

**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b> 14 August 2018	
<b>Application ID:</b> LA04/2017/0261/F	
<b>Proposal:</b> 2 Storey detached dwelling and associated works. Erection of driveway access to Diamond Avenue.	<b>Location:</b> Land to rear of no 49 Diamond Gardens Ballyfinaghy Belfast BT10 0HE
<b>Referral Route:</b> Referred by Director of Planning and Building Control - Objections to Application	
<b>Recommendation:</b>	Approval subject to conditions
<b>Applicant Name and Address:</b> Kathleen Porter 49 Diamond Gardens Belfast BT10 0HE	<b>Agent Name and Address:</b> C3 Architects LLP 131 Queensway Lambeg Lisburn BT27 4QS
<p><b>Executive Summary:</b></p> <p>This application seeks full planning permission for a residential dwelling on lands to the rear of 49 Diamond Gardens. The proposal includes a new access and bicycle and bin storage.</p> <p>The key issues for assessment are;</p> <ul style="list-style-type: none"> <li>• Principle of development on the site;</li> <li>• Height, scale, massing, layout and design;</li> <li>• Provision of parking and access;</li> <li>• Provision of amenity space;</li> <li>• Overlooking, overshadowing and separation distances;</li> <li>• Impact on residential amenity of neighbours;</li> <li>• Impact on character of the area;</li> <li>• Consideration of representations;</li> <li>• Other environmental factors.</li> </ul> <p>The site is located within the development limit of Belfast as per the Belfast Urban Area Plan and within the draft Belfast Metropolitan Area Plan 2015 as white land and therefore is not subject to any particular zonings.</p> <p>The proposal has been amended during the processing of the application. The Scheme is now considered acceptable in terms of its layout, height, scale and mass and relationship to the existing dwelling on site and neighbouring properties.</p> <p><b>Representations</b></p> <p>30 representations have been received, 28 raising a wide range of issues including parking provision, impact on traffic volume, the impact of the development on the character and appearance of the area and impact on residential amenity. These matters are dealt with in the report below.</p> <p>Two letters of support for the proposal have been received.</p>	

**Consultees**

Environmental Health, Rivers Agency and Transport NI have no objections subject to the attachment of conditions.

