatible in terms of ambient air quality impacts.

Odour

- 2.15 The applicant's odour impact assessment took account of emissions from the odour control system for the plant. Digestate from the anaerobic digestion process was not considered as an odour source as output from the municipal solid waste fines stream are proposed to be dried and disposed of as waste at landfill and output from the source separated organic waste stream will be dried, pelletised and exported to market as a fertiliser product. These processes are to be undertaken inside a building maintained under negative pressure. Odour impacts from waste contained in HGVs was not specifically identified as an issue by the Environmental Statement. The Pollution Prevention Control Permit that the applicant would require from DAERA would require the submission of an Odour Management Plan to mitigate potential impacts.

- 2.16 The odour impact assessment was also carried out by way of dispersion modelling, having regard to the provisions of the Environment Agency, '*Additional guidance for H4 Odour Management. How to comply with your environmental permit*'. Within the H4 guidance, the Northern Ireland Environment Agency (NIEA) has advanced a series of odour benchmarks to be achieved at a site or installation boundary. The benchmark for the most offensive odours, including processes involving decaying animal or fish remains, processes involving septic effluent or sludge and biological landfill odours, is 1.5 odour units – assessed as the 98th percentile of hourly average concentrations of odour modelled over a year at the site or installation boundary.
- 2.17 The odour modelling was undertaken for the same original seven commercial and residential receptors, located on and off the North Foreshore site, as identified for the air quality impact assessment. The ES advises that the modelled odour concentrations at all sensitive receptors are below the 1.5 ouEm⁻³ when considered as individual years or as a 5-year average. In actuality, the modelling suggests maximum odour levels of 0.25 ouEm⁻³ or less at all receptors.
- 2.18 The Institute of Air Quality Management's '*Guidance on the assessment of odour for planning*' (July 2018) provides a series of suggested descriptors for assessing the magnitudes of odour effect. For the purposes of the IAQM guidance, high sensitivity receptors may include residential dwellings, hospitals, schools or places of education and tourist or cultural locations. Such locations are described as where users can reasonably expect enjoyment of a high level of amenity; and where people would reasonably be expected to be present continuously, or at least regularly for extended periods, as part of the normal pattern of use of the land. Medium sensitivity receptor locations include places of work, commercial or retail premises and playing or recreation fields – the film studios fall into this medium sensitivity receptor category.
- 2.19 Accordingly, the IAQM proposed odour effect descriptor for impacts predicted by modelling for the most offensive odours suggests that for an odour exposure level of less than 0.5 ouEm⁻³, the impact will be negligible for all receptor sensitivities; i.e. low, medium or high.
- 2.20 Additional odour modelling was carried out at the two additional receptor locations located within Phase 2 of the film studios. The resultant 98th percentiles of the hourly average concentrations of odour modelled over successive years were all found to be below the proposed 1.5ouEm⁻³ benchmark. Predicted odour concentrations at receptor R1 ranged from 0.23-0.25 ouEm⁻³ and ranged from 0.18-0.24 ouEm⁻³ at receptor R2. These values are in broad keeping with the odour concentration range of the Environmental

Statement. Moreover, in referring to the Institute of Air Quality Management, 'Guidance on the assessment of odour for planning' version 1.1 - July 2018, EHO notes that places of work can be considered as 'medium sensitivity' receptors. Accordingly, for a medium sensitivity receptor, exposed to a 'most offensive' odour, where the impact has been predicted by modelling, the impact of an odour exposure level of less than 0.5 ouEm^{-3} would be described as 'negligible'.

- 2.21 Given the above assessment, it is considered that the film studios and proposed CAD facility would be compatible in terms of odour impacts.

Noise and vibration

- 2.22 Noise and vibration are dealt with in Chapter 7 of the ES. The applicant undertook a noise and vibration assessment in accordance with: 'BS4142:2014: Method for Rating and Assessing Industrial and Commercial Sound' and; 'BS5228:2009 The Code of Practice for Noise and Vibration Control on Construction and Open Sites.
- 2.23 IBS4142 requires that the measured rating level (LAr) is compared to the background level (LA₉₀), measured in the absence of the noise under assessment, to determine the likelihood of an adverse noise impact. The rating level of the development should not significantly exceed the existing background noise level, depending on the context.
- 2.24 A baseline noise survey was undertaken at the North Foreshore site in October 2019. The measurement position was placed in close proximity to Phase 1 of the film studios, an exposed location. Background noise levels were then derived from data collected during this survey. 54 dB LA₉₀ was chosen as the appropriate and representative background noise levels for the daytime period and 46 dB LA₉₀ was chosen as the appropriate and representative background noise levels for the night-time period.
- 2.25 Noise modelling was undertaken to predict the noise impact of the proposed CAD facility on nearby receptors. The ES advises that noise from the proposal is principally associated with the Biogas CHP engines, various pumps, blowers/fans and agitators, as well as HGV movements to and from the site. HGV movements would be limited to daytime hours only, from 7am to 7pm, with all other plant operating 24 hours per day. Modelled daytime and night-time noise contours were provided in the ES.
- 2.26 Five noise sensitive receptors were identified both on and off the North Foreshore site, including Phase 1 of the Belfast Harbour Studios, and residential properties some 600-700m away at the Shore Road. The predicted noise levels at these receptors as a consequence of the proposal were presented for daytime and night-time. Daytime noise levels at the Belfast Harbour Studios were predicted to be around 44 dB

