

Planning Committee

Tuesday, 17th May, 2022

HYBRID MEETING OF THE PLANNING COMMITTEE

Members present: Councillor Carson (Chairperson);
The High Sheriff, Councillor Hussey;
Councillors Garrett, Groogan, Hanvey,
Hutchinson, T. Kelly, Maskey, Murphy,
O'Hara, Spratt and Whyte.

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

Apologies

Apologies for inability to attend were reported from Councillors Collins and McMullan.

Minutes

The minutes of the meetings of 12th and 14th April were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 9th May, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor Spratt declared an interest in item 5a, LA04/2020/0559/F & LA04/2020/0562/DCA - 24 Malone Park, in that he had previously engaged with residents regarding the site. He left the meeting for the duration of the item.

Committee Site Visits

The Committee noted that a site visit had taken place in respect of the below applications on 27th April, 2022:

- LA04/2020/0559/F - Renovation and single storey rear extension to dwelling, construction of a new detached garage and new entrance gates and pillars at 24 Malone Park; and
- LA04/2020/0562/DCA - Demolition of rear extension (partly single storey, partly one and a half storey) and existing shed and summerhouse at 24 Malone Park.

Planning Appeals Notified

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

Planning Decisions Issued

The Committee noted a list of decisions which had been taken under the delegated authority of the Director of Planning and Building Control, together with all other planning decisions which had been issued by the Planning Department between 2nd April and 9th May 2022.

Proposed Abandonment

Land at Parkgate Avenue

The Committee was advised that correspondence had been received from DFI Roads, advising that Apex Housing Association proposed to abandon land at Parkgate Avenue in order to facilitate redevelopment in the area.

The Committee noted the information.

Miscellaneous Items

Request to hold a Special Meeting in June 2022 - verbal update

The Planning Manager (Development Management) advised the Committee that there were a number of applications which might not be ready for the monthly meeting in June but which would need to be progressed before the July recess period.

The Committee agreed to hold a Special meeting in late June, if required.

Restricted Item

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

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

**LDP - Update on the proposed Modifications,
Consultation and Engagement**

The Director of Planning and Building Control provided the Committee with an update in respect of the final detail of the proposed consultation arrangements, the modifications documents and the results of the ongoing engagement with Dfl in relation to the Local Development Plan.

The Committee noted the contents of the report and appendices, including the details of the proposed modifications documentation, consultation arrangements and ongoing Dfl engagement.

Planning Applications

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

**(Reconsidered Item) LA04/2020/0559/F &
LA04/2020/0562/DCA - Renovation and single
storey rear extension to dwelling, construction
of a new detached garage and new entrance
gates and pillars at 24 Malone Park**

(Councillor Spratt, having declared an interest, left the meeting for the duration of this item)

The Planning Manager explained that the application for full planning permission had previously been listed for consideration by the Committee on 15th February and 14th April. The application had, however, been withdrawn from the meeting of 15th February meeting to allow officers time to consider a speaking note provided on behalf of the objector at 26 Malone Park. It was then deferred by the Committee at the 14th April meeting to allow it to undertake a site visit.

The Planning Manager outlined the details of the application to the Committee.

The site was a 2.5 storey semi-detached residential home finished in red brick on a large plot. The dwelling contained an existing two storey rear return. There was parking to the side elevation and extensive gardens forming the front, side and rear elevations. The surrounding area was residential and comprised large semi-detached and detached properties within large plots. The site was within the Malone/Adelaide Park Conservation Area.

The proposed single storey rear extension measured 11.95metres in length with a height of 5.75metres. When the proposed demolition was taken into account, he explained that the existing rear return of the property would be increased in length by 4.95metres. The proposed garage measured 9.5metres x 6.35metres with a height of 4.49metres. The proposed pillars measured a height of 2.02metres with the gates a height of 1.8metres.

The key issues which had been considered during the assessment of the application included:

- character and appearance;
- design;
- impact on amenity;
- impact on Conservation Area; and
- objections.

The Members were advised that the proposal was considered to be in compliance with the relevant legislation, policy and guides. The proposed extension, garage and gates/pillars were deemed to be of an acceptable scale and massing to not detract from the character and appearance of the surrounding area. The proposed footprint of the extension and garage were deemed to be within the 1.5 times limit as set out in the Adelaide/Malone Park Conservation Guide.

The Conservation Officer had been consulted and objected to the proposed ibex fencing. The Committee noted that that had been amended and removed from the drawings.

The Committee was advised that eight objections and two letters of support were received and were addressed within the report.

The Planning Manager outlined that the application had been withdrawn by officers from the meeting of 15th February, to allow officers time to consider correspondence from an objector.

He explained that it was alleged that the officers' analysis of the application was misconceived and, in short, that the garage, which was described as an outbuilding in the original Committee report, should not have been included in calculating the amount of permitted building coverage. He explained that officers did not necessarily accept that was the case, for the reasons set out in the original report. Notwithstanding that position, the original report had also assessed the application by excluding the garage.

The objector also alleged that officers had failed to explain that the Guide was underpinned by the statutory duty in Section 104 (11) of the 2011 Act. However, the Planning Manager outlined to the Committee that paragraph 9.35 of the original report advised that that duty was reflected within paragraph 6.18 of the SPPS and BH12 of PPS6, both of which were discussed in the original report.