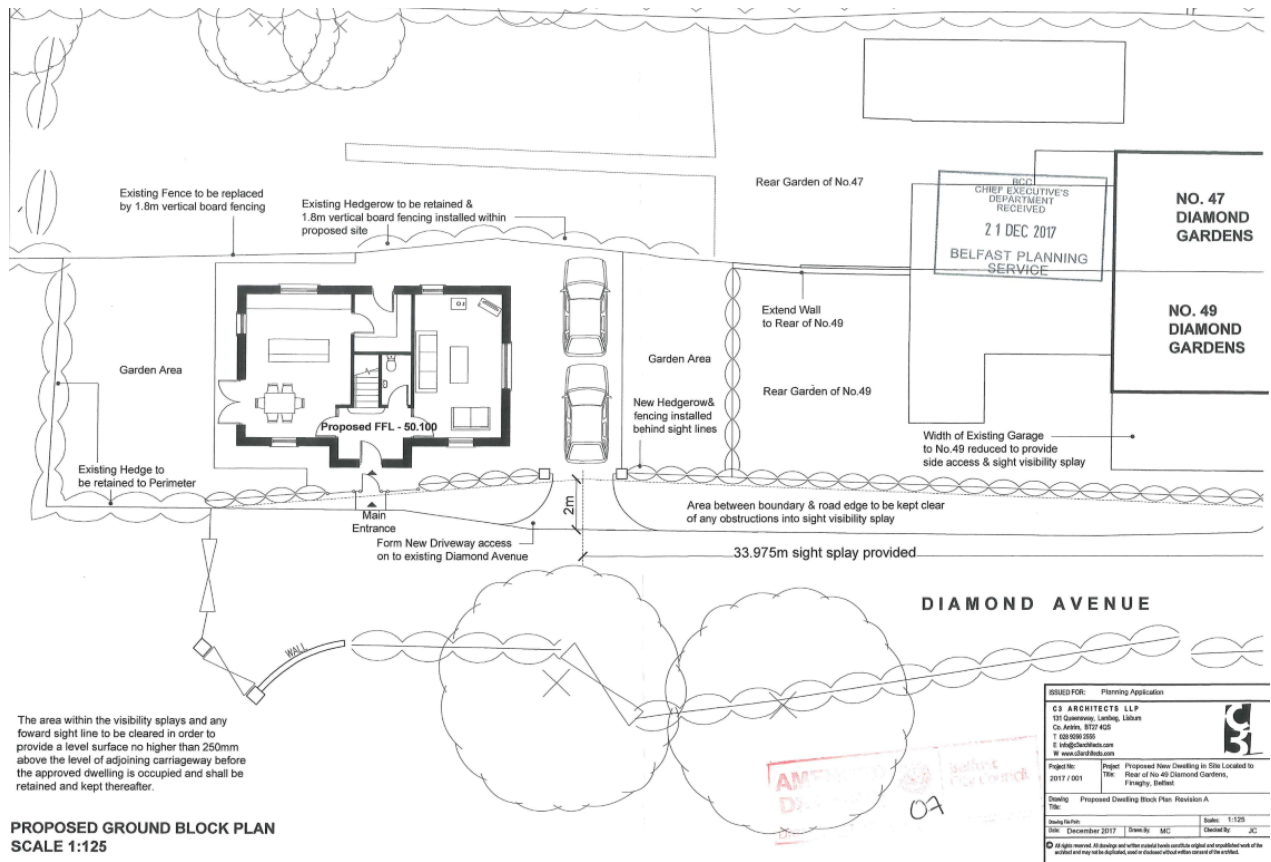
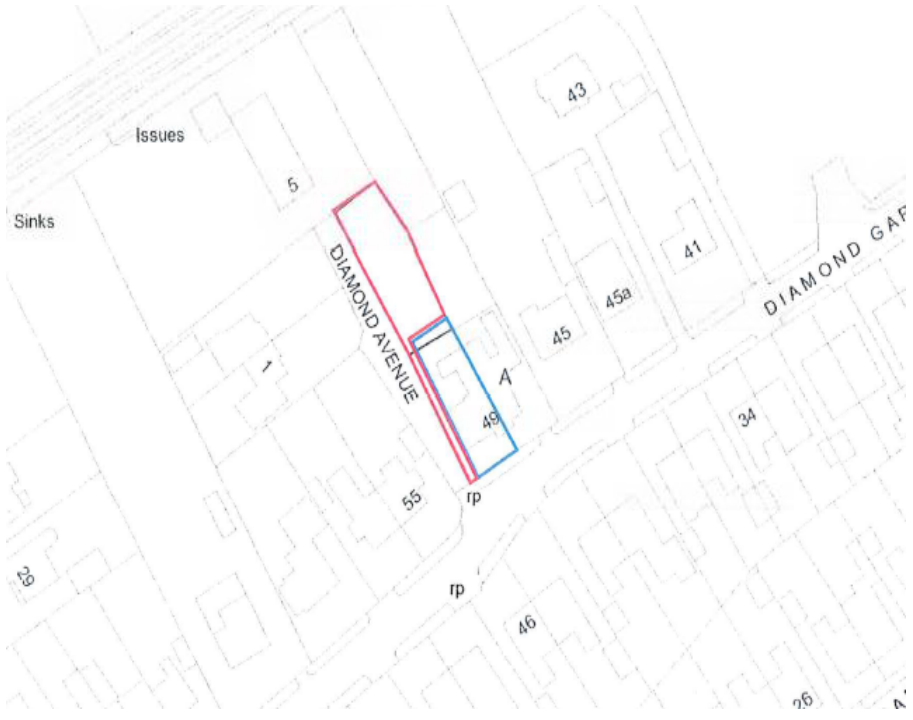
**Recommendation**

Approve subject to conditions

It is requested that Committee delegate authority to the Director of Planning and Building Control to agree the final wording of conditions.