L_{Aeq,1hr} and less than 30 dB L_{Aeq,1hr} at the residential premises at the Shore Road. Night-time noise levels at the at the Belfast Harbour Studios were also predicted to be around 44 dB L_{Aeq,15 min} and as previously, less than 30 dB L_{Aeq,15 min} at the residential premises.

- 2.27 An acoustic feature correction was applied to the predicted daytime noise level to take account of vehicle movements in accordance with the requirements of BS4142 and the data was then compared with daytime and night-time background noise levels.
- 2.28 In comparing the data, the ES concludes that the highest predicted daytime and night-time noise impacts from the proposed development at the Belfast Harbour Studio were below their respective 'typical' background noise levels; as per BS4142 "this is an indication of the specific sound source having a low impact".
- 2.29 The noise levels associated with the proposed CAD facility were similarly predicted to be below daytime and background noise levels at residential properties located on the Shore Road. It is noted that the residential properties located on the Shore Road are separated from the North Foreshore site by the M2 Motorway and Fortwilliam Roundabout.
- 2.30 In relation to the noise impact of the proposal on Phase 1 of the film studios, the ES advises that it is important to note that BS4142:2014 assesses external noise only and its suitability for assessing impacts on internal noise environments is limited. The predicted noise levels due to the proposed development are external levels; absolute internal levels can be estimated assuming a reduction of 10 – 15dB afforded by an open window, resulting in a daytime internal sound pressure level within the film studios between 28.7 and 33.7 dB(A). The ES advises that this is a minimum of 1.3 dB below the BS8233: 2014 Guidance on sound insulation and noise reduction for buildings, sleeping (daytime resting) bedroom noise level of 35 dB L_{Aeq} for residential dwellings. In addition, BS8233:2014 also provides typical noise levels for non-domestic buildings; an internal design range of 35-40 (dB L_{Aeq,T}) would normally be sought for an executive office environment where activities undertaken would include study or work requiring concentration.
- 2.31 Addendum 2 of the ES extended the previous noise impact assessment to take account of the two additional receptor points located within Phase 2 of the film studios. EH notes that as part of the noise and vibration assessment for Phase 2, the ES states that the precise activities that will occur during the operational phase of Phase 2 are not known. The ES assumes that the majority of activities will be undertaken at the proposed studios internally. As the majority of the

proposed operational activities will be undertaken within the relevant buildings, it will be possible to benefit from the significant noise attenuation of the building shell, which on the assumption of there being no openable doors or windows, will be at least 20-30dB(A). The ES advises that with a distance attenuation of at least 12dB(A) and building attenuation of at least 20-30dB(A), it would take exterior noise levels of greater than 80dB(A) just to result in noise levels at the nearest commercial units similar to background noise level of approximately 54 dBA during the daytime and 46 dBA during the night time. EH further notes that an acoustician will be employed at the detailed design stage of Phase 2 to ensure that the appropriate building shell specification, roof specification, window specifications and door specifications are used to ensure that there is no operational phase noise impact from such activities.

- 2.32 Addendum 2 of the ES refers to this information in its assessment of noise for the two additional receptors located within Phase 2 of the Belfast Harbour Studios development. The noise assessment for the two additional receptors indicates that the predicted noise levels at the Phase 2 permitted development would be lower than 50dB(A) and consistent with residential standards designed for external residential amenity. The ES states that utilising the same assumptions as those submitted as part of the noise impact assessment accompanying the Phase 2 planning application, i.e. the existing background noise levels on the site are nearly 10dB higher than those relied upon in the CAD facility application; and the shell of the proposed buildings will provide at least 20-30dB of sound insulation to the sensitive areas of the site, this would mean that noise level would need to be in the region of 30-40dB higher than predicted levels to cause an impact within the Phase 2 development.
- 2.33 There would be some noise impact on the film studios during the construction phase, particularly with regard to piling. Should Members be minded to grant planning permission, a planning condition is recommended to require a Construction Noise and Vibration Management Plan so as to minimise the potential noise impacts in so far as practicable. It should be noted that the best practice guidance does not safeguard commercial uses during the construction process. However, it should be borne in mind that construction noise, including piling, would occur during the build for other development proposals for the site including logistical warehousing, which the land is zoned for in both Policy BHA 05 of dBMAP 2015 (v2014) and the adopted masterplan.
- 2.34 Given the above assessment, it is considered that the film studios and proposed CAD facility would be compatible in terms of noise impacts.

