

## Development Management Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date: Tuesday 15 December 2020</b>	
<b>Application ID: LA04/2020/0673/F</b>	
<b>Proposal:</b> Environmental improvement works to include: new footpaths and cycleway, new multi-use games area, new outdoor gym equipment, new play area, new street furniture and park lighting, relocation of the community garden providing new polytunnel, toilet block, shed and allotment beds, new car park provision, landscape interventions including planting, woodland management, resurfacing, regrading and all associated works.	<b>Location:</b> Lands at "The Bullring", located parallel to the Westlink motorway and adjacent to Denmark Street/California Close between Peters Hill and Regent Street, Belfast.
<b>Referral Route:</b> Major Application	
<b>Recommendation:</b>	<b>Approval subject to Conditions</b>
<b>Applicant Name and Address:</b> Department for Communities Causeway Exchange 1-7 Bedford Street Belfast	<b>Agent Name and Address:</b> AECOM 2 Clarence Street West Belfast
<b>Executive Summary:</b>  This application seeks full permission for environmental improvement works to include: new footpaths and cycleway, new multi-use games area, new outdoor gym equipment, new play area, new street furniture and park lighting, relocation of the community garden providing new polytunnel, toilet block, shed and allotment beds, new car park provision, landscape interventions including planting, woodland management, resurfacing, regrading and all associated works.  The key issues are: <ul style="list-style-type: none"> <li>- principle of use on the site</li> <li>- design and layout</li> <li>- impact on natural heritage</li> <li>- access, movement, parking and transportation, including road safety</li> <li>- impact on built heritage</li> <li>- flood risk</li> <li>- landscaping</li> <li>- other environmental matters</li> </ul> The site is known as "The Bullring", located parallel to the Westlink motorway and adjacent to Denmark Street/California Close between Peters Hill and Regent Street, Belfast. The site is a	

large area of open space, characterised by variety of trees and pathways. The Westlink is adjacent to the SE boundary, whereas residential housing forms the NW boundary.

The site is unzoned white land within (Draft) Belfast Metropolitan Area Plan (BMAP) 2004; BMAP 2015 and, the Belfast Urban Area Plan 2001 (BUAP).

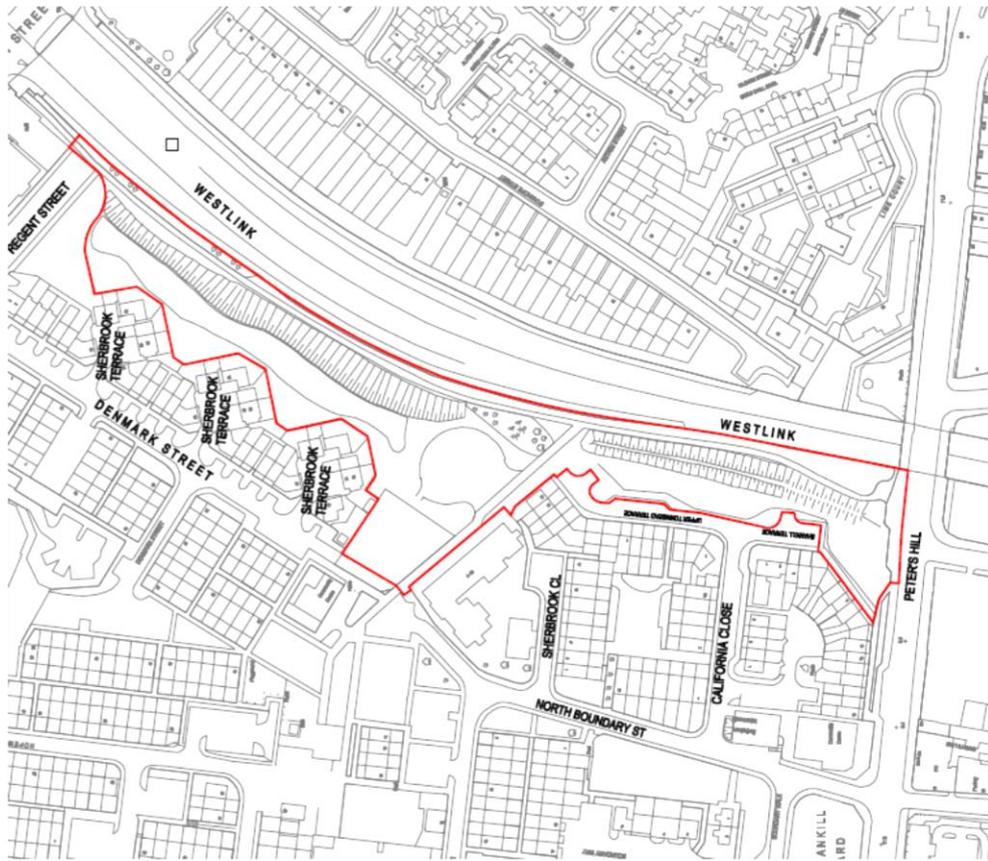
The proposal has been assessed against and is considered to comply with the Strategic Planning Policy Statement for Northern Ireland (SPPS), Belfast Urban Area Plan 2001 (BUAP), Draft Belfast Metropolitan Area Plan 2015 (BMAP), Planning Policy Statement 2, Planning Policy Statement 3, Planning Policy Statement 6, Planning Policy Statement 8, and Planning Policy Statement 15.