Case Officer Report

Site Location Plan



PROPOSED GROUND BLOCK PLAN  
SCALE 1:125

<b>Characteristics of the Site and Area</b>	
<b>1.0</b>	<p><b>Description of Proposed Development</b></p> <p>The proposal is for full planning permission for the erection of a two storey detached dwelling at lands to the rear of No 49 Diamond Gardens with incurtilage parking accessed via Diamond Avenue.</p>
<b>2.0</b>	<p><b>Description of Site</b></p> <p>The site is located at lands to the rear of No 49 Diamond Gardens, and is currently the rear garden area of No 49 Diamond Gardens, a semi-detached dwelling which fronts on to Diamond Gardens. The site runs parallel to Diamond Avenue and is proposed to be accessed via Diamond Avenue on to Diamond Gardens. The site is a rectangular plot approximately 28m x 10m. The site is defined by an existing hedge along the south western boundary approximately 1.8m in height with a section near the north end being timber clad fencing. The north western boundary is defined by mature hedging with the north eastern boundary defined by a post and wire fence and a section of the south eastern portion being mature hedging. The south eastern boundary is currently undefined on the ground. The site is relatively level throughout.</p>
<b>Planning Assessment of Policy and other Material Considerations</b>	
<b>3.0</b>	<p><b>Site history</b></p> <ul style="list-style-type: none"> <li>• Z/2008/0697/F - Demolition of 2no dwellings and erection of 6no two-storey semi-detached and 2no two-storey detached houses – Granted 26.06.2009</li> <li>• Z/2006/0468/F - Demolition of Nos. 47 &amp; 49 and erection of 8 No. dwellings, including the rear garden of No.45 – Granted 06.11.2006</li> </ul>
<b>4.0</b>	<p><b>Policy Framework</b></p> <p>4.1 Regional Development Strategy  4.2 Belfast Urban Area Plan 2001  4.3 Draft Belfast Metropolitan Area Plan 2015  4.4 Strategic Planning Policy Statement for Northern Ireland (SPPS)  4.5 Planning Policy Statement 2: Natural Heritage  4.6 Planning Policy Statement 3: Access, Movement and Parking  4.7 Planning Policy Statement 7: Quality Residential Environments  4.8 Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas  4.9 Planning Policy Statement 12: Housing in Settlements  4.10 Planning Policy Statement 15: Planning &amp; Flood Risk</p>
<b>5.0</b>	<p><b>Statutory Consultees Responses</b></p> <p>Transport NI – No objection  Rivers Agency - No objection</p>
<b>6.0</b>	<p><b>Non Statutory Consultees Responses</b></p> <p>Environmental Health BCC – No objection</p>

7.0	<b>Representations</b>
7.1	<p>The application was initially advertised in the local press on the 3 March 2017 and neighbour notification letters issued on 21 February 2017 and three representations were received. Following the submission of amended plans the application was re- neighbour notified on 2 January 2018, 28 February 2018, 25 May 2018 and the 29 May 2018. A total of 30 representations were received, of these 28 were objections and two letters of support for the proposal.</p>
7.2	<p>The issues raised in the objection letters include the following, the matters are dealt with in the consideration below:</p> <ul style="list-style-type: none"> <li>• <b>Impact on residential amenity</b> noise and disturbance; Overlooking to neighbouring properties; Loss of view; Overshadowing to the rear garden of no.47 Diamond Gardens; No separation distances are indicated on the proposed drawings;</li> <li>• <b>Impact on visual amenity;</b> Proposed dwelling out of scale and proportion – design out of keeping with the area; Area has character of a country lane and proposal would detrimentally impact on the character of the area; Preferable single storey dwelling; Overdevelopment of the site; Lack of amenity provision out of keeping with the area;</li> <li>• <b>Impact on landscape features and character</b> Loss of garden and mature trees; Removal of hedgerow not in keeping with area and removal of 60m of boundary hedge and mature gardens not in keeping with the area and the requirement for a biodiversity checklist; Removal of hedge and replacement wall out of character with the setting and appearance of the area; Recent removal of trees; No indication of the impact of the proposal on the roots or crown spread of existing mature trees.</li> <li>• Ownership of the pillars and Impact of removal of pillars on character of the area; and relocation of pillar unlikely to be successfully carried out and would impact on the townscape character;</li> <li>• <b>Impact on Traffic</b> Additional traffic with 35-37 Diamond Gardens potentially being developed; Location of wall will encroach and cause concerns in ability to reverse and manoeuvre vehicles; Insufficient parking for the residents of 1-3 Diamond Avenue and their visitors; Safety of junction of Diamond Avenue and Diamond Gardens - Alternative option to access new dwelling by no.49 removing their existing garage; Removal of pillar and gates and impact on the character of the area; Maintenance of Diamond Avenue has been privately paid for; The proposed gate opens over land likely to be in an adjacent folio; Not definite that Transport NI will adopt additional section of Diamond Avenue</li> <li>• <b>Other Matters</b> Application contains matters outside the scope of the application; Insufficient detail to determine the application as a full application; Would create a precedent for back land development in the area; Previous planning approval for 8 dwellings (Z/2006/0468/F) was prior to the Addendum to Planning Policy Statement 7;</li> </ul>