Lighting

- 2.35 An artificial lighting assessment is provided in Appendix 15.1 of the ES. The ES highlights that the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 came into operation on 1st April 2012 and contains laws which cover many of the problems which can detract from the quality of people's day-to-day lives. The Act makes reference to artificial lighting as follows; Part 7 Statutory Nuisances 63 (1) (h) artificial light emitted from premises so as to be prejudicial to health or a nuisance. Although light is described within the Act as having the potential to cause statutory nuisance, no prescriptive limits or rules are set for assessment. However, Guidance Notes for the Reduction of Obtrusive Light produced by the Institute of Lighting Professionals are commonly adopted in the UK as being appropriate lighting assessment criteria.
- 2.36 The ES characterises the existing lighting environment of the North Foreshore area as E2 – Low District Brightness and reflective of a rural conditions; a village or relatively dark outer suburban locations. The applicant therefore recognised the importance of minimising the potential effect of lighting upon the surrounding area by minimising sky glow, glare and light spillage. Data for various luminaires to be installed at and around the site have been provided. The assessment has also considered lighting impact during the construction phase. Modelling for the operational lighting design indicated that it will achieve the E2 criteria for luminaire intensities and light intrusion into windows. The ES therefore concludes that no significant cumulative artificial lighting impacts are predicted as a consequence of the proposed CAD facility. Given this assessment, it is considered that the film studios and proposed CAD facility would be compatible in terms of lighting impacts.

Pollution Prevention Control Permit

- 2.37 EH has advised on the environmental impacts of the proposed CAD facility both during construction and upon operation. Its operation would be subject to a Pollution Prevention Control Permit which will need to be obtained from DAERA NIEA.
- 2.38 Planning Policy Statement: Planning and Waste Management (PPS 11) sets out the Department for Infrastructure's planning policies for the development of waste management facilities. PPS 11 seeks to promote the highest environmental standards in development proposals for waste management facilities and includes guidance on the issues likely to be considered in the determination of planning applications.
- 2.39 Section 2 of PPS 11 describes the relationship between Planning and Pollution Control Regimes, highlighting that

planning control focuses primarily on whether a development is an acceptable use of land rather than on the control of the processes or substances involved; and regulating the location of the development in order to avoid or minimise adverse effects on people, the use of land and the environment.

- 2.40 The Pollution Control regime is alternatively concerned with the control and regulation of proposed operations and processes of a waste activity and with the day to day operation. The objective is to ensure that the waste is disposed of or treated without endangering human health or causing harm to the environment.
- 2.41 Accordingly, the Department has advised that planning control should not duplicate other statutory controls or be used to achieve objectives relating to other legislation. The Council as Planning Authority must therefore make planning decisions on the basis that the pollution control regimes will be properly applied and enforced.
- 2.42 It is noted that in their consultation response of 15 October 2019, NIEA advises that the Pollution Prevention Control (PPC) Team within the Regulatory Unit have noted that the activities described in the planning application will require a Pollution Prevention and Control Permit issued under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 to operate, and hence must demonstrate Best Available Techniques as per the Regulations.

Compatibility with the Giant's Park Belfast Limited proposals

- 2.43 In January 2021, Giant's Park Belfast Ltd (GPBL) submitted a Pre-Application Discussion (PAD) request and Proposal of Application Notice in respect of mixed-use proposals on the land to the north and west. The description of development is: *'Major mixed use leisure led development comprising indoor and outdoor leisure and recreational uses, hotels, food and beverage units, petrol filling station, and research and development hub.'* In June 2021, these proposals were amended to replace the proposed research and development hub and indoor leisure proposals with logistics and distribution (Use Class B4), and incubation hub (Use Class B2) to meet demand for smaller independent units. There would also be an indoor leisure element in the proposed adventure park.
- 2.44 These proposals are still at an early stage with an initial PAD meeting held in March 2021. Policy BHA 05 of dBMAP 2015 (v2014) zones the area for a variety of employment uses but these do not include many of the uses featured in the GPBL proposals, namely the zoning excludes leisure, food and beverage, hotel and petrol filling station uses. The only use which directly accords with the zoning are the proposed Use

Class B2 and B4 uses. The zoning does include 'Open space and associated facilities' but not leisure.