The Planning Manager reported that officers were of the view that the proposed extension and garage presented a modest development which was sympathetic to both the existing site and the surrounding area, which contained both larger extensions and garages. The rationale behind the provision within the Guide was to allow landscape to remain dominant by the reference to the relationship between the proposed building mass and gardens. While the permissible building coverage would be exceeded in that calculation, in officers' opinion, it remained the case that the landscaping would still remain dominant. The proposed building coverage would make up 17% of the site.

The Committee was advised that it was considered that the proposal would preserve the character of the site and the wider Conservation Area. As set out in the original report, the proposed extension almost mirrored the extension of the neighbouring semi-detached property and therefore brought an element of symmetry to the rear of the dwellings. The garage had been set behind the building

line of the existing dwelling and a sufficient distance from the dwelling to ensure that views of the dwelling were not impacted.

The Planning Manager explained that regard had been given to the other guidance in the same section of the Adelaide/Malone Park Conservation Guide. It was considered that the extension had been designed as an integral part of the original dwelling. Officers felt that the extension and alterations would not detract from the character of the Conservation Area. The proposal would not give rise to unsatisfactory proportions, or seriously infringe on the setting, and would not be overbearing in relation to the form of the original building.

The Committee was advised that large garages to the side elevations were part of the character of the surrounding area. Most notably in the immediate surrounding area, garages in similar locations had been approved at 20, 21, 22 and 26 Malone Park. The proposed pillars and gates to the front of the property were considered sympathetic, the design of the pillars was of a high standard and the railings would allow views of the dwelling to be retained.

The Planning Manager explained that it was considered that the proposal complied with Section 104(11) of the 2011 Act in that the proposal would preserve the character or appearance of the Conservation Area where an opportunity for enhancing its character or appearance did not arise. By its nature, the proposal for an extension and the garage would give a limited opportunity for enhancement of the Conservation Area. However, given the considerations provided in the addendum and the main reports, it was considered that the proposal would preserve the character and appearance of the Conservation Area.

He added that a further objection had been received from the Malone Park Residents Association and which had been considered in the addendum report which was submitted to the April meeting.

The Committee's attention was drawn to the Late Items pack, whereby correspondence had been received from an objector, requesting confirmation as to which plans had been taken into account to reach the recommendation to approve the application. The objector also queried whether officers had had regard to further detailed Building Control plans and stated that it was unclear from the 1947 Building Control Plan whether the original garage had been accurately depicted. The objector also stated that the 1.5 times guidance had been applied by officers in different scenarios which was an unsatisfactory approach. It stated that officers' repeated attempts to count a non-dwelling garage in a manner that made a contrived calculation was contrary to the evidence of the location plan, to the policy and double counted the garage, allowing the very incremental development that the Court of Appeal had warned about.

The Committee was advised that officers had liaised with Building Control to check the existence and availability of any relevant drawings which might have reflected the original footprint. The assessment has been based on the earliest drawings which concurred with the OSNI historical maps. The Members were also advised that the 1947 Building Control map showed the proposed summer house, which was not built, but also the projection to the east side of the house. The resolution of the maps was such that an assessment of the projection could not accurately be made. The Committee was advised that the Council reference map (1937) and Building Control application (1947) showed a garage in a similar location as to the side projection shown in the OSNI historical maps. It could therefore be reasonably deduced that the side extension shown was a garage. The 1947 Building Control Application

contained a scaled block plan showing the dimensions of the garage and officers had no reason to doubt the accuracy of that plan.

While officers were of the opinion that the original garage was included in the definition of the term dwelling, an assessment had also been provided that excluded the garage from the calculation. In both cases, officers had found that the proposal was acceptable for the reasons stated in the Committee report.

The Planning Manager also referred to an additional representation in support of the application, which had been reported to the Committee in the Late items pack to the meeting on 14th April 2022.

The Chairperson welcomed Councillor Lyons to the meeting. He advised that he objected to the application for the following reasons:

- the planning policies regarding the Conservation Areas had been drafted and agreed to protect the shared interests, both immediate in the wider area, such as environmental protections and the wider eco system;
- when you deviated from the protective policies, that could lead to a diminution or loss of protections;
- planning policy states that, when managing development within a Conservation Area, there was a general presumption against the granting of permission for the demolition of unlisted buildings where proposals were in conflict with that principle; and
- there was a general presumption that the policy should only be relaxed in exceptional circumstances and that the application did not meet that.

The Chairperson thanked Councillor Lyons for his contribution.

He then welcomed Councillor McAteer to the meeting. She advised that she also objected to the application for the following reasons:

- the Malone Park Residents Association wished to protect and conserve the built heritage of the Park;
- the Association was charged with the maintenance and management of the public areas such as the verges, footpaths and trees, as well as the preservation of the character of the Malone Conservation Area;
- Malone Park was a special and unique place with many individually designed residences with mature landscapes and a tree-lined avenue, producing the distinctive townscape character which was worthy of the utmost protection;
- the Conservation Area provided the Park with statutory protection to ensure that the character of the area was maintained; and

- the residents were particularly concerned that if the current application was permitted, which they believed to be over and above the 1.5 times the original size, it would set a worrying precedent.

The Chairperson thanked Councillor McAteer for her contribution.

The Chairperson advised the Committee that Mr. S. Beattie QC and Mr. M. Worthington, who represented the Malone Park Residents' Association, were in attendance to object to the application.

