

Planning Committee

Tuesday, 20th April, 2021

MEETING OF PLANNING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

- Members present: Councillor Hussey (Chairperson);
Councillors Brooks, Carson, Matt Collins,
Garrett, Groogan, Hanvey, Hutchinson,
Maskey, McCullough, McKeown,
Murphy, Nicholl and O'Hara.
- In attendance: Mr. A. Reid, Strategic Director of Place and
Economy;
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

No apologies for inability to attend were reported.

Minutes

The minutes of the Pre Determination Hearing of 23rd February and the Committee meeting of 16th March were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st April, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor O'Hara also declared an interest in Item 6a – LA04/2019/1540/F - the CAD plant at Dargan Road, in that he was on the Board of Belfast Harbour Commissioners as a political appointment and that it had objected to the application. He advised that, as it was a Council appointment and as he did not have a pecuniary interest, he could fully participate in the discussion on the item.

Councillor Hussey declared an interest in Item 6e, namely LA04/2021/0024/F - Retrospective single storey extension to the front of existing single storey garage at 10 Broomhill Park, in that he had taken part in enforcement action. He advised the Committee that he wished to reserve the right to speak in objection to the application, but would not take part in the discussion or the vote.

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Committee Site Visits

The Committee noted that site visits had been undertaken, on 8th April, to the following applications:

- LA04/2020/2200/F - Demolition of Nos. 27 to 37 Linenhall Street and Nos. 8-10 Clarence Street and erection of seven storey office building 8-10 Clarence Street, 27-37 Linenhall Street and existing car park at the corner of Linenhall Street and Clarence Street; and
- LA04/2020/0857/F - Demolition of existing hostel building and redevelopment to provide four-storey building comprising 15 No. residential units, office space and ancillary development at Ormeau Centre, 5-11 Verner Street.

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 9th March and 9th April.

Abandonment

The Committee noted that the Department for Infrastructure (DfI) proposed to abandon the following areas under Article 68 of the Roads (Northern Ireland) Order 1993:

- 55.2 square metres of land at Areema Drive, Dunmurry;
- marked lands at 197-201 Crumlin Road;
- 85 square metres of land at Seymour Lane; and
- a section of footpath at 29 University Road.

Miscellaneous Item

Confirmation of Street Sign Listings

The Committee considered the undernoted report:

“1.0 Purpose of Report or Summary of main Issues

- 1.1 Correspondence has been received from the Historic Environment Division (HED) of the Department for Communities (DFC), notifying the Council that 9 no. historic street signs**

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within the Belfast Council area have been formally listed under section 80 of the Planning Act (Northern Ireland) 2011.

2.0 Recommendations

2.1 Committee is requested to:

- Note the correspondence (available on mod.gov) notifying the Council of the listing of the 9 no. street signs.

3.0 Main report

3.1 Members will recall that a Notice of Motion (NOM) was considered at the Planning Committee meeting of 18 August 2020 in respect of the restoration and listing of 12 no. historic street signs within the city.

3.2 The Council then contacted HED to begin a formal process regarding their potential for listing. Members will recall that the council was then consulted by HED, under an Advance Notice of Listing (ANL) which was brought before the planning committee on 19th January 2021. Members endorsed the proposed listings with no further comments at that time.

3.3 The information in Appendix 1 (available on mod.gov) provides full details of the signs which have now been listed. Members may wish to note that of the 12 no. signs included in the NOM, a total of 8 no. have now been formally listed by HED. 1 no. additional sign has also been listed, which was not included in the initial NOM.

3.4 The notification from HED confirms that the following street signs have now been listed:

- Beersbridge Road and Upper Newtownards Road, Belfast (back edge of footpath)
- Belmont Church Road and Sydenham Avenue, Belfast (back edge of footpath)
- Carolhill Gardens and Holywood Road (back edge of footpath)
- Cherryvalley Park and Kensington Road, Belfast (back edge of footpath / garden)
- Clonlee Drive and Upper Newtownards Road, Belfast (garden)
- Eastleigh Drive and Kincora Avenue, Belfast (garden)
- Kensington Road and Knock Road (back edge of footpath / garden)

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- Knockland Park and Barnett's Road, Belfast (relocated to back edge of footpath)
- Summerhill Parade and Barnett's Road, Belfast (back edge of footpath / garden)

3.5 The information in Appendix 2 (available on mod.gov) sets out:

- which street signs were specifically raised through the NOM;
- which street signs were subsequently reviewed through the ANL; and
- which street signs have now been formally listed.