- 2.45 The 'North Foreshore Giants Park Masterplan' (2010) was produced as a Key Site Requirement for the zoning (and pre-dates dBMAP 2015 (v2014)). In addition to employment uses, it includes 81ha (200 acre) of Public Open Space. According to the Masterplan, this would include a visitors/education centre; children's adventure play area; sports playing fields; cycle and pedestrian paths; festival and performance space; bird hides and landscaping; public artwork and pedestrian bridges.
- 2.46 EH has previously advised that they do not have in principle concerns regarding the compatibility of the proposed CAD facility with the adjacent uses zoned under Policy BHA 05 of dBMAP 2015 or the approved masterplan, in respect of land contamination, ambient air quality, odour, noise impacts or lighting. The noise assessment indicates that noise levels would be less than daytime background levels. EH advises that noise impacts would be manageable in relation to the layout and design of uses. Odour impacts would be negligible. There would be no unacceptable conflicts with regard to air quality.
- 2.47 Members' concerns about the compatibility of the proposed CAD facility with the GPBL proposals are understood to principally relate to the proposed leisure uses, food and beverage and hotel. The proposed Use Classes B2 and B4 are less sensitive receptors.
- 2.48 It is considered unreasonable for the Council to refuse planning permission on grounds of incompatibility of the CAD facility with the GPBL proposals for several reasons. Firstly, minimal weight should be afforded to these proposals given the early stage of the GPBL proposals in the planning process, which remain at the PAD stage. Secondly, that the leisure, food and beverage, hotel and petrol filling station uses are not committed nor do they form part of the zoning and Key Site Requirements under Policy BHA 05 which specifies the range of uses that may be permitted at the site. Thirdly, Environmental Health has not raised in principle concerns about the compatibility of the proposed CAD facility with the GPBL proposals. Fourthly, even if the GPBL proposals had progressed to formal planning application stage, it is considered unreasonable to withhold planning permission or delay determination of the application for the proposal CAD facility until the GPBL application is determined given 1) the GPBL proposals do not accord with the zoning of the land; and 2) the length of time that the CAD facility application has already been in the system having been submitted to the Council in June 2019 (2 years ago).
- 2.49 Whilst the masterplan specifies a range of recreational uses associated with the Public Open Space (as described in par.

2.42 above), these are not committed and greater weight should be given to the Policy BHA 05 zoning itself as the master policy. Moreover, there is no evidence before the Council that the proposed CAD facility would be incompatible with the recreational uses included in the masterplan.

Conclusion on Refusal Reason 1

2.50 A refusal reason based on Members concerns could read:

'The proposed development would result in unacceptable environmental conflict with the adjacent film studios to the east (including Phases 1 and 2 of the film studios); and with the leisure, hotel, food and beverage uses contained in Giant's Park Belfast Limited's leisure-led mixed use proposals for land to the north and west. The proposed development would not be compatible with the character of the surrounding area and these adjacent land-uses and would prejudice future operations of these economic uses, contrary to paragraph 6.90 of the Strategic Planning Policy Statement for Northern Ireland (2015); Policy WM 1 of PPS 11: Planning and Waste Management; and Policies PED 8 and PED 9(a) of PPS 4: Planning and Economic Development.'

However, having regard to the assessment carried out in this and previous reports, it is considered that there are no technical reasons why the proposed CAD facility would be incompatible with either the film studios or GPBL proposals. Moreover, the GPBL proposals should be given minimal weight because of their early stage in the planning application process. In addition, many of the uses featured in the GPBL proposals do not form part of the zoning of the land in dBMAP.

3.0 Refusal Reason 2 – zoning of the area for waste management no longer exists

3.1 The site and wider lands at North Foreshore are zoned for employment uses in both the 2004 and 2014 versions of draft BMAP. Greater weight is given to the most recent 2014 version of BMAP (dBMAP 2015 (v2014)) because of the advanced stage that it had reached in the Development Plan process.

3.2 Policy BHA 05 of dBMAP 2015 (v2014) zones the area for a variety of uses including:

- Waste management
- Port and port related land-uses
- Class B1 Business, call centres and research and development
- Class B2 Light industrial use
- Class B3 General industrial use
- Class B4 Storage and distribution use

