

Planning Committee

Thursday, 15th October, 2020

SPECIAL MEETING OF PLANNING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

- Members present: Councillor Hussey (Chairperson);
Councillors Brooks, Carson, Matt Collins,
Garrett, Groogan, Hanvey,
Maskey, McCullough, McKeown, Murphy,
Nicholl and O'Hara.
- In attendance: Mr. A. Thatcher, Director of Planning and
Building Control;
Mr. E. Baker, Planning Manager
(Development Management);
Ms. N. Largey, Divisional Solicitor;
Ms. E. McGoldrick, Democratic Services Officer;
Ms. C. Donnelly, Democratic Services Officer; and
Mrs. L. McLornan, Democratic Services Officer.
- Also attended: Alderman Rodgers.

Apologies

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

Declarations of Interest

Councillor Groogan declared an interest in item 2a, LA04/2019/1614/F - Redevelopment of existing all-weather playing field to provide new 3G flood-lit sports pitch, redevelopment of former tennis courts to provide new flood-lit multi use games area (MUGA pitch), pitch side fencing and ball-stop nets, car parking, landscaping and associated site works on land including and adjacent to the existing all-weather sports pitch at Stranmillis University College, in that she had spoken with residents and would be speaking in objection to the application. She confirmed that, after speaking on the item, she would leave the room for the duration of the discussion and not take part in the vote.

She also advised that, in relation to item 3, Havelock House, she had previously made representation in respect of the application and had engaged with objectors and, as such, would not take part in the discussion.

Councillor McKeown advised that he had received a significant amount of correspondence from residents and had facilitated a meeting for the residents with the planners in relation to item 2a, LA04/2019/1614/F, however, as he had not expressed an opinion on the application, nor did he attend the residents' meeting, he would participate in the discussion and vote. In relation to Item 3, Havelock House, he also advised that he had listened to local residents in regards to the associated planning application but that, as he had not expressed a view in respect of it, he was content that he could participate in any discussion on the matter.

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) LA04/2019/1614/F - Redevelopment of existing all-weather playing field to provide new 3G flood-lit sports pitch, redevelopment of former tennis courts to provide new flood-lit multi use games area (MUGA pitch), pitch side fencing and ball-stop nets, car parking, landscaping and associated site works on land including and adjacent to the existing all-weather sports pitch at Stranmillis University College, Stranmillis Road

The Committee was reminded that, at its meeting on 15th September, the item had been deferred due to a number of technical issues which had occurred throughout the consideration of the item. It was noted that the application would be considered from the beginning at a future meeting.

The Chairperson advised the Members that, at that meeting, in light of the recently imposed restrictions due to the Covid 19 pandemic, it had agreed to receive two separate deputations from objectors, of up to five minutes each, and that the agent/applicant deputation would therefore be granted up to ten minutes to speak.

The Principal Planning officer provided the Committee with a detailed overview of the site and the proposed development. He outlined the main issues which had been considered in the assessment of the application, including:

- the principle of the development of at the location;
- visual impacts of the proposal;
- impact on amenity / character of the area;
- impact on built heritage;
- impact on the natural environment;
- impact on transport and other infrastructure; and
- flood risk

He explained that the site was located within the development limits and was identified as whiteland within the BUAP. The Members were advised that the site abutted the Malone and Stranmillis Conservation Areas but fell within the Stranmillis Area of Townscape Character (ATC). He explained that PPS6 and the PPS6 Addendum relating to ATC's were therefore applicable. He advised that, within the draft Belfast Metropolitan Area Plan (BMAP) 2004 and draft BMAP 2015, the site was located within the development limit and, within dBMAP 2004, the site was located within a Local Landscape Policy Area (LLPA).

He outlined that the main pitch, at the closest points, would be located 29metres from the nearest dwelling at 28 Beechlands, and approximately 51.6metres from the nearest dwelling in Cleaver Park.