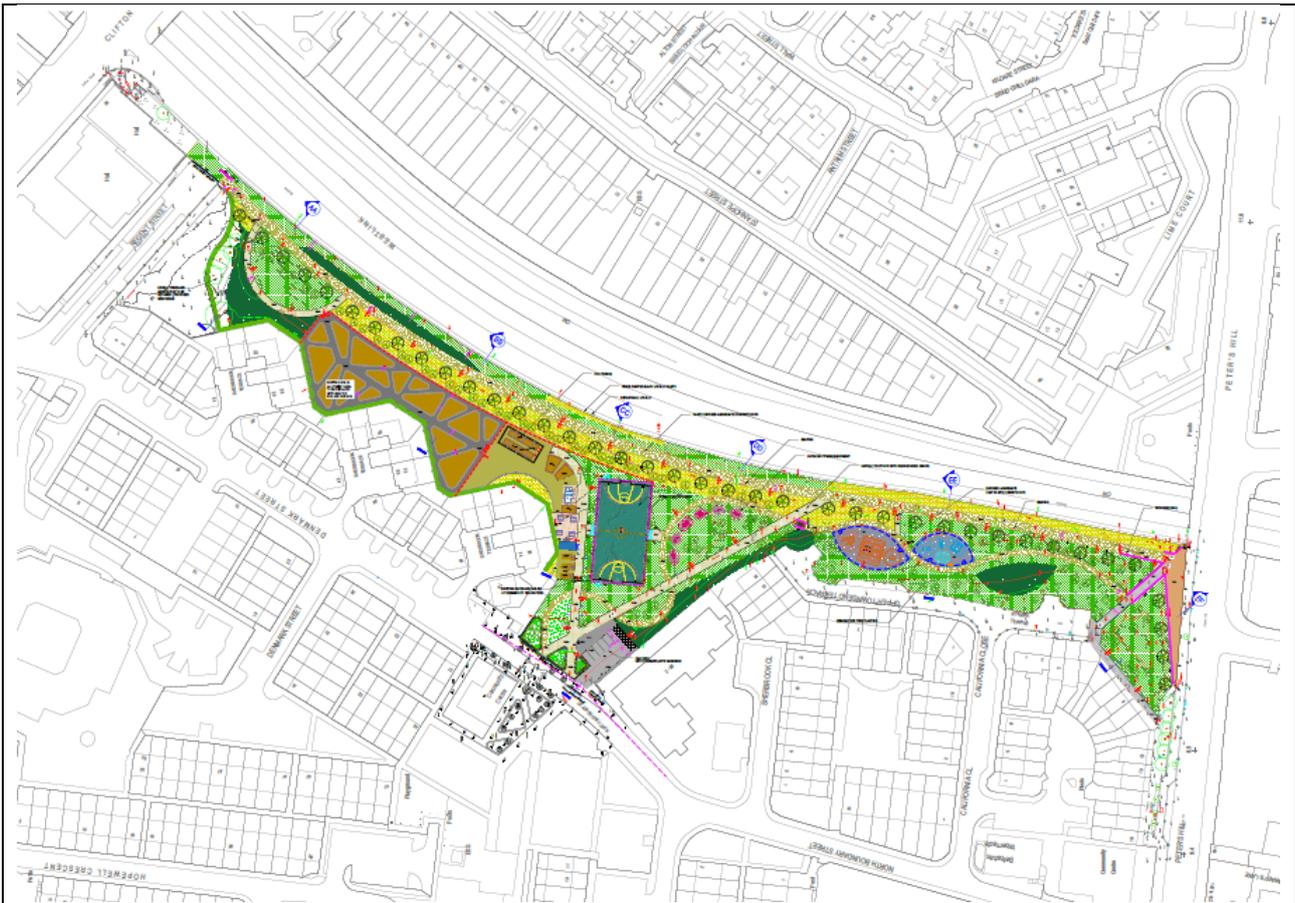
BCC Environmental Health, Northern Ireland Water Ltd, BCC Parks and Recreation, DFI Roads Service, DFI Rivers Agency, DAERA Water Management Unit, DAERA Regulation Unit and DAERA Natural Environment Division have raised no issues of concern subject to conditions and the proposal is considered acceptable. At the time of publishing this report, a final response is outstanding from the BCC Tree Officer with regards to additional information submitted to address points raised in his previous consultation response and a further landscaping plan. An informal response has indicated that although concerned about the loss of existing trees and queries in relation to the landscaping plan, he has indicated that these could be addressed by additional tree related conditions and further changes to the landscaping plan. Delegated authority is requested for the Director of Planning and Building Control to resolve any issues that arise from the final tree officer response.