- Open space and associated facilities

- 3.3 A Key Site Requirement is that development shall only be permitted in accordance with an overall comprehensive masterplan to be agreed with the Department. The 'North Foreshore Giants Park Masterplan' was approved by the Department in 2010. This sets out detailed proposals for the development of the site including technical commentary. In the masterplan, land to the south east of the zoning is earmarked for Arc21 waste management facilities. This is where film studios phase 1 have been built and planning permission has been granted for film studios phase 2. Members are concerned that in view of these permissions for alternative uses, waste management facilities are no longer required within the wider zoning and therefore planning permission for the proposed CAD facility should be refused.
- 3.4 When the Planning Committee granted permission for the original film studios (LA04/2015/1605/F) it accepted the case officer report which advised that the proposal 'conformed in principle' with Policy BHA 05, in recognition of the broad zoning of the land for employment uses as well as the contribution that the film studios would make to the local economy, having regard to PPS 4 Planning and Economic Development. The Planning Committee did not grant permission on the basis that there was no longer a requirement for waste management facilities.
- 3.5 The agreed masterplan is conceptual and it is unclear from the document how definitive the spatial configuration of uses across the zoning is. In any event, it is advised that greater weight should be afforded to the Policy BHA 05 zoning itself as the masterplan is a subordinate policy document in this regard. Moreover, masterplan is more than 10 years, does not reflect the planning permission granted for the film studios, and is arguably outdated. Furthermore, it is noteworthy that the Council's decision to grant permission for the film studios on land assigned for Arc21 waste management facilities in the masterplan establishes the principle of the Council taking a flexible approach to zoned uses under Policy BHA 05. The planning process often has to be reactive to changing circumstances on the ground.
- 3.6 A refusal reason based on Members concerns could read:
- 'Policy BHA 05 of the draft Belfast Metropolitan Area Plan 2015 (v2014) zones the area for a range of uses including waste management. The associated North Foreshore Giants Park Masterplan (2010) identifies land to the south east of the zoning for Arc21 waste management facilities. However, this land has since been redeveloped as film studios with further planning permission granted on these lands to extend the film studios operations. As a consequence, waste*

management uses are no longer required within the Policy BHA 05 zoning and for this reason planning permission is refused.'

3.7 However, there is no evidence that the granting of planning permission for the film studios means that waste management facilities are no longer required on the wider lands zoned under Policy BHA 05. The strategic need for the proposal has been demonstrated by the applicant in that the proposal accords with the waste hierarchy, having regard to Policy WM2 (a) of PPS 11.

4.0 Summary and recommendation

4.1 Having regard to the Development Plan, relevant planning policy and materials considerations, the recommendation remains that planning permission should be granted subject to conditions. Delegated authority is sought for the Director of Planning and Building Control to finalise the wording of conditions.

4.2 Draft Conditions

A list of draft conditions is set out below.

1: The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2: Prior to commencement of development, a Detailed Remediation Strategy shall be submitted to and approved in writing by the Council. The Remediation Strategy must be based on the capping, landfill gas extraction infrastructure and building protection measures proposals contained within the RPS Group Plc reports entitled 'Remedial Strategy Report, Dargan Road Biogas Ltd, Bioenergy (AD) Plant, Giant's Park, Belfast' (dated December 2019 and referenced IBR1061 version 5) and 'Dargan Road Biogas Ltd, Gas Extraction System, Bioenergy Anaerobic Digestion (AD) Plant' (dated December 2019 and referenced IBR1061 version 8) and the letter from RPS dated 24th February 2020 and referenced 'IBR1061, Dargan Road Biogas Limited, Centralised Anaerobic Digestion (CAD) Plant - Planning Application Ref: LA04/2019/1540/F'. The Detailed Remediation Strategy must demonstrate how the identified pollutant linkages are to be demonstrably broken and that they no longer pose a potential risk to human health. In particular, this Detailed Remediation Strategy must provide final detail on:

- The capping systems to be installed.
- The gas protection measures to be installed in all buildings requiring gas protection, which must be compliant with BS 8485:2015+A1:2019 and Belfast City Council's North Foreshore Developer's Guidance Note.

- The hydrocarbon vapour protection membrane to be installed in all buildings requiring protection.
- The gas abstraction system to be installed on the development site.
- How the proposed remedial works are to be verified.

All construction thereafter must be in accordance with the approved Remediation Strategy.

The development shall not be carried out unless in accordance with the approved Remediation Strategy.

Reason: Protection of human health and environmental receptors.

3: In order to demonstrate that the required remedial measures have been incorporated within the proposal, prior to operation of the development, a Verification Report shall be submitted to and agreed in writing by the Planning Authority. The Verification Report must be in accordance with Environment Agency guidance, British Standards, CIRIA and Land Contamination: Risk Management (LCRM) guidance. It must demonstrate that the mitigation measures outlined in the agreed Remediation Strategy have been implemented and have broken the relevant pollutant linkages, and that the site no longer poses a potential risk to human health.

Reason: Protection of human health and environmental receptors.

4: If during the development works, new contamination or risks are encountered which have not previously been identified, works must cease and the Council shall be notified immediately in writing. This new contamination shall be fully investigated in accordance with best practice and the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be submitted to and approved in writing by the Council, and subsequently implemented and verified to its satisfaction prior to occupation or use of the CAD facility.

Reason: Protection of human health and environmental receptors.