The Committee was advised that, whilst the proposal would result in the reduction of the playing surface area to allow for car parking facilities, those facilities were necessary and a policy requirement to support the proposal.

He advised the Members that the proposal would not adversely impact on amenity, traffic, heritage assets or flooding. He explained that the proposed scale, form, massing and materials of structures proposed were considered acceptable and would not adversely impact on the local character of the area. The Committee was advised that existing trees within the site and around the site periphery, in addition to new planting, would filter views of the structures. The Members were advised that changing room facilities had originally been proposed but had been removed from the proposal in order to safeguard the heritage contribution of ancillary buildings. On balance, he explained that the proposal would not result in detrimental visual impacts.

He explained that a number of conditions were necessary to mitigate impacts of the development, including the hours of operation of the facility and a restriction on the use of floodlighting between the months of October and February.

He highlighted that, since the original report had been published in September, Conditions 3 and 15 of the draft conditions had been updated to reflect that vehicular access to the development would be from the Stranmillis Road only and that, prior to commencement of development on site, including demolition, site clearance or site preparation, a Construction Environmental Management Plan (CEMP) should be produced by the appointed contractor.

The Committee was advised that 116 objections had been received, the details of which were outlined in the report.

The Principal Planning officer reported that DFI Roads, NI Water, Rivers Agency, the Conservation Officer, Environmental Health, the Landscape Section and the Tree officer had been consulted and had no objections to the proposal. He explained that a final response from the Natural Environment Division was outstanding.

The Committee's attention was drawn to the Late Items pack. The Principal Planning officer outlined correspondence which had been received in recent days from objectors and the applicant, including the Planning Department's response to each of the issues. He highlighted that correspondence had been received highlighting recent changes in badger activity in the grounds of Stranmillis College. He explained that DEARA Natural Heritage had been re-consulted on the issue. The Committee was advised that, as Natural Heritage were yet to respond, it was requested that delegated authority be given to the Director of Planning and Building Control to resolve any issues arising from their response as appropriate. He highlighted that if any matters were raised which could not be addressed without a substantive change to the application then it would be brought back before the Committee.

The Chairperson welcomed Alderman Rodgers to the meeting and he was invited to address the Committee. He stated that he objected to the application for the following reasons:

- the pitches were not in the best interests of the residents;
- the proposed floodlighting would affect residents' privacy;
- litter and noise would be a problem; and
- parking problems in the area would worsen.

The Chairperson then invited Councillor Groogan to address the Committee. She advised the Members that:

- she requested that the Committee would defer consideration of the application due to further information required in relation to recent badger activity in the area, potentially already disturbed by security lighting which had been installed on the site last winter;
- NIEA had only been re-consulted with the most recent information today;
- there had been significant opposition from the applicant/agent to accept conditioning around floodlighting and the badger setts;
- the proposal was in a unique setting in the Stranmillis ATC, it was directly in the middle of the Malone and Stranmillis conservation areas and was in close proximity to a number of listed buildings, TPOs, protected flora and fauna;
- few sites attracted such a level of historic interest and, as such, it required a special level of intervention and measures to uphold the value that the area provided;
- sufficient information had not yet been provided in regards to an appropriate assessment of cumulative amenity impact on the nearby residents due the intensification of site usage, as highlighted by Environmental Health;
- the Committee should ensure it was in receipt of all relevant information, as it would be unreasonable to disregard the environmental concerns which had been raised by objectors without having assurance that the mitigation of the worst potential negative impacts would be conditioned;
- the proposals were contrary to policies BH12 of PP6 and Policy OS4 and OS7 of PPS8.

The Planning Manager advised the Committee that, last month, the Natural Environment Division (NED), within the Northern Ireland Environment Agency (NIEA), had advised that it was content that there were sufficient mitigation measures in place to ensure that that the proposed development would have a minimal impact on the natural heritage interests associated with the site, subject to a number of conditions. He explained that, in the intervening period, a number of representations had been received which highlighted recent badger activity in the area. He advised the Members that NIEA had been re-consulted as a precautionary measure and that, while the officers' recommendation remained that of an approval, it would be subject to no substantive issues being raised by the consultee and it would be brought back to the Committee if any amendment or matter raised by the NED would deem it unacceptable.