<b>8.0</b>	<b>Other Material Considerations</b>
	Belfast City Council Regeneration & Investment Strategy DCAN 8 – Housing in Urban Area DCAN 15 – Vehicular Access Standards
<b>9.0</b>	<b>Assessment</b>
9.1	<p>The issues for assessment are;</p> <ul style="list-style-type: none"> <li>- Principle of development and use;</li> <li>- Height, scale, massing, layout and design;</li> <li>- Provision of parking and access;</li> <li>- Provision of amenity space;</li> <li>- Overlooking, overshadowing and separation distances;</li> <li>- Impact on residential amenity of neighbours;</li> <li>- Impact on character of the area;</li> <li>- Consideration of representations;</li> <li>- Other environmental factors.</li> </ul>
9.2	The adopted Belfast Metropolitan Area Plan 2015 (BMAP) has been quashed as a result of a judgement in the Court of Appeal delivered on 18 May 2017. As a consequence of this, the Belfast Urban Area Plan 2001 (BUAP) is now the statutory development plan for the area.
9.3	Section 45 (1) of the Planning Act (NI) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.
9.4	As the decision to adopt BMAP has been quashed in its entirety, it is as though the draft BMAP has never been adopted, however, the version of draft BMAP which was purported to be adopted remains a material consideration.
9.5	The site is located within the settlement development limit for Belfast as designated by the BUAP and the Draft Belfast Metropolitan Area Plan 2015. The site is located within a suburban residential area characterised by two storey semi-detached and detached dwellings on 'white land' (not zoned for any specific land use). The site is also zoned as 'white land' in the Belfast Urban Area Plan 2001.
9.6	Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. It is deemed that this proposal would not result in demonstrable harm to the residential amenity of neighbours and prospective occupants.
9.7	<p><b><u>Principle of Development and Use</u></b></p> <p>The site is unzoned white land in both the BUAP and draft BMAP. The principle of development and the proposed use as residential dwelling is considered to acceptable at this location and a compatible use with adjacent residential properties.</p>

9.8	<p><b><u>Amendments to Proposal</u></b></p> <p>The original dwelling proposed was of a greater scale, massing and footprint than the current scheme. The design was contemporary with no consistent solid to void ratio and a balcony was located at first floor level on the north western side elevation adjacent to the garden of no.5 Diamond Avenue. All these elements have been addressed and the layout has been amended to provide a separation distance between the parking area for the new dwelling and the rear garden area of no.49 Diamond Gardens.</p>
9.9	<p><b><u>Height, Scale, Massing, Layout and Design</u></b></p> <p>The proposed reduced footprint of the dwelling and layout is acceptable. The buildings scale and mass at a height of 8m above ground level, 10.8m long with a gable depth of 6.3m is largely in keeping with the area. The amended design is also in keeping with the materials and finishes of neighbouring properties and those within the area. It is considered that the site can accommodate a dwelling of the scale and massing proposed, whilst meeting the recommended requirements for separation distances and private amenity space without detrimentally impacting on the residential amenity of neighbours. The proposed design and architectural treatment and materials are more in keeping with the character and appearance of the area and are acceptable.</p>
9.10	<p><b><u>Provision of amenity space</u></b></p> <p>The proposed dwelling will have approximately 85.6m<sup>2</sup> of amenity space provision. This exceeds the recommended minimum requirement of 70m<sup>2</sup> detailed in Creating Places. The area proposed for private amenity space is enclosed on three sides by neighbouring properties gardens and the side elevation of the proposed dwelling. The existing dwelling at No.49 Diamond Gardens will have its private amenity space reduced to approximately 85.5m<sup>2</sup> which also exceeds the recommended minimum requirement of 70m<sup>2</sup> and is considered acceptable.</p>
9.11	<p><b><u>Overlooking, overshadowing and separation distances</u></b></p> <p>With regards to the separation distances between the proposed dwelling and surrounding properties, the current distance between the south western (front) boundary of the site and the front elevation of no's. 1 and 3 Diamond Avenue is approximately 22.5m. The proposed dwelling is to be set back from the current boundary by between 2.3m and 2.5m approximately. Therefore overall the separation distances between the existing dwellings at 1 and 3 Diamond Avenue and the proposed dwelling would be approximately 24.5m, which exceeds the recommended minimum requirements of 20m. Given the separation distances it is considered that unacceptable level of overlooking will not result to the occupants of 1 and 3 Diamond Gardens.</p>
9.12	<p>Whilst a degree of overlooking may occur to the garden area of no.5 Diamond Avenue, no unacceptable overlooking will result to habitable rooms of no.5 Diamond Avenue. The separation distance between no.5 Diamond Avenue and the north western site boundary is approximately 6m. The proposed dwelling is to be approximately 6.5m from this boundary. Whilst the approximate separation distance is 12m, between the two dwelling would be off set and would not directly overlook the living accommodation of each other and therefore it is considered that no unacceptable overlooking shall result. This is not an uncommon relationship in the urban context.</p>
9.13	<p>In respect of the existing dwelling at no.49 Diamond Gardens the proposed separation distance is proposed to be approximately 16m between the built forms. In this instance this is considered to be acceptable with one window proposed at ground floor level and two at first floor level of the proposed dwelling. One of which is a bathroom window which</p>