Mr. Beattie QC advised the Committee that:

- the policy in relation to ratio was extremely clear as it stated that "In no circumstances should building coverage be more than one and a half times that of the original dwelling";
- the officers' own presentation illustrated that it was a separate garage, and not a dwelling, as shown in the 1937 and 1947 maps;
- further, that the applicant was relying on a 1907 valuation of the property, which included "a rear yard, stables and stores" which did not make it a dwelling either;
- page 23 of the policy required that the landscaping be protected and preserved and that officers had not paid heed to that;
- whilst the officers had referred to Article 104 of the Planning Act, they had not referred to Article 104 part 7, whereby it was clear from the application that the boundary for the Conservation Area had gone, subsumed into two dwellings, one of which sat outside the Conservation Area and the boundary had indisputably changed;
- the Court of Appeal case on the policy had made abundantly clear that the reasonable lawful approach to the policy must be taken into account and that there must be a guard against incremental accretion of building development;
- the floorspace calculation of the original building, carried out by officers and the applicant, was different but that the Committee should be mindful that the policy clearly stated that there should be no incremental accretion of built development, that it was in fact a separate garage and not part of the original dwelling; and
- the reference to PPS6 was a red herring as the PPS did not in any way displace the planning policy or the Conservation Area guidance.

Mr. Worthington advised the Committee that the Malone Park Residents' Association felt that:

- the Park was under significant development pressure on a scale which had not been seen in quite some time and that the application represented a pivotal point in time for the Conservation Area;
- there were a number of applications for which the decision in this application would be critical;

- its approval would allow for the incremental increase in larger developments which would negatively impact on the relationship of buildings and landscape and which, when combined, would decimate the character and appearance of the area;
- its approval would pave the way for the death of the Conservation Area;
- the design guide was absolute, stating the words “in no circumstances”; and
- building coverage related to all of the buildings proposed and the original dwelling related only to the original dwelling as it was originally built, in the late 1800s.

A Member asked the representatives whether the garage was built as part of the original buildings on the site and, if it was, did it, in their view, constitute part of the original dwelling. Together, Mr. Beattie and Mr. Worthington advised the Committee that the 1907 map showed a blurred drawing. The 1937 and 1947 maps showed a clearly separated building and that it could not be said with any certainty that it was original to the site. He outlined that officers had consistently said that it was a garage and that the applicant had stated that it was stables, rear yard or stores. He explained that he found that it was therefore hard to accept as original, as the maps showed that the building was either not there at all or was separate. They did not accept that it was a “dwelling”.

The Chairperson thanked Mr. Beattie and Mr. Worthington for their contributions.

He advised the Committee that Mr. W. Orbinson QC, Mr. D. Stelfox (Architect) and Mr. L. Brown (neighbour) were in attendance on behalf of the agent and applicant.

Mr. Orbinson QC advised the Committee that:

- the Court of Appeal had said, in its Gilligan judgement, that policy was not mandatory, that the Council was free to override or depart from any part of it if it considered it justified and that the Council was entitled to attribute such weight as it thought fit to any consideration;
- that was entirely consistent with what the Court of Appeal had said in Stewart, whereby planning policies did not have to be slavishly followed;
- the Court of Appeal, in Gilligan, did not say anything about the meaning of the term “original dwelling” in the Guide, nor say that that meaning was limited to the dwelling-house itself and excluded ancillary outbuildings dating back to the time the dwelling was built;
- the objector was wrong to say that including the outbuildings had opened up the same precedent that the Court of Appeal had warned against;
- as the Nelson decision had confirmed, the Guide must be interpreted by reference to its intended purpose and that the ratio’s purpose was to allow the landscape to remain dominant as compared to building mass. Original outbuildings were, of course, part of the established relationship between building mass and gardens, as what would be the logic in the Guide intending to exclude original outbuildings in order to respect and retain the established relationship between building mass and gardens. That would, in fact, fundamentally distort the relationship;

- the Guide itself used the words “dwelling”, “buildings” and “property” interchangeably to refer to historic built form, with no intent to distinguish between the living part of a house and ancillary outbuildings. It referred to refusing extension proposals which were “considered overbearing in relation to the form of the original buildings”, plural, which was not consistent with the notion that the only original built form that mattered was the house itself;
- nothing prohibited garages from being separate from the main house;
- the Moore judgement by the English Court of Appeal had held that converting the outbuildings of a house to holiday units involved a change of use from a single dwelling-house to use as two or more dwelling-houses, so the English Court of Appeal plainly treated the outbuildings as part of the dwelling;
- in Creighton, the PAC included a garage within the ratio;
- as the Planning officers had advised within their report, the Council could lawfully grant permission even if the Committee felt that the 1.5x ratio had been exceeded. Paragraph 7.12 of PPS 6 stated that, while the planning authority would attach ‘great weight’ to the need for proposals for new development to accord with the specific guidance drawn up for each particular Conservation Area, it was entitled to depart from guidance where material considerations indicated otherwise;
- the officers had agreed that the proposal was modest and sympathetic both to the site and to the surrounding area and, with 17% building coverage, would allow landscaping to remain dominant; and
- the proposal’s design would in fact enhance the character of the Conservation Area, in large part because the extension almost mirrored the extension of the neighbouring semi-detached property and therefore brought an element of symmetry to the rear of the dwellings.

Mr. Stelfox advised the Committee that he was an accredited conservation architect and that both planning officers and the Conservation Officer had agreed that the proposal was entirely in keeping with the Conservation Area.