The Principal Planning officer added that NIEA had been provided with an ecological report, both an original and an updated copy, which addressed the badger activity within the grounds of the college. It had been confirmed that there were no badger setts within the area where work was proposed and that NIEA had no objections in relation to the impact of the work, including floodlighting, on badger activity.

(Councillor Groogan left the meeting at this point and did not participate in the rest of the discussion or the vote)

The Chairperson invited Mr. Gilmer and Mr. Wilson, the first group of objectors, to address the Committee. Together they outlined that they were opposed to the development as:

- the site adjoined a quiet residential area, and that the proposals were on an industrial scale, with a proposed 6 or 7 day usage of the pitches, which indicated commercial enterprise not akin to college life;
- the Students' Union bar was located beside the sports facility;
- the entrance and exit gate would become a turnstile, with a dramatic increase in footfall of people arriving in cars, team buses and taxis;
- the noise impact of increased cars, doors banging, shouting and general traffic;
- the Cleaver area was used as an informal car park and that the yellow lines on the road were ignored, as no traffic wardens were present in the area, and concerns regarding parked cars which created access difficulties for emergency vehicles and bin lorries;
- the brightness of the floodlights would cause difficulty for residents trying to sleep;
- the College had been a bad neighbour and, only when Anna Lo MLA intervened, did the ASB of its students curtail when the College agreed to close the back gate at midnight;
- they worried for destruction of one of the last Conservation areas of Belfast;
- they were concerned for the downward spiral in mental health of their friends and neighbours as their residential amenity would be significantly adversely impacted by the application;
- the application was incompatible within a Conservation area, particularly with commercial activity pollution; and
- they invited the Committee to visit the area to see, first hand, the issues which they faced.

The Chairperson then welcomed Mr. E. Loughrey, agent, and Mr. F. Bryan, Chair of Cleaver Residents' Group, to the meeting, representing the second group of objectors.

Mr. Loughrey they advised the Committee that:

- PPS 6 Addendum stated that ,where new uses were proposed, that they should respect the unique character and general ambience of Conservation areas, e.g. certain developments may adversely affect the character of a Conservation area through noise, nuisance and general disturbance;
- the case officer had not directly assessed it against the Stranmillis ATC guidance, which advised that it was a pleasant woodland, grassed open space and unique in character, the most important natural habitat of flora and fauna in close proximity to the city centre, and a vital backdrop to the townscape;
- the guidance for Stranmillis College stated that there was a fine balance between the attractive buildings and the landscape, and that new development could interrupt and upset that balance;
- the spatial character around Stranmillis and Cleaver Park was unique and bringing increased commercial activity was an inappropriate extension and alteration, which would result in a visual disruption and would be out of sympathy with the townscape;
- the area was ultra-sensitive to any development;
- the case officer had failed to assess the view from the Stranmillis Conservation area towards the Malone conservation area, and that PPS 6 did not limit assessment of any “restricted vantage points”;
- disputed that the application would benefit the local community, given that over 116 objections had been received from the Cleaver Park residents; and
- the circumstances of the site had changed, in that the College had installed bright lighting on site which had deflected badgers away from the site and that should be considered.

Mr. F. Bryan outlined to the Committee that he represented 140 residents who were unanimous in their objection to the proposal. He outlined that:

- there had been 126 letters of objection submitted from residents of Cleaver in respect of the application, and that they requested that it should be dismissed outright;
- there had been a lack of information forthcoming in respect of questions asked and challenges made by objectors during the whole process;
- he failed to see how the planners were content with the floodlighting, given that their positions had not yet been confirmed;
- planners seemed to be leaning heavily on delegated authority, which emphasised that there were too many questions outstanding in relation to the application;
- that residents had no confidence that the College would behave like a responsible neighbour unless there was an honest broker to oversee its actions;

- residents had not had any time to consider further late submission by the applicant in the last few hours; and
- residents wished to be consulted on any conditions being applied and that any conditions should be enforceable.