5: Notwithstanding the submitted details, no works (including site preparation clearance or construction works) shall commence on site unless a Final Dust Management Plan has been submitted to and approved in writing by the Planning Authority. This Plan must conform to the measures set out in the Outline Construction Environmental Management Plan [authored by RPS Group, dated June 2019 and marked on the Planning Portal as received on 5th July 2019]. It must outline the methods to be employed to

minimise any dust impacts associated with site preparation and construction works, demonstrating the use of 'best practicable means'. The plan must have due regard to the IAQM Guidance on the Assessment of dust from demolition and construction 2014. All site preparation and construction works thereafter must be carried out in accordance with the approved Dust Management Plan.

Reason: Protection of human health and amenity of nearby premises.

6: Notwithstanding the submitted details, no works (including site preparation clearance or construction works) shall commence on site unless a Final Construction Noise and Vibration Management Plan has been submitted to and approved in writing by the Planning Authority. This Plan must conform to the measures set out in Chapter 7 of the Environmental Statement submitted in June 2019 and marked on the Planning Portal as received on the 4th July 2019 and those set out in Chapter 4 of the Addendum II submitted in October 2020 and marked on the Planning Portal as received on the 13th October 2020. It must outline the methods to be employed to minimise any noise and vibration impacts associated with site preparation and construction works, demonstrating the use of 'best practicable means'. The plan must have regard to BS 5228:2009+A1:2014 Parts 1 and 2 Code of practice for Noise and vibration on construction and open sites, and demonstrate that site preparatory and constructions works will achieve the BS5228 'ABC method' Category A noise threshold value for daytime and Saturdays at relevant sensitive receptors. All site preparation and construction works thereafter must be carried out in accordance with the approved Noise and Vibration Management Plan.

Reason: Protection of human health and amenity of nearby premises.

7: Notwithstanding the submitted details, no works (including site preparation clearance or construction works) shall commence on site until a final Construction Environmental Management Plan has been submitted to and approved in writing by the Council. This Plan must conform to the measures set out in the Outline Construction Environmental Management Plan [authored by RPS Group, dated June 2019 and marked on the Planning Portal as received on 5th July 2019]. All site preparation and construction works thereafter must be carried out in accordance with the approved Construction Environmental Management Plan.

Reason: Protection of human health and the environment and amenity of nearby premises and to ensure that the appointed contractor is cognisant of all mitigation and avoidance measures required to protect all watercourses and the marine environment ensuring that there is no adverse effect on site integrity of Belfast Lough Open Water

SPA, Belfast Lough SPA/Ramsar site and East Coast (Northern Ireland) Marine Proposed SPA.

8: No development should take place on-site until the method of sewage disposal has been submitted to and approved in writing by the Council. The development shall not be carried out unless in accordance with the approved details.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

9: No development shall commence on site until details of foul and surface water drainage, including a programme for implementation of these works, have been submitted to and approved in writing by the Planning Authority. The details shall also include detailed calculations for surface water drainage of the site. The development shall not be carried out unless in accordance with the approved details.

Reason: To ensure appropriate foul and surface water drainage of the site. Approval is required upfront because the design of the drainage is an integral part of the development and its acceptability.

10: The development hereby permitted shall not become operational until the vehicular accesses have been constructed in accordance with the approved Drawing No. 03A 'Proposed Site Layout Plan' bearing the Belfast City Council Planning Office date stamp 20 December 2019. The access shall be constructed and marked to the satisfaction of DfI Roads.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

11: The development hereby permitted shall not become operational until hard surfaced areas have been constructed in accordance with the approved layout Drawing No. 03A 'Proposed Site Layout Plan' bearing the Belfast City Council Planning Office date stamp 20 December 2019 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking and manoeuvring within the site.

12: A minimum of 8 No. secure cycle parking spaces shall be provided and permanently retained within the development for use by staff and visitors to the development.

Reason: to encourage the use of alternative modes of transport for development users.

13: The development hereby permitted shall not operate unless in accordance with the Travel Plan contained within Appendix 4.1 of the Environmental Statement Addendum published by the Belfast City Council Planning Office on 15 January 2020. The Travel Plan will be provided to the Site Operator as a separate, stand-alone, document. The Site Operator will provide their employees with access to the Translink iLink Initiative and the Bike2Work Initiative or equivalent measures agreed by DfI Roads.

Reason: To encourage the use of alternative modes of transport to the private car in accordance with the Transportation Principles.

14: The development hereby permitted shall not operate unless in accordance with the Service Management Plan contained within Appendix 4.2 of the Environmental Statement Addendum published by the Belfast City Council Planning Office on 15 January 2020. The Service Management Plan will be provided to the Site Operator as a separate, stand-alone, document.

Reason: In the interests of road safety and traffic progression.

15: Prior to the commencement of any works hereby approved, an Arboricultural Impact Assessment (in accordance with BS: 5837:2012) shall be submitted and agreed in writing by the Council. This will identify, evaluate and mitigate where appropriate the extent of direct and indirect impacts on existing trees that may arise as a result of any site layout proposal. The development shall not be carried out unless in accordance with the approved details.