Mr. Brown explained that he lived in the adjoining semi-detached property to the application site and that he was supportive of it. He outlined that it was a modest refurbishment and extension, which closely mirrored the design of his property.

Councillor Groogan sought clarity on what constituted the original dwelling.

Mr. Stelfox advised the Committee that, as part of his submission to the application, the Council’s valuation books had first described the site as “house and offices”. He explained that offices was the term used for ancillary accommodation such as outbuildings, stores, sculleries and larders and were included as part of the original dwelling.

The Planning Manager clarified a number of points to the Committee that the Guide did not specifically define what a dwelling was. From the maps available from the early 1900s, officers believed that it was reasonable to deduce that the garage was part of the original dwelling. Notwithstanding, if the Committee was to take a more precautionary approach, it could take the view that the garage was not part of the original dwelling and that the ratio was therefore in excess of the 1.5 permitted. He outlined that the statutory test in Section 104 which placed a duty on enhancement

of the Conservation Area where an opportunity arose and preservation of the Conservation Area where such an opportunity did not arise. In that case, the advice from officers was that the proposal, by its nature, did not provide opportunity for enhancement and so the key question was whether the character and appearance of the Conservation Area would be preserved. If the Committee took the view that planning permission should be refused then it would need to evidence harm and why the Conservation Area would not be preserved. Having regard to the Malone Park Conservation Area guidance, the Committee needed to ask itself if the landscape would remain dominant as a result of the approval of the application and whether the ratio of building mass to landscaping would remain respected. He explained that officers believed that the landscaping would remain dominant and that the application would not upset the balance.

The Chairperson put the officer's recommendation to approve the application and to grant delegated authority to the Director of Planning and Building Control to finalise the wording of the conditions to the Committee.

On a vote, eight Members voted for the recommendation, two against and one no vote and it was accordingly declared carried.

LA04/2020/0426/F - Proposed re-construction of petrol station and ancillary retail until including the replacement of fuel tanks, pumps and canopy alterations. Alteration to roof of hot food take away, compactor and provision of an EV charging facility at 228-232 Stewartstown Road

The Committee was advised that an email had been received, on 16th May, from Mr. G. Magee, Quantum Law Solicitors Ltd. advising that, given the short notice of when the application was added to the Committee agenda, Counsel Robert McCausland was unable to attend the meeting. Mr. Magee had requested that the application be deferred to allow a short period of time for them to prepare a summary of objections. The Committee did not accede to the request to defer and agreed to consider the application before it.

The Committee was advised that the application was previously approved by the Planning Committee at its meeting on 20th April 2021. The Principal Planning officer explained that that decision had been subject to a judicial review, which was ultimately conceded by officers upon counsel's advice. The grounds of challenge in the judicial review application had alleged, inter alia, that the Council had failed to take into account material considerations, and that the decision was flawed for the following reasons:

1. the report had failed to bring to the attention of the Planning Committee various correspondence;
2. the report had misled the Committee as to DFI's final consultation position;
3. the failure to conduct a Transport Assessment;
4. the consultation with DFI Roads had been inadequate;
5. failure to deal with the issue of inadequate parking provision; and
6. that the Committee had failed to scrutinise and enquire into the planning application before making its decision.

The Principal Planning officer advised the Members that, essentially, the issue in question had related to parking provision at the site. DfI Roads had initially objected to the application on the basis of insufficient parking and had requested a whole suite of information from the applicant. The information was not provided and, whilst DfI had subsequently indicated that they considered the application a significantly like for like replacement, it did not formally withdraw its initial objection or request for information. The judicial review was conceded on the basis that the case officer's report had inadvertently failed to accurately present DfI Roads' position on the planning application which had led the Committee into error.

Further to the quashing of the original decision, the Committee was advised that officers had reconsidered the proposed development.

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

The Members were advised that a Transport Statement, prepared by Karen McShane Transport Consultant, had been submitted by the applicant following the decision of the court.

The Principal Planning officer outlined that the Council had reconsulted with all previous consultees and re-notified all neighbours and objectors, as per statutory requirements. Further to comments from consultees and review by the case officer, further additional information was submitted, including proposed floor plans and proposed site drainage layout.

The Members were advised that one additional objection had been received, querying what plans were under consideration. The Principal Planning officer outlined that drawing numbers were confirmed and superseded following the objection. She explained that further consultation and neighbour notification had also taken place following the comments.

The Committee was advised that a Transport Statement Rebuttal had been submitted, prepared by Systra Ltd on behalf of an objector, Fernmount Trading (NI) Ltd. That document cited a number of concerns, including that:

- a vast majority of customers would travel by car. It was unlikely that customers would walk or use public transport;
- effective parking on the site was currently limited and due to existing constraints, there was no opportunity to increase the number of spaces;
- the proposed parking layout was not a realistic representation of what could be achieved, as many of the spaces were not accessible or, if occupied, would create bottlenecks and an unsafe environment for customers walking to and from their vehicles;
- the existing PFS forecourt was already congested and unsafe, leading to vehicles queuing on the Stewartstown Road;
- any increase in vehicle movements associated with the proposed development would have a detrimental impact on road safety;
- the proposed development was contrary to Policies AMP 1, AMP 7 and AMP 9 of PPS 3.

The Committee was advised that DFI Roads had responded to the Council's consultation request on 27th January 2022, offering no objections to the proposal. However, the Council had re-consulted DFI Roads on 5th April, requesting further comments and an explanation as to why previously requested information from their response of 9th September 2020 was no longer necessary.