In response to a query from a Member, the Principal Planning officer confirmed that, as included within the Late Items pack, amended plans had been received and that the location of the floodlights had been fixed as detailed within the plans.

The Chairperson welcomed Mr. S. Beattie QC, representing the applicant, to the meeting. He outlined that:

- the application constituted permitted development under the extant LDP and BMAP and it had been assessed against PPS8 and relevant policies;
- contrary to Mr Loughrey's suggestion that the site was "ultra sensitive", it was designated as whiteland under the BUAP and was considered open space under PPS8;
- the fact it had been used for car parking at some point was not relevant as there was an existing use as a recreation pitch, which was a strong material consideration;
- they were antiquated pitches in need of updating;
- the visual intrusion test had been considered in the assessment;
- they had no objection to the imposition of conditions in respect of a badger and bat survey before the development commenced;
- the changing of lightbulbs at the site did not constitute development and, even if the badgers had moved due to such a change, the impact on wildlife had been considered by officers;
- the applicant/agent had suggested some wording changes to some of the conditions;
- the allegations of bad neighbourliness and bullying by the College were unfounded, and that the College had implemented its own complaints process;
- Condition 14 was not appropriate as they did not relate to the application, including that the complaints of Anti-Social Behaviour did not relate to the operation of sports pitches and it was wrong to say that residents had a right to agree the condition, when it should be the planning authority;
- DFI had been consulted on a number of occasions, they'd confirmed repeatedly that they had no objections and that considerable weight should be given to that;
- issues regarding parking on double yellow lines was an enforcement issue;
- in relation to the queries regarding the cumulative impact assessment, he explained that the baseline from which the impacts had been assessed were from a zero baseline, which was the most conservative way of doing so. He explained that the full impact of the development was assessed with no assumed historical use and that statutory consultees had also confirmed that they were content.

A Member referenced the Late Items pack, whereby the applicant had requested the removal of conditions 4, 5 and 14 and that they also felt that numbers 8 and 18 were unlawful.

Mr. Beattie confirmed to the Committee that the only condition they sought the removal of was Condition 14, which required that a site Management Plan be submitted prior to the operation of the pitches “to include a system for dealing with complaints about anti-social behaviour and noise, and an arrangement for regular liaison with the nearby Cleaver Residents Association, by way of meetings, to recognise the need to respond to any negative aspects that may arise from the redevelopment and its use.”

Mr. Beattie explained that the applicant was requesting that a number of alterations be made to the other proposed conditions, as follows:

- that they did not believe that Condition 4 was relevant, as the application did not seek to amend or create any new adopted roads or footpaths, and it should not have been included;
- that, as there was no proposal to open up a new access or close an existing access, Condition 5 should not have been included;
- that Conditions 6 and 7 could be combined in a more coherent way;
- that Condition 8, relating to the floodlighting, should refer directly to the specific plan drawing, with the condition based upon it;
- in relation to Conditions 15 and 18, that the final say and agreement should be with the Council, rather than the contractor or a third party.

Mr Loughrey advised the Committee that neither he, nor the residents of Cleaver Park, had been made aware of any comments submitted by the applicant in relation to the conditions.

The Chairperson, after consulting with the Director of Planning and Building Control and the Divisional Solicitor, advised the Committee that, ultimately, the matter of conditions was between the Council and the applicant.

A Member referenced the Conservation officer’s view that the application would benefit the local community. The Planning Manager explained that the primary role of the Conservation officer was to comment on the impact of development proposals on the character and appearance of the conservation area, to which the officer had concluded that it would be preserved. He explained that the site was situated at a lower level than the nearby residential streets and that it was tree-lined which provided natural screening. He outlined that it was a matter for the Committee to determine how much weight to apportion in relation to the wider community benefits of the proposal.