	<p>will be obscured, it is considered that no unacceptable overlooking will result to the occupants of no.49 Diamond Gardens.</p>
9.14	<p>Adjacent rear garden of property no.47 Diamond Gardens, garden will run parallel and bound the site to the north east. In terms of overlooking a boundary consisting of a 1.8m vertical board fence is proposed alongside a section of existing hedging that is to be retained, ensuring no unacceptable overlooking from the ground floor level of the proposed dwelling. At first floor level three windows on the north eastern (rear) elevation are proposed. These consist of two windows for bathrooms which will be obscure glazed and one window for a landing, as none of these are for habitable rooms it is considered that no unacceptable overlooking shall result to no.47 Diamond Gardens.</p>
9.15	<p>Considering the orientation of the site, the proposed dwelling and the sun path, a portion of the rear garden of no.47 Diamond Gardens may lose some sunlight in the evening time. However it is considered that this will not be of a significant unacceptable level to impact on the dwelling's amenity. Considering the separation distances of the proposed dwelling and those dwellings at Diamond Avenue, no unacceptable overshadowing shall result to these dwellings.</p>
	<p><b><u>Impact on Residential Amenity</u></b></p>
9.16	<p>The proposed residential use and the design and layout of the development will not create conflict with the adjacent residential uses. As discussed at paras. 9.11 – 9.15 it is considered that no unacceptable overlooking, overshadowing or dominance will result from the proposed dwelling. The proposed separation distances are considered acceptable and the proposed residential use adjacent to one another is considered compatible and will not result in detrimental impact to the residential amenity of neighbours.</p>
	<p><b><u>Impact on character of the area</u></b></p>
9.17	<p>Policy LC 1 – Protecting Local Character, Environmental Quality and Residential Amenity of the Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas applies in this instance. In terms of density the addition of one dwelling is not considered to significantly increase the density of the area and nor is it out of keeping with the pattern of development within the immediate area. The southern side of Diamond Gardens is a more uniform pattern of development of semi-detached dwellings of similar plot sizes, whilst the northern side is characterised by a mix of two storey detached and semi-detached dwellings of varying plot sizes. In terms of the overall character of the area, the established hedge and pillar contribute to the character of Diamond Avenue. These are both proposed to be removed and replaced with a 6ft hedge and a pillar 0.5m away from the existing pillar to facilitate the widening of Diamond Avenue. Objectors raised concern in regards to the historic value of the pillars. Historic Environments Division were asked to consider if the pillars would be considered of historic value to be listed. Historic Environments Division responded advising that the pillars were unlikely to meet the test for listing, either from an architectural or historical point of view and therefore would not merit further investigation or survey by Historic Environments Division. However Historic Environments Division also advised that in the event that the pillars had been listed, it was probable that Historic Environments Division would grant Listed Building Consent for the relocation of one of the pair in order to widen then entrance and facilitate access. Therefore, it is considered that the proposed dwelling nor the replacement hedge and pillar will detrimentally impact on the local character, environmental quality and amenity of Diamond Avenue and it is on this basis that the proposal satisfies the requirements of Policy LC 1.</p>