On this basis, it is recommended that planning permission is granted with delegated authority given to the Director of Planning and Building Control to deal with any issues arising from the tree officer response and finalise the wording of conditions subject to no new substantive planning issues being raised by consultees and third parties.

# Case Officer Report

## Site Location Plan





Site Layout Plan

**Representations:**

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Characteristics of the Site and Area**

**1.0 Description of Proposed Development**

Environmental improvement works to include: new footpaths and cycleway, new multi-use games area, new outdoor gym equipment, new play area, new street furniture and park lighting, relocation of the community garden providing new polytunnel, toilet block, shed and allotment beds, new car park provision, landscape interventions including planting, woodland management, resurfacing, regrading and all associated works.

**2.0 Description of Site**

The site is known as "The Bullring", located parallel to the Westlink motorway and adjacent to Denmark Street/California Close between Peters Hill and Regent Street, Belfast. The site is a large area of open space, characterised by variety of trees and pathways. A community garden (The Growing Garden) is located within the west of the application site, adjacent to this is the circular grass enclosure known as the bullring, which gives the area its name. The Westlink is adjacent to the SE boundary, whereas residential housing forms the NW boundary. The former Carlisle Memorial Methodist Church, its Cloister, and Clifton Street Orange Hall are located to the North of the site and are listed. The site is unzoned white land within (Draft) Belfast

Metropolitan Area Plan (BMAP) 2004; BMAP 2015 and, the Belfast Urban Area Plan 2001 (BUAP).

## **Planning Assessment of Policy and Other Material Considerations**

### 3.0 Site History

3.1 There is no relevant planning history on the site. Since this proposal falls under the category of Major Development, Pre Application Community Consultation was carried out under the planning reference LA04/2019/1022/PAN. Feedback given was positive from the public with all responses stating they were supportive of the proposal.

### 4.0 Policy Framework

4.1 (Draft) Belfast Metropolitan Area Plan (BMAP) 2015 and Belfast Urban Area Plan 2001 (BUAP)

4.2 Strategic Planning Policy Statement (SPPS)

4.3 Planning Policy Statement (PPS) 2: Natural Heritage

4.4 Planning Policy Statement (PPS) 3: Access, Movement and Parking

4.5 Planning Policy Statement (PPS) 6: Planning, Archaeology, and the Built Heritage

4.6 Planning Policy Statement (PPS) 8: Open Space, Sport and Outdoor Recreation

4.7 Planning Policy Statement (PPS) 15: Planning and Flood Risk

### 5.0 Statutory Consultees

5.1 DFI Roads Service– No objections subject to conditions

5.2 Northern Ireland Water Ltd - No objection

5.3 DFI Rivers Agency – No objection subject to conditions

5.4 DAERA Natural Heritage – No objection subject to conditions

5.5 DAERA Regulation Unit – No objection subject to conditions

5.6 DAERA Water Management Unit – No objection

### 6.0 Non Statutory Consultees

6.1 BCC Environmental Health – No objection subject to conditions

6.2 Belfast City Council (BCC) Tree Officers – awaiting response

6.3 Belfast City Council (BCC) Parks and Recreation - No objection

6.4 Royal Society for the Protection of Birds - No objection subject to conditions

### 7.0 Representations

The application has been neighbour notified and advertised in the local press. No representations were received.