In response to a further Member’s question regarding the visual impact of the pitch, the Principal Planning officer explained that the existing surface of the site was a relevant material consideration. The proposal to replace the gravel pitch with a 3G pitch was not considered to have a detrimental impact on the character of the area.

The Planning Manager provided further clarity in response to a Member's question regarding the views of the site in winter, with the deciduous trees and the increased use of floodlighting throughout the darker evenings, in relation to the adjacent Conservation areas. The Planning Manager pointed out that Conservation Areas were designated because of the special character of their built environment, which was not as readily enjoyed when it was dark. Officers considered that the proposed floodlighting would not therefore harm the Conservation Areas and their character and appearance would be preserved.

Proposal

Moved by Councillor O'Hara,
Seconded by Councillor Matt Collins,

That the Committee agrees to defer consideration of the application in order to receive further information on the recent badger activity and the cumulative impact on amenity in the development.

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

A number of Members stated that, while they had sympathy with the residents' objections in relation to the parking and floodlighting issues, they did not feel it was justifiable to reject the application given the responses from the statutory consultees.

Proposal

Moved by Councillor Hussey
Seconded by Councillor McCullough,

That the Committee grants approval to the application, subject to the imposing of the conditions with delegated power to the Director of Planning and Building Control for the final wording of the conditions, to deal with any matters arising as a result of the additional consultation with NIEA and that the objectors' comments would be considered in relation to the final conditions.

On a vote, five Members voted for the proposal, five Members voted against and two no votes. As there was an equality of votes, the Chairperson exercised his second and casting vote for the motion and it was accordingly declared carried.

Correspondence received

Proposed Listing of Havelock House - Response from HED

The Committee considered the undernoted report:

"1.0 Purpose of Report/Summary of Main Issues

- 1.1 Members will recall that the Planning Committee, at its meeting on 15th September, agreed that a letter should be forwarded to Historic Environment Division (HED) in the light of representations expressing a view that Havelock House should be listed and suggesting that a number of issues**

were not addressed when the building was previously considered for listing. Furthermore HED have been asked to provide a response to representations received in respect of the current planning application.

- 1.2 Council received a response on Friday 9 October from HED outlining how they believe that they have correctly followed due process in assessing the building for statutory listing advising in this case that the building doesn't meet the prescribed criteria. They also summarise their response to the current planning application and suggest that the Council could utilise its own statutory powers to locally list the building.
- 1.3 This report provides an overview of some of the key issues and explains why the suggested approach around local listing would not be appropriate in this instance.

2.0 Recommendation

2.1 The Committee is requested to note:-

- the update from HED set out in the report as confirmation that the building does not meet the criteria for statutory listing; and
- the limitations in respect of the potential for local listing cannot be considered in this instance.

3.0 Main Report

Key Issues

3.1 The Council, at its meeting on 15th September, agreed that a letter be forwarded to HED with the following motion:

'In light of the fact objectors have made representations expressing concerns that Havelock House should be a listed building, raising some issues which were allegedly not addressed when the building was considered for listing last year, the Planning Committee requests that HED provide a detailed response to those representations to inform its decision making process in respect of the Havelock House planning application.'