<p>9.18</p> <p>9.19</p> <p>9.20</p> <p>10.0</p>	<p><b><u>Parking Provision and Access</u></b></p> <p>In terms of access, traffic and parking Transport NI were consulted and consider the proposal acceptable and have approved the Private Streets Determination drawings. In order to facilitate the access in line with Transport NI requirements this would require the removal of the south western boundary hedge along Diamond Avenue. Two incurtilage parking spaces are proposed and Transport NI have no objection to the proposed arrangement. Whilst objectors have raised concern in regards to road and pedestrian safety, the increased number of vehicles and loss of parking on Diamond Avenue for visitors to 1-3 Diamond avenue, Transport NI has no objection to the proposal.</p> <p><b><u>Other Environmental Factors</u></b></p> <p>Rivers Agency and Environmental Health were consulted. Rivers Agency advised of no objection in respect of flooding or drainage, and therefore the proposal complies with PPS 15. Environmental Health have raised no issues in respect of contamination, noise or nuisance.</p> <p>Objectors raised concerns regarding the removal of trees and the hedge and the requirement for a Biodiversity checklist. The removal of trees that are not specially protected or hedging does not require planning permission. The site itself is a typical backland garden and there is no indication that it contains protected habitat.</p> <p><b>Recommendation</b> Having regard to the policy context and other material considerations above, the proposal is considered acceptable and planning permission is recommended subject to conditions.</p>
<p>11.0</p> <p>11.1</p> <p>11.2</p> <p>11.3</p> <p>11.4</p>	<p><b>Conditions</b></p> <p>The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.</p> <p>Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</p> <p>The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.</p> <p>The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Private Streets Determination drawing bearing the Department for Infrastructure Determination date stamp 22nd May 2018.</p> <p>Reason: To ensure there is a safe and convenient road system to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.</p> <p>The development hereby permitted shall not be occupied until hard surfaced areas have been constructed in accordance with Private Streets Determination drawing bearing the date stamp 14th May 2018 to provide for parking within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.</p> <p>Reason: To ensure adequate provision has been made for parking within the site.</p>

<p>11.5</p> <p>11.6</p> <p>11.7</p>	<p>The vehicular accesses, including visibility splays, shall be provided in accordance with the approved plan, prior to the commencement of any other works or other development hereby permitted.</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>The replacement hedge shall be planted as per drawing 06A bearing the Belfast Planning Service date stamp 13th February 2018 prior to the commencement of any other works or other development hereby permitted</p> <p>Reason: To ensure the amenity afforded by existing hedge is maintained.</p> <p>The materials to be used on the external finishes of the building shall be as shown on drawing no. x date stamped received x by Planning Service.</p> <p><b>Informatives</b></p> <ol style="list-style-type: none"> <li>1. Planning permission does not confer title; the permission of landowners should be sought where necessary.</li> <li>2. The developer should consider all consultees comments prior to commencing this proposal. All comments can be viewed on the planning portal quoting the application reference number.</li> </ol>
<p>11.0</p>	<p>Notification to Department (if relevant)</p> <p>N/A</p>
<p>12.0</p>	<p>Representations from Elected Members:</p> <p>Cllr McAteer – Representations on behalf of the objectors  Máirtín Ó Muilleoir MLA – Attended a meeting on behalf of the applicant</p>
<p><b>Neighbour Notification Checked</b>                      Yes</p>	
<p><b>Summary of Recommendation:</b></p> <p>Having regard to the policy context and other material considerations above, the proposal is considered acceptable and planning permission is recommended subject to conditions.</p>	
<p><b>Signature(s)</b></p>  <p><b>Date:</b></p>	

<b>ANNEX</b>	
<b>Date Valid</b>	2 <sup>nd</sup> February 2017
<b>Date First Advertised</b>	27 <sup>th</sup> February 2017
<b>Date Last Advertised</b>	27 <sup>th</sup> February 2017
<b>Details of Neighbour Notification (all addresses)</b>	
<b>Date of Last Neighbour Notification</b>	29 <sup>th</sup> May 2018
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No
<b>Drawing Numbers and Title</b>	
Drawing No. 01A Type: Site Location Map and Site Plan Layout	
Drawing No. 02A Type: Proposed Site Ownership Plan	
Drawing No. 03A Type: Proposed Ground and First Floor Layouts	
Drawing No. 04A Type: Proposed Elevations	
Drawing No. 06A Type: Proposed Alterations to Boundary	
Drawing No. 07 Type: Proposed Dwelling Block Plan	
Drawing No. 08 Type: Proposed Details of Boundary Fence	