The Principal Planning officer explained that a further response from DFI Roads was received on 10th May 2022. In conclusion, DFI Roads had advised that it maintained its position of previous consultation response of 27th January 2022, in that no objections were offered. They advised that the information requested in their response of 9th September 2020 did not take account what weight should have been given to the extant planning permission and that the previous request for information was no longer appropriate.

In relation to site drainage, NIEA Water Management Unit (WMU) had provided comment on the proposed development and had requested a full site drainage plan to enable assessment of the impact of the proposal on the surface water environment. WMU had provided a specific list of information to be included within the site drainage plan and also enquired if vehicle washing was due to take place on the site.

In response, the agent provided Drawing No. 8 – Proposed site drainage plan. WMU had been consulted further and it had advised that, whilst it had no objection in principle, it had requested further details. As WMU had no objection in principle, it was requested that delegated authority be given to officers to deal with the outstanding matter. If WMU changed its view and/or any water management issues cannot be resolved, the application would be returned to Committee for further consideration.

The Members' attention was drawn to the Late Items pack, whereby it was noted that there were two other current applications under consideration in relation to the application site:

- LA04/2021/2212/F – Retrospective permission single storey temporary shop facility; and
- LA04/2021/2211/A - Shop signage and advertising boards to temporary shop.

A new drawing had also been received from the agent, Drawing No. 09 – Existing Site layout (car parking). The site layout showed the existing parking layout (pre fire). The layout showed 24 parking spaces within the application site.

The Chairperson welcomed Mr. J. Scally, Carlin Planning, who was speaking on behalf of Fernmount Trading and Sharp NI Ltd., the owners of Beckett's bar, which was directly adjacent to the site and who were objecting to the application. He advised the Committee that:

- they had consistently objected to the proposed scheme during the previous and current period;
- the previous decision had resulted in a Judicial Review of the Planning Committee's decision to approve, at significant expense to the objectors;
- the JR had been successful;

- the objectors remained concerned that DFI Roads' position was not being accurately portrayed to the Committee;
- the objectors felt that their concerns were not being taken seriously by neither the Council nor by DFI Roads, which was evident in the conflicting consultation responses from DFI Roads over the determination period;
- the increase in floorspace had been misrepresented at the first Committee meeting;
- DFI Roads' position remained misinformed and confused – in its response of 9th September 2020 it stated that it had not taken on board the weight of the extant planning permission in that the developer could rebuild exactly what had been on site previously. That argument was fundamentally flawed, as the shop had been demolished after a fire in 2017 and the new application needed to consider the current circumstances;
- the objectors believed that the redevelopment of the unit, with a significantly larger unit, did not justify its approval, especially given that the parking arrangements had been substandard in the first place;
- they requested clarity on how many car parking spaces were being provided, as it was not clear from the report;
- in April 2022, an updated site plan had been uploaded onto the Portal, indicating an increase to the parking spaces – it was apparent that DFI Roads had not seen or commented on the latest parking layout, which was a serious concern given that it had previously stated that, if the site was to accommodate any more parking, it would have a negative impact on the safe manoeuvring of pedestrians and vehicles;
- the Glider route operated along the Stewartstown Road and no on-street parking was permitted along the Glider route;
- no consideration had been given to overflow parking in adjacent businesses, which was a material consideration;
- a Transport Statement Rebuttal had been submitted on behalf of the objector, prepared by Systra Ltd – which provided photographic evidence of the congestion on site, prior to the new retail unit becoming operational. It also showed a clear knock-on impact to pedestrian and highway safety, contrary to policy AMP 2;
- Systra Ltd had also raised fundamental concerns with the layout whereby 38 car parking spaces were proposed on site and nor did it meet the required design standards; and
- the proposals were contrary to policies AMP 1, AMP 7, AMP 9 and AMP 2.

The Chairperson then welcomed Ms. K. McShane, Transport Consultant for the applicant, and Ms. M. O'Loan, solicitor, to the meeting.

Together they advised the Committee that:

- the photographs submitted by Systra Ltd showed the temporary building which was currently on site and that it was important to note that the unit was located where a number of additional parking spaces would ordinarily be and, as a result, there was currently much less parking than what would be provided under the current application or, indeed, what was there previously;

- DFI Roads had given detailed consideration to the proposal and had concluded that there wasn't a safety concern;
- the planning history of the site should be given significant weight;
- the proposal constituted a modest increase in floorspace from what had been on the site before the fire; and
- DFI Roads had been re-consulted and that it was content that it had, in fact, considered the most updated parking layout and that it had no road safety concerns and no amenity issues.

The Chairperson invited Mr. Scally to address any factual inaccuracies which he felt needed addressed.

Mr Scally advised the Committee that he had referenced 17 car parking spaces with 6 additional spaces at the petrol pumps, and that that was the situation before the fire and not what was on site currently. He added that a 45% increase in the retail floorspace was not a modest increase. He reiterated that he believed that DFI Roads had not commented on the latest site plan, revision 4B.

The Principal Planning officer clarified to the Committee that DFI Roads had stated in its consultation response that the petrol filling station did not require permission and that that was incorrect. However, what it had referred to was that there was a consistent planning history on the site with 24 parking spaces prior to the fire and that it had concentrated on the additionality of the 88 square metres and that it would require the additional 6 spaces which could be found in the surrounding area. She advised the Committee that the 17 car parking spaces which Mr Scally had referred to was referenced within the old report, which had been included within the reports pack for background information.