Reason: To ensure minimal impact from the development on existing trees to be retained.

16: All trees and planting within the site shall be retained unless shown on the approved drawings as being removed. Any existing or proposed trees or planting indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying, shall be replaced during the next planting season (October to March inclusive) with other trees or plants of a location, species and size to be first approved in writing by the Planning Authority.

Reason: In the interests of visual amenity.

17: No retained tree shall be cut down, uprooted or destroyed or have its roots damaged within the crown spread, nor shall arboricultural work or tree surgery take place or any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Council. Any approved arboricultural work or tree surgery shall be carried out in

accordance with British Standard 3998, 2010. Recommendations for Tree Work.

Reason: To ensure the continuity of amenity afforded by existing trees.

18. If any retained tree is removed, uprooted or destroyed or dies, another tree or trees shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified by the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

19. Prior to any work commencing, protective barriers (fencing) and ground protection shall be erected / installed as specified in British Standard 5837: 2012 'Trees in relation to design, demolition and construction – Recommendations' (section 6.2) on all trees to be retained within the site, and must be in place before any materials or machinery are brought onto site for demolition, development or soil stripping. Protective fencing must remain in place until all work is completed and all associated materials and equipment are removed from site. Within the fenced area no activities associated with building operations shall take place, no storage of materials, and the ground levels within those areas shall not be altered.

Reason: To ensure that adequate protection measures are put in place around trees prior to the commencement of development to ensure that the trees to be retained are not damaged or otherwise adversely affected by building operations and soil compaction.

20: All soft landscaping works shall be carried out in accordance with the details on stamped approved drawing no 17A, bearing the Council's date stamp 20th December 2019. The works shall be carried out prior to the occupation of the development hereby approved or before the end of the first planting season after occupation, whatever is sooner, and shall be permanently retained thereafter. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a similar species and size, details of which shall have first been submitted to and approved in writing by the Council.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

21: The development hereby permitted shall be constructed and finished in accordance with the approved details including the annotated finished colours for buildings and tanks.

Reason: In the interests of visual amenity.

22. The feedstock hereby accepted at the facility shall be limited to MSW organic fines (EWC code 19 12 12 and the EWC (European Waste Catalogue) Codes as set out in the Environmental Statement, appendix 3.1 and no other feedstock. (Attached as information no 2 to this decision notice).

Reason: In the interests of environmental protection and public health and to ensure that there is no adverse effect on site integrity of any European designated site.

23: The development hereby approved not be permitted to accept waste from EWC code 02 01 06. No digestate from the facility shall be landspread within the site.

Reason: To ensure that there is no adverse effect on site integrity of any European designated site.

24: The Anaerobic Digester (AD) shall not exceed a maximum of 99,999 tonnes per annum, in accordance with written records which will be made available to the Council on written request.

Reason: In the interests of environmental protection and public health.

25: There shall be no external storage of waste at any time.

Reason: in the interests of environmental protection and in the interest of amenity.”

The Planning Manager then provided a recap of the application process to date, reminding the Committee that the application had been received by the Council in June, 2019, and had been due to be considered by the Committee on 18th August 2020, but was deferred due to an objection received from a legal representative, representing Giant's Park Belfast Limited (GPBL). He added that the Committee had undertaken a site visit in respect of the application in September 2020 and, at its meeting on 19th January, 2021, had agreed to defer the application for further information on the Habitats Regulations Assessment (HRA), and to hold a non-mandatory Pre Determination Hearing which took place on 23rd February, 2021. The application was then reported back to the Committee on 20th April, 2021, at which time the Committee resolved to defer consideration of the application and asked that officers draw up planning reasons for refusal based on the following concerns:

- That the proposed development was incompatible with adjacent land uses and was contrary to Policy WM1 of Planning Policy Statement 11, in that it was incompatible with the character of the surrounding area and adjacent land uses, namely with the adjacent film studios and its expansion and also with the GPBL proposals; and
- That a film studio extension had been built in the zone which was zoned for Waste Management in the Masterplan, and that the waste management element therefore no longer existed.

The Committee was then presented with a summary of the proposals and the policy context related to the application. The Planning Manager also provided a summary of the issues raised in the Committee report.

With regards to refusal on the grounds of incompatibility with the adjacent film studios, the Planning Manager drew attention to a number of relevant environmental considerations, including ambient air quality, odour, noise and vibration, and lighting. Following a detailed explanation of the relevant guidance and assessments which had been carried out in relation to each aspect, the Committee was advised that it was considered that the film studios and proposed CAD facility would be compatible in terms of these environmental considerations.

He added that, if planning permission was to be granted, and the proposal was to go ahead, the applicant would be required to obtain a Pollution Prevention Control Permit from the Department of Agriculture, Environment and Rural Affairs' (DAERA) Northern Ireland Environment Agency (NIEA) to ensure that waste is disposed of, or treated, without endangering human health or causing harm to the environment. In addition, planning guidance is that planning control should not duplicate other statutory controls or be used to achieve objectives relating to other legislation.