### 8.0 Other Material Considerations

8.1 Parking Standards

### 9.0 **Assessment**

9.1 Section 6(4) of the Planning Act (Northern Ireland) 2011 states that in making any determinations under the Act, regard is to be had to the local development plan, and the determination must be made in accordance with the plan unless material considerations indicate otherwise.

9.2 Following the Court of Appeal decision relating to BMAP, the extant development plan is now the Belfast Urban Area Plan 2001. However, given the stage at which the Draft BMAP had reached pre-adoption through a period of independent examination, the policies within the Draft BMAP still carry weight and are a material consideration in the determination of planning applications. The weight to be afforded is a matter of judgement for the decision maker. Given the advanced stage at which Draft BMAP had reached it is considered to hold significant weight (save for policies around Sprucefield which remain contentious). The site is unzoned white land

within (Draft) Belfast Metropolitan Area Plan (BMAP) 2004; BMAP 2015 and, the Belfast Urban Area Plan 2001 (BUAP).

9.3 The proposed development is for environmental improvement works to include: new footpaths and cycleway, new multi-use games area, new outdoor gym equipment, new play area, new street furniture and park lighting, relocation of the community garden providing new polytunnel, toilet block, shed and allotment beds, new car park provision, landscape interventions including planting, woodland management, resurfacing, regrading and all associated works.

9.4 The key issues are:

- principle of use on the site
- design and layout
- impact on natural heritage
- access, movement, parking and transportation, including road safety
- impact on built heritage
- flood risk
- landscaping
- other environmental matters

#### **9.5 Principle of use on the site**

The site is within the development limits of Belfast in BUAP, Draft BMAP and the version of BMAP purported to be adopted. Policy OS 1 of PPS 8 states there is a general presumption against the loss of open space to competing land uses. Annex A of PPS 8 defines 'open space' and a range of uses that are of public value and offer important opportunities for sport and outdoor recreation. The existing use of the site falls within A2 (iii) as amenity green space, a communal green space within housing. The proposed development does not represent a change of use, but is an environmental upgrade, and will fulfil a need in the area and promote health and well-being. It is considered that the proposed upgrade will represent a more productive use of the site, subject to the consideration and resolution of planning and environmental matters.

#### **9.6 Design and layout**

The aim of the proposal is to improve the quality of the existing open space. As well as providing new pathways within the site itself, the existing pathway will be improved to allow for pedestrians and cyclists. A proposed MUGA is located in the middle of the site adjacent to the area of the existing community garden. This garden will be relocated within the site to the north of the proposed MUGA. A small toilet block (14 sqm) and garden shed (19 sq m) are also proposed adjacent to this area constructed from composite panelling. Car parking is proposed to the west, in the area of the existing community garden.

9.7 The MUGA would have a negligible visual impact on the locality. Any public views are limited and the surface would read as green space/playing surface. The garden shed and toilet block structures are of a scale and character that would be reasonably expected at an allotment. The proposed scale, form, massing, design and materials are considered acceptable and will not adversely impact on local character. On balance, the proposal would not result in detrimental visual impacts.

#### **9.8 Impact on natural heritage**

A Preliminary Ecological Appraisal dated February 2020 was submitted as part of the application. DAERA NED were consulted regarding any potential impact the proposal could cause on any natural heritage assets on or adjacent to the site. NED raised concerns that due to the seasonal conditions at the time of surveying for the PEA, the findings lacked information relating to the potential presence of invasive species on the site. Clarification was sought with the Agent who submitted an updated PEA, satisfying NED that no invasive species were present

on the site. They suggested two conditions should approval be granted which stipulated that any necessary vegetation removal be completed outside of the bird breeding season (1<sup>st</sup> March – 31<sup>st</sup> August inclusive), and that the currently in situ bird boxes be left undisturbed, or if necessary to be replaced, that this process is completed outside of the bird breeding season. Due to the loss of a number of trees associated with the proposal comments were invited from the Royal Society for the Protection of Birds (RSPB) who also suggested this approach.