The Divisional Solicitor clarified that, if the Committee was to approve the application, delegated authority should also be given to the Director of Planning and Building Control in relation to the previously raised water management issue.

The Committee approved the application and granted delegated authority to the Director of Planning and Building Control to finalise the wording of the conditions and to address the water management issue.

LA04/2021/2893/F - 12 no. storey Purpose Built Managed Student Accommodation (PBMSA), with additional use of accommodation by further or higher education institutions outside term time, comprising 774 beds with shared sports and recreation facilities (amendment to previous permission LA04/2016/1252/F PBMSA (774 beds). Maximum height of 12 storeys and varied by LA04/2017/2112/F Variation of condition 7 of LA04/2016/1252/F) on Site bounded by Little York Street, Great George's Street and Nelson Street

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

He drew the Members' attention to the Late Items pack, whereby a late objection had been received. The objection had stated that the proposal failed to address need. However, the Planning officer explained that the principle of the development had been

firmly established through the earlier planning permissions. The objection also referred to Building Control and fire safety issues which were not planning matters. Amenity issues were also raised and had been addressed within the Case officer's report.

The key issues which had been considered during the assessment of the proposed development included the:

- principle of redevelopment;
- principle of Student Accommodation;
- principle of proposed 'out of term' accommodation;
- principle of a Leisure Complex at the location;
- scale, massing and design;
- open space provision;
- traffic and parking;
- impact on amenity;
- noise;
- drainage and flooding;
- waste management;
- pre-application community consultation; and
- developer contributions.

The Principal Planning officer reported that the principle of Managed Student Accommodation had been established on the site through the extant approval LA04/2016/1252/F. The scale and massing of the scheme were virtually identical with the extant permission, with the main difference being the introduction of an internally located, purpose-built leisure facility located where the external courtyards were previously approved.

The overall level of amenity provision was slightly less than previously approved, however, that was outweighed by the quality of the recreational facilities on offer, and the elevated roof terrace which would experience less overshadowing than the approved courtyard. Although located adjacent to the existing student accommodation block, given the orientation of the buildings, it was not anticipated that the internal leisure complex would impact significantly on amenity or enjoyment of the outdoor spaces, in what were already enclosed, north facing courtyards.

The Committee was advised that the design, although altered, retained the character of the previous approval, with finishes in keeping with the area and adjacent buildings. The site was ideally located to serve both Queen's University and the newly constructed Ulster University complex.

The Principal Planning officer advised the Committee that DFI Roads, DAERA and Environmental Health had been consulted and were content with the proposals, subject to conditions. Rivers Agency, Belfast City Airport, Building Control and Shared Environmental Services had no objections to the proposals. The Divisional solicitor reminded the Members that a late objection had been received, as highlighted within the Late Items pack.

He outlined that, if the Committee was to approve the application, officers recommended that it would be subject to conditions and a Section 76 Planning Agreement to secure the management of the student accommodation, controlling the use as out-of-term accommodation, controlling the use of the proposed leisure facilities and to secure community apprenticeships.

The Chairperson welcomed Mr. P. Stinson (agent), Mr. N. Howells (on behalf of the applicant) and Mr. S. Deans (project architect) to the meeting.

Mr. Stinson advised the Committee that:

- the proposals involved the repurposing of the extant permission to include the development of an integrated, high quality recreational facility which would support the prospective residents of the building and the wider student community associated with Ulster University's new campus;
- it represented an additional investment of £5m in the project;
- they had worked with the planning officers through the pre-application discussion process to develop the proposals which had enabled the application to be brought before the Committee in 5 months, supporting their ambition to have the new spaces open in 2024;
- the building would be operated and managed by Student Roost, which had been operating in Belfast since 2018. It currently managed 1634 bed spaces in the city. It had a proven track record for providing high quality, managed accommodation to support students across the UK;
- the proposals had no increase in the number of student beds that were granted by the Council in 2017;
- the proposed recreational facility was centrally located and was an integral part of the building. It would deliver an active and attractive area of high quality external amenity space, allowing for informal recreation;
- the internal facilities included a multi-purpose sports hall, a wellness room, a multi activity space as well as a gym and workout space;
- the recreational facilities had been designed in consultation with the Head of Sport for Ulster University and the University's Student Life Director. It addressed their need for a dedicated space for their student population and their 78 affiliate sports clubs;
- it fitted within the University's Active Campus strategy which, at its core, was the vision for students to be 'More Active More Often';
- the external space had been refined, following feedback from planning officers, to ensure that it sat sympathetically within the courtyard space;
- a dedicated internal amenity space was also included for use solely by the student residents of the building;
- the proposed development had been noted to offer 1980square metres of internal and external communal space, in so far as it related to the student accommodation portion of the development and suggested a shortfall of 160square metres from the previous permission. The average space per unit provided in the previous permission also fell below the level identified in Creating Places. However, the shared recreational facility was intrinsically linked to the student accommodation and each resident would have access to the spaces created, providing 1400square metres of space; and
- finally, the proposals included the use of the accommodation for patrons associated with further and higher education facilities outside of term time, delivering accommodation that would cater

specifically for the needs of the university when, for example, catering for sports teams attending university events, external lecture series or conferencing at the new campus, therefore adding to the vitality of the area and providing year round activity.