The Committee was advised that DAERA were unable to attend the meeting, but had advised that, in relation to the permitting process, the waste authorisation for the potential development, if approved, would have conditions within it that would be designed to ensure there were no negative impacts (for example, odour, noise etc.) beyond the site boundary. The permit would have enforcement mechanisms in place to mitigate against such effects, should they occur.

The Planning Manager then addressed compatibility with the GPBL proposals, reminding the Committee that a Pre-Application Discussion (PAD) request and Proposal of Application Notice (PAN) in respect of mixed-use proposals on the land to the north and west had been received in January, 2021, and then amended in June, 2021.

He drew attention to the refusal reason put forward by the Planning Committee based on these concerns but confirmed that, in the view of officers, minimal weight should be given to the GPBL proposals given their early stage in the planning process and that several of the uses featured in the GPBL proposals did not accord with the zoning of the site under Policy BHA 05 of dBMAP 2015 (v2014). Furthermore, Environmental Health had advised that they had no in principle concerns about incompatibility between the proposed CAD facility and the GPBL proposals.

With regards to the second refusal reasons put forward by the Committee, namely that there was no longer a requirement for waste management uses at the site, the Planning Manager set out the key issues.

The Committee was reminded that the 'North Foreshore Giants Park Masterplan' was approved by the Department of Environment in 2010, setting out detailed proposals for the development of the site, including land earmarked for Arc21 waste management facilities. However, film studios had since been built on this land and planning permission had been granted for a second phase of the studios.

The Planning Manager advised that, when the Planning Committee granted permission for the original film studios, it had accepted that the proposal 'conformed in principle' with Policy BHA 05, in recognition of the broad zoning of the land for employment uses, as well as the contribution that the film studios would make to the local economy. The Planning Committee did not, however, grant permission on the

basis that there was no longer a requirement for waste management facilities. He added that the Masterplan was arguably outdated and that the decision to grant permission for the film studios on land assigned for Arc21 waste management facilities, established the principle of the Council taking a flexible approach to zoned uses under Policy BHA 05.

In summary, the Committee were advised that there was no evidence that the granting of planning permission for the film studios meant that waste management facilities were no longer required on the wider lands zoned under Policy BHA 05, and that the strategic need for the proposal has been demonstrated by the applicant, in that the proposal accorded with the waste hierarchy, having regard to Policy WM2 (a) of PPS 11.

The Planning Manager therefore advised that, for the reasons set out within the report, officers continued to recommend the application for approval.

A Member commented that they would be unable to support refusal based on the reasons set out within the report, given that there did not appear to be an evidential basis to support them. However, they raised major concerns regarding the potential environmental impacts of the proposal and shared their view that the lawfulness of the policies cited, particularly relating to nitrogen emissions, would leave the decision to approve the application as vulnerable to challenge. The Member emphasised the Council's role in accessing such applications to be assured they would not cause demonstratable harm to a European designated site. These concerns were echoed by a number of the other Committee Members.

(Councillor McCullough left and re-joined the meeting during part of the presentation. As he had not been present for the whole discussion, he did not participate in the vote.)

Proposal

Moved by Councillor Murphy and
Seconded by Councillor Hussey,

That the Committee agrees to refuse the application, based on the fact that:

- the proposed development would result in unacceptable environmental conflict with the adjacent film studios to the east (including Phases 1 and 2 of the film studios); and with the leisure, hotel, food and beverage uses contained in Giant's Park Belfast Limited's leisure-led mixed use proposals for land to the north and west. The proposed development would not be compatible with the character of the surrounding area and these adjacent land-uses and would prejudice future operations of these economic uses, contrary to paragraph 6.90 of the Strategic Planning Policy Statement for Northern Ireland (2015); Policy WM 1 of PPS 11: Planning and Waste Management; and Policies PED 8 and PED 9(a) of PPS 4: Planning and Economic Development; and
- Policy BHA 05 of the draft Belfast Metropolitan Area Plan 2015 (v2014) zones the area for a range of uses including waste management. The associated North Foreshore Giants Park Masterplan (2010) identifies land to the south east of the zoning for Arc21 waste management facilities. However, this land has

since been redeveloped as film studios with further planning permission granted on these lands to extend the film studios operations. As a consequence, waste management uses are no longer required within the Policy BHA 05 zoning.

On a vote, 4 Members voted for the proposal, none against, with 3 no votes, and it was accordingly declared carried.

The Committee also agreed to provide delegated authority to officers to look at the additional concerns in relation to environmental issues raised by the Members during discussion, so as to incorporate this into any appeal that may be forthcoming.

Chairperson