#### **9.9 Access, Movement, Parking and Transportation**

In terms of access the proposed development will utilise existing footways along the site frontage. Internally, the existing pedestrian path which runs adjacent to the boundary of the Westlink will be improved to a shared cycle / walking path. Additional internal pedestrian pathways are proposed to provide access to the different elements of the park. The proposed development includes a car park with six spaces, located at the west of the site and accessed from North Boundary Street. This area is currently occupied by “The Growing Garden” which is a community allotment and will be relocated within the development. The parking is proposed for the local community but also any users of the proposed allotment. The car park has been provided to facilitate the small number of users who may come to site from beyond the immediate vicinity as a result of the proposed allotments. On consultation with DfI Roads Service, the authoritative body on road safety and transport issues, they responded on 11th May requesting a number of amendments, which were addressed and on re-consultation, DfI Roads have no objections subject to conditions should approval be granted.

#### **9.10 Impact on Built Heritage**

The application site is located within the vicinity of listed buildings to the North, namely Clifton Street Orange Hall and the former Carlisle Memorial Methodist Church. BH11 of PPS6 considers development affecting the setting of a listed building. The site is characterised by open space and will remain as such, therefore respecting the character of the setting of the listed buildings. Given the nature of development under consideration and minimal visual impact/change to existing proposed to the north of the site, it was not considered necessary to consult HED.

#### **9.11 Flood Risk**

Since the proposal’s site area is greater than 1 hectare Policy FLD 3 of PPS 15 applies. A Drainage Assessment, as well as two updated Drainage Assessments, have all been submitted and sent to DfI Rivers Agency for comment. They responded with no objection but requested that should the proposal be approved, a final Drainage Assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 be submitted to the Planning Authority and agreed in writing prior to the commencement of any works.

#### **9.12 Landscaping**

The site is comprised of a mix of tree species which vary in age, size, health, condition and growing in small groups, clusters or stand alone. Initial consultation with both BCC Tree Officers and BCC Parks and Recreation presented a number of concerns as well as requests for additional information. A Tree Survey, Tree Protection Plan as well as Landscape Management and Maintenance Plan and subsequent revisions were submitted for review, as well as an amended landscape plan, details of outdoor gym equipment, paladin fencing and other landscape details.

9.13 Both consultees originally suggested native woodland planting along the Westlink boundary wall to compensate for the loss of existing trees but also mitigate against air and noise pollution. BCC Environmental Health raised no concern with regards to noise and air pollution subject to a number of conditions, however it was also confirmed by the Agent in an email dated 27th August that DfI Roads Service require a 3m wayleave at this location and therefore no additional planting is possible along this boundary.

9.14 On reviewing the latest submission Parks and Recreation offered no further objections, however at the time of writing a final response is outstanding from BCC Tree Officer. An informal response has indicated that although concerned about the loss of existing trees and queries in relation to the landscaping plan, he has indicated that these could be addressed by additional tree related conditions and further changes to the landscaping plan. Delegated authority is requested for the Director of Planning and Building Control to resolve any issues that arise from the final tree officer response.

#### **9.15 Other Environmental Matters**

A Preliminary Risk Assessment, Generic Quantitative Risk Assessment and accompanying Environmental Site Assessment were submitted, relating to the risk of contaminated land on the site. Whilst DAERA Regulation Unit responded with no objection to the proposal subject to certain conditions, BCC Environmental Health raised concern relating to asbestos fibres identified in shallow soils in a number of places on the site, with asbestos cement also identified in one location. It is acknowledged the risk associated with asbestos and asbestos fibres is 'very low' on the developed site, however this does not apply to the areas of the site proposed for allotment purposes. In addition to this evidence of lead and nickel were found in soil sampled from the site. BCC Environmental Health stated that significantly greater detail needs to be provided on the remediation measures proposed to ensure that a risk to human health does not exist in the proposed allotment areas of the site.

9.16 In an email dated 21st October 2020 the Agent informed BCC Planning that due to funding constraints they were unable to supply technical reports such as this and suggested the submission of an outline remediation strategy with the submission of a full report negatively conditioned should approval be granted. It was felt that it would be acceptable to condition the submission of the full report to be agreed in writing with the Council prior to work commencing should approval be granted. This was confirmed to be an acceptable approach by BCC Environmental Health on 26th October 2020 via internal email.

9.17 The proposal includes a number of potentially noise producing elements, for example outdoor gym and MUGA, and Policy OS5 of PPS8 requires consideration of this issue. Policy OS5 requiring proposals to ensure there is no unacceptable level of disturbance to people living nearby, farm livestock or wildlife and there is no conflict with the enjoyment of environmentally sensitive features. In assessing this, consultation has been undertaken with BCC Environmental Health who have reviewed a noise impact assessment submitted by the applicant. They responded with no objections to the proposal in terms of noise subject to a number of planning conditions should approval be granted.