A Member suggested that the sports facilities should be open for use by the wider community. Mr. Stinson confirmed to the Committee that the sports facilities were for use solely by patrons associated with further and higher education and that there were other facilities in close proximity of the site for public use.

A further Member suggested that a workshop could perhaps take place on the wider issue of the scale of student housing in that area of the city in the context of place-making.

After discussion, the Committee approved the application and granted delegated authority to the Director of Planning and Building Control to finalise the wording of the conditions and the Section 76 Planning Agreement.

LA04/2021/2811/F - Application under section 54 of the Planning Act (NI) in respect of planning permission LA04/2016/1276/F (community centre and associated site works) to vary condition No.6 (seeking to remove requirement for archaeological works set out in the approved programme of works to be implemented prior to commencement of any site works or development) on Corner site between Mayo Street and Mayo Link off Lanark Way Shankill Road Belfast

The Committee was advised that the Section 54 planning application sought to vary condition 6 of planning permission LA04/2016/1276/F to amend the trigger point for the implementation of archaeological works in accordance with an approved programme of works at the site.

The Department for Communities' Historic Environment Division (HED) had been consulted. The Members were advised that HED was the key body in relation to the matter and had responded with no objection to the proposed change to condition 6, subject to revised wording in respect of ensuring that archaeological remains within the application site would be properly identified and protected or appropriately recorded.

The Committee was advised that the granting of a Section 54 application to vary conditions would create a new standalone planning permission and, therefore, should permission be granted, the other original conditions should be repeated as appropriate.

The Committee approved the application and granted delegated authority to the Director of Planning and Building Control to finalise the wording of the conditions.

LA04/2021/1769/F - Environmental improvements to include rationalisation of 3 car spaces in the courtyard car park to provide multiple seating opportunities; table tennis; a new surface level pedestrian linkage between FinTrU buildings and ancillary development. Existing service plant structures to be consolidated and 'wrapped' in matte black charred timber with a flat Sedum Green Roof System fitted to span the new section of storage created to include 14 bike racks, 2 Electric Vehicle (EV) charging points and additional landscaping at FinTrU House, Gasworks

The Committee was advised that the application was before it as the Council had an interest in the land.

The application sought permission for environmental improvements and the reconfiguration of car parking space, which would result in the loss of three spaces. A new pedestrian pathway was proposed, the re-cladding of the service plant area, provision of a cycle storage area, provision of two electric charge points, seating, planter boxes and a table tennis area were also proposed.

The main issues which had been considered were:

- the principle of development;
- impact on surrounding character;
- impact on environmental issues;
- impact on Parking and Road safety; and
- impact on an adjacent listed building

The application had been neighbour notified and advertised in the local press and no third-party comments were received.

BCC Environmental Health Service, Historic Environment Division (HED) and DFI Roads had been consulted and were content with the proposal subject to planning conditions.

The proposal had been assessed against and was considered to comply with the SPPS, BUAP, Draft BMAP (both versions) and PPS3.

The Committee approved the application and granted delegated authority to the Director of Planning and Building Control to finalise the wording of the conditions.

LA04/2021/2577/F - Detached modular temporary classroom and toilet unit to the south of the existing community facility. Existing southern fenced boundary moved due south by 8.5 metres at Gael-Ionard Mhic Goill 4 Whiterock Close

The Committee was apprised of the application which sought full planning permission for a modular temporary classroom unit to the south of the existing community facility. The unit would have a footprint of 12metres by 6metres. The Members were advised that it would be 3.1metres in height, with a flat roof. The

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existing southern fenced boundary would be moved south by 8.5metres to accommodate the unit.

DFI Roads, NI Electricity and BCC Environmental Health had been consulted and had offered no objections to the proposal.

The Committee approved the application.

LA04/2021/2726/F - 5 Panel printed Art installation at 2 Midland Close

The Committee was advised that the application was before it as the installation was subject to Council funding.

The Members were advised that the proposal sought permission for the installation of 5 printed panels measuring 2.4m x 1.2m. The proposal formed part of a Business Cluster Support Project and was an Ulster-Scots themed project. The panels were proposed to incorporate photographs and text to explain important Ulster-Scots with local connections, including the Mulholland's of York Street Mill; Thomas Gallaher's tobacco factory; motorbike pioneer, Rex McCandless, whose business was on the Limestone Road; and famous local artists John Luke and James Humbert Craig.

The Principal Planning officer outlined the key issues which had been considered during the assessment of the application included the impact on amenity and general characteristics of the area and the impact on public safety.

The site was located on the boundary wall of 2 Midland Close, located off the Antrim Road. The area was predominantly residential in nature.

The proposal had been assessed against the Strategic Planning Policy Statement for Northern Ireland (SPPS), Belfast Urban Area Plan 2001 (BUAP) and the Draft Metropolitan Area Plan 2015 (BMAP).

The Committee was advised that the proposed panels were considered unacceptable as they did not respect amenity when assessed in the context of the general characteristics of the locality. The panels, if approved, given to their extent and position would not result in good design as outlined in the SPPS, and would be out of place in this residential setting. The panels cumulatively would result in clutter when read together and with the existing poster panel located on the gable wall of 2 Midland Close.

The scale, intrusive nature and cumulative effect of the proposed panels were considered unacceptable in this predominantly residential area. The proposal was therefore recommended for refusal.

The Committee refused the application and granted delegated authority to the Director of Planning and Building Control to finalise the refusal reasons.