- 3.2 The Committee may wish to note that Listed Buildings are those designated through listing as being of 'special architectural or historic interest' under Section 80 of the Planning Act (NI) 2011. A responsibility that was retained as a function of the Historic Environment Divisions (HED) within the Department for Communities (DfC).
- 3.3 The Second Survey of all of Northern Ireland's building stock, is currently underway, to update and improve on the first List of buildings of special architectural or historic interest a process which began in 1974.
- 3.4 Havelock House was not considered for a full survey in the first survey of buildings of special architectural or historic interest which ran between 1969 and 1997, nor was it considered for a full survey during the second survey of this area in 2011.
- 3.5 Following correspondence with a third party, which had included a listing request, the Department reviewed the record, visiting the building in July 2018. Following further correspondence, a presentation on the history of the building and its use as a television studio by a third party was received by the Department in February 2019.
- 3.6 The Department has outlined how it assessed all the evidence in relation to Havelock House and determined that the building did not merit a full survey. The building has undergone extensive extension and alterations including the loss of fixtures and fittings/ equipment pertaining to its use as a television studio.
- 3.7 HED was consulted on the current planning application for the proposed demolition and redevelopment of Havelock House (ref LA04/2020/0067/F), in relation to the impact of the proposed development on several listed buildings, including those on the gasworks site. In the formal response HED advised that it considers that the height of the proposal would be contrary to policy. This will be considered in detail in the Committee Report for the current application in due course.
- 3.8 In addition to the requested response on the formal Listing HED referred to the potential for the building to be considered as a Historic Buildings of Local Importance. It should be noted that unlike listed buildings, Historic Buildings of Local importance (sometimes referred to as Local Listings) are not protected by statute. Instead they are referenced in paragraph 6.24 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) as:

‘a building, structure or feature, whilst not statutory listed, has been identified by the council as an important part of their heritage, due to its local architectural or historic significance.’

- 3.9** Whilst local councils can consider the establishment of a list of such assets there is no requirement to draw one up and councils there is considerable discretion as to how these could be identified and managed.
- 3.10** Following the introduction of a process that could support the identification of such assets the SPPS states in paragraph 6.24: ‘Councils may wish to bring forward bespoke local policies for such buildings’ through the Local Development Plan process. The SPPS goes on to state that the ‘significance placed on the historic building of local importance is key to its protection under planning policy and should be established based upon clear evidence’.
- 3.11** The identification of Historic Buildings of Local Importance could be considered as part of the Local Development Plan as one way of defining the structures that are regarded as important. However, the SPPS only requires that councils ‘identify the main built and archaeological heritage features, where they exist within the plan area’. In the consideration of the potential for Historic Buildings of Local Importance it may, therefore, be more appropriate to identify such structures only where these relate to and support area designations and heritage assets such as: Conservation Areas, Areas of Townscape Character and Local Landscape Policy Areas.
- 3.12** As we move forward towards the Independent Examination of the first part of the LDP – the Plan Strategy, initial work has commenced on the more detailed Local Policies Plan (LPP) which includes reviewing our, ‘Areas of Townscape Character’ and other character areas including to develop the evidence to support the development of local policies and designations that can support the strategic objectives for the plan.
- 3.13** Notwithstanding these matters, it is important to highlight that the incumbent planning system including policy development and plan designations are still operating within the transitional arrangements set out within the SPPS (Para. 1.10). Whilst the new Local Development Plan and Plan Strategy mirror the objectives of the SPPS in its desire to protect our built heritage, it is also important to note that the transitional arrangements states that the existing suite of Departmental policy and guidance will continue to apply until

they are replaced by the Councils own adopted Plan Strategy and then in time more comprehensively by the LPP. As the Belfast Plan Strategy is yet to be adopted, the Council are unable use mechanism such as new policy protections or designations until we move beyond the current arrangements and achieve adopted Plan Strategy status.

Financial and Resource Implications

3.15 None.

Equality or Good Relations Implications

3.16 None.”

The Planning Manager drew the Members’ attention to the Late Items pack, highlighting that correspondence had been received from an interested party in respect of the item. The letter advised that a meeting was scheduled to take place, on 22nd October, between the Minister for Communities and interested parties in respect of Havelock House. The Planning Manager explained that the outcome of the Ministerial meeting, if known, would be reported to the Committee as part of the Case officer’s report when the planning application was to be considered by the Committee.

The Planning Committee noted the contents of the report and the Late Items pack.

Chairperson