9.18 The site is in close proximity to existing residential premises, and therefore it is important to ensure any noise, vibration and dust arising from construction activities during the construction phase will be managed to minimise negative impact. Having reviewed the submitted outline Construction Environmental Management Plan (oCEMP), BCC Environmental requested a full CEMP be submitted and agreed in writing with the Council prior to any commencement of development.

9.19 DAERA Water Management Unit cited concern over the potential impact on sewage loading to Belfast waste water treatment works (WWTW). However, NI Water have confirmed that there is available capacity within the WWTW and as such no objection is raised.

9.20 The proposed development is located within an Air Quality Management Area. The submitted EIA Screening document confirms it is unlikely that future users of the proposed development would be exposed to pollutant concentrations in excess of ambient air quality objectives, and therefore no objection is raised with regards to air quality impacts.

### 9.21 Conclusion

Having regard to the policy context and other material considerations above, the proposal is considered acceptable and planning permission is recommended for approval subject to conditions. The approved development will allow for more diverse recreational uses, the introduction of a MUGA, outdoor gym, playground and an upgrade to the path network, promoting health and well-being to the surrounding area. Should members agree with the recommendation to approve, delegated authority is requested for the Director of Planning and Building Control to deal with any issues arising from the tree officer final response and finalise the wording of conditions subject to no new substantive planning issues being raised by consultees and third parties.

10.0 **Summary of Recommendation:** Approval with conditions

**Neighbour Notification Checked:** Yes

### Conditions

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

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

2. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at

<https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>

In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

3. After completing the remediation works under Condition 2; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with the Council. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at

<https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>. The verification

report should present all the remediation, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and wastes in achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

4. Currently in situ bird boxes must be left undisturbed, or if necessary to be replaced, this process should be completed outside of the bird breeding season (1<sup>st</sup> March – 31<sup>st</sup> August inclusive).

Reason: To protect breeding/nesting birds.

5. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect

nesting birds. Any such written confirmation shall be submitted to the Council within 6 weeks of works commencing.

Reason: To protect breeding/nesting birds.

6. Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Council for its consideration and approval.

Reason – To safeguard against flood risk to the development and elsewhere.

7. Prior to use of the MUGA pitch, the applicant shall construct and install the acoustic barrier as detailed within the approved Noise Impact Assessment, "Noise Impact Assessment, Department for Communities, The Bullring Environmental Improvement Scheme, Upper Townsend Terrace Lower Shankill, Belfast." Prepared by F.R. Mark and Associates.

Reason: Protection of residential amenity

8. The 2m high acoustic timber fence with no gaps and a self-weight of at least 25kg/m<sup>2</sup> shall be maintained and retained thereafter.

Reason: Protection of residential amenity

9. Weldmesh fence panelling shall be installed and fixed using resilient connections to reduce rattle and vibration upon impact.

Reason: Protection of residential amenity

10. No hoarding or signage shall be fitted to the weldmesh fencing surrounding the pitch which could result in impact sound from ball strike.

Reason: Protection of residential amenity

11. Prior to commencement of development on site, including site clearance or site preparation, a Construction Environmental Management Plan (CEMP) shall be produced by the appointed contractor. The CEMP shall include measures to control noise, dust and vibration during the demolition / construction phase, demonstrating the use of 'best practicable means'.

The CEMP must incorporate dust mitigation measures and have due regard to Parts 1 and 2 of BS 5228:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites, and to the IAQM, 'Guidance on the assessment of dust from demolition and construction, version 1.1', dated February 2014. The CEMP and any associated monitoring records must be made available to the Environmental Protection Unit of Belfast City Council at any time upon request.

Reason: Protection against adverse construction impacts.

12. The development hereby permitted shall not commence until a Detailed Remediation Strategy is submitted in writing and agreed with the Council. This Strategy should identify all unacceptable risks on the site, the remedial objectives/criteria and the measures which are proposed to mitigate them (including maps/plans showing the remediation design, implementation plan detailing timetable of works, remedial criteria, monitoring program, etc).

Reason: Protection of environmental receptors to ensure the site is suitable for use.

13. The development hereby permitted shall not be occupied until hard surfaced areas have been constructed within the site in accordance with the approved plan. This area shall not be used at any time for any purpose other than for parking and movement of vehicles in connection with the approved development.

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

14. The vehicular access, 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.

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