**LA04/2021/2727/F - 1 Panel printed Art
installation at Frydays Café, 98 York Road**

The Committee was advised that the application was before it as the installation was subject to Council funding.

The Committee was advised that the proposal sought permission for the installation of 1 printed panel measuring 2.4m x 1.2m. The proposal was part of a Business Cluster Support Project and was an Ulster-Scots themed project. The panels were proposed to incorporate photographs and text to explain the relationship of soda/ potato farls and their key role in the Ulster Fry.

The site was located on the gable wall of 98 York Road. The area was mixed use in nature.

The Members were advised that the proposal had been assessed against the Strategic Planning Policy Statement for Northern Ireland (SPPS), Belfast Urban Area Plan 2001 (BUAP) and the Draft Metropolitan Area Plan 2015 (BMAP).

The Committee approved the application for a temporary period of three years and granted delegated to the Director of Planning and Building Control to finalise the wording of the conditions.

**LA04/2021/2728/F - 2 Panel printed Art
installation at Winefair, 142 North Queen Street**

The Committee was advised that the application was before it as the installation was subject to Council funding.

The Principal Planning officer explained that the proposal sought permission for the installation of 2 printed panels measuring 2.4m x 1.2m. The proposal was part of a Business Cluster Support Project and was an Ulster-Scots themed project. The panels were proposed to incorporate photographs and text to explain the role of Ulster-Scots in whiskey distilling in Belfast and also the invention of Belfast ginger ale and brown lemonade.

The members were advised that the panels were located on the gable wall and boundary wall of 142 North Queen Street and the area was mixed use in nature.

The proposal had been assessed against the Strategic Planning Policy Statement for Northern Ireland (SPPS), Belfast Urban Area Plan 2001 (BUAP) and the Draft Metropolitan Area Plan 2015 (BMAP).

The Committee approved the application for a temporary period of three years and granted delegated to the Director of Planning and Building Control to finalise the wording of the conditions.

**LA04/2021/2730/F - 2 Panel printed Art installation
at Second Time Around Charity Shop, 46 Parkmount Street**

The Committee was advised that the application was before it as the installation was subject to Council funding.

The Principal Planning officer explained that the proposal sought permission for the installation of 2 printed panels measuring 2.4m x 1.2m, located on the side and rear wall of the premises. The proposal was part of a Business Cluster Support Project and was an Ulster-Scots themed project. The panels were proposed to incorporate photographs and text to explain the role of Ulster-Scots in philanthropy, such as the foundation of the Belfast Charitable Society and the role of an American Ulster-Scots descent, General Ambrose Burnside.

The host building was commercial in nature and was located within a predominantly residential area.

The Members were advised that the proposal had been assessed against the Strategic Planning Policy Statement for Northern Ireland (SPPS), Belfast Urban Area Plan 2001 (BUAP) and the Draft Metropolitan Area Plan 2015 (BMAP).

The Committee approved the application for a temporary period of three years and granted delegated to the Director of Planning and Building Control to finalise the wording of the conditions

LA04/2022/0275/F - Awning attached to existing façade at 26 University Avenue;

LA04/2022/0138/F - Awning attached to existing façade at 1 Rugby Avenue;

LA04/2022/0276/F - Awning attached to existing façade at 27 University Avenue; and

LA04/2022/0277/F - Awning attached to existing façade at 65-67 University Avenue

The Principal Planning officer outlined that the applications were in front of the Committee as the awnings were subject to Council funding.

A Member queried when BMAP had been quashed and requested that the items be deferred for further information for clarity in respect of the Area of Townscape Character (ATC) and Policy PPS6.

Moved by Councillor Groogan
Seconded by Councillor O'Hara and

Resolved – that the following four applications, which were located within the same area of the city, be deferred and that a report be submitted to a subsequent meeting regarding the Areas of Townscape Character (ATC), how PPS6 is applied and when precisely BMAP was quashed:

- LA04/2022/0275/F - Awning attached to existing façade at 26 University Avenue;
- LA04/2022/0138/F - Awning attached to existing façade at 1 Rugby Avenue;
- LA04/2022/0276/F - Awning attached to existing façade at 27 University Avenue; and
- LA04/2022/0277/F - Awning attached to existing façade at 65-67 University Avenue

LA04/2021/2794/F - Awning attached to existing façade at 2 Lock Keepers Inn

The Committee was advised that the application was before it as the awning was subject to Council funding.

The Committee was advised that the application site was situated at the Lock Keepers Inn at Lagan Valley Regional Park. The site fell within the designations for an Area of Outstanding Natural Beauty (AONB), Archaeological site and Monument, listed Building Curtilage and Regional Park Node.

The Members noted that the proposed application for a retractable awning cover on a removable supporting frame was considered by officers to be minor changes to the existing façade. The proposal was in close proximity to Lock-Keepers House (Grade B1) and Lock and Bridge Milltown Road (Grade B1) which were of special architectural and historic importance and were protected by section 80 of the Planning Act 2011. The Committee was advised that the proposal would not negatively impact the Listed Building and Lock and its setting in accordance with PPS6, the SPPS and Section 91 of the Planning Act 2011.

DFI Roads had been consulted and had no objections and Historic Environment Division (HED) had no objections with conditions.

No third party representations had been received.

The Committee approved the application and granted delegated authority to the Director of Planning and Building Control to finalise the wording of the conditions.

Chairperson