3.6 Clarification has been sought from HED whether they intend to pursue with a review/survey of the remaining 4 no. signs from the initial NOM, and a timescale for such, in addition to their intentions regarding the future review/survey of historic signs both within Belfast and other council areas. Members will be informed of any response.

Financial & Resource Implications

None.

Equality or Good Relations Implications

None.”

The Committee noted the contents of the report.

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) LA04/2019/1540/F – Centralised Anaerobic Digestion (CAD) plant to include a bunded tank farm, (6no. digester tanks, 2no. buffer tanks, 1no. storage tank and associated pump rooms), biogas holder, biogas conditioning system, temperature control system, waste-water treatment plant (WWTP), motor circuit control room building, hot/cold water recovery system, feedstock reception and digestate treatment building, product storage building, odour control system and associated tanks, emergency gas flare, back-up boiler, administration/ office building, car parking, 3no. weighbridges, fire water tank and pump house, pipelines to existing combined heat

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**and power (CHP) plant engines, switchgear, earth bunding,
3no. Accesses to existing Giant's Park Service road
infrastructure and ancillary plant/site works on lands to the
northwest of existing Belfast City Council Waste Transfer
Station (2a Dargan Road)**

The Planning Manager presented the details of the application to the Committee. He reminded the Members that it had been due to be considered by the Committee on 18th August 2020, but that it had been deferred due to correspondence received from a legal representative, representing Giant's Park Belfast Limited (GPBL). The Committee was reminded that GPBL was seeking to bring forward a mixed-use, leisure-led proposal on the adjacent land to the north and west. In responding to the objection, the applicant had produced a second addendum to the Environmental Statement, which had been duly submitted and consulted on.

The Planning Manager explained that the Committee had undertaken a site visit in respect of the application in September 2020 and, at its meeting on 19th January, 2021, it had agreed to defer the application for further information on the Habitats Regulations Assessment (HRA), which had been carried out by Shared Environmental Services (SES). The Committee had also agreed to hold a non-mandatory Pre Determination Hearing which had taken place on 23rd February, 2021.

The Members were advised that a range of issues had been discussed at the Pre Determination Hearing, including:

- the scope of the adopted Masterplan for the wider lands and potential deviation from it;
- the need for the proposed CAD facility in real terms as well as policy context;
- the status of current waste contacts and long-term viability of the proposal.
- where the waste would be coming from and issues around transport sustainability;
- where the by-product waste would be taken;
- the scope of the Transport Assessment;
- traffic management;
- whether account had been taken of the economic impact of the proposal on the GPBL proposals and the adjacent Film Studios;
- noise impacts on the Film Studios;
- the impact of the proposal on air quality including nitrogen and ammonia levels;
- details of the Habitats Regulations Assessment which had been carried out by SES;
- whether the proposal was of regional significance; and
- foul drainage.

Following the PDH, the applicant had provided further information and clarification in relation to a number of the substantive points which had been raised at the Hearing. The Committee was advised that the information had been shared with objectors and was

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available for viewing on the Planning Portal. The correspondence contained information relating to the source of household waste, the processing of the landfill by-product, the need for the facility, emerging and future waste policy and how the proposal would contribute to realising future waste policy targets, current land-fill of household waste in NI and the extent to which it could be diverted to the application site, the length of waste contracts in the Belfast City Council area, transport sustainability, clarification around the source of the meteorological data for air quality, foul drainage and sanitation and the amount of renewable energy which would be generated through the facility.

In response to the further information from the applicant, the Committee was advised that a further objection had been received from GPBL. The response had been uploaded onto the Portal and included queries regarding the need for the proposal, that planning decisions should not be driven by outdated plans and strategies which did not take account of the current situation, that the proposal would blight one of the most important opportunity sites for the city, the source of the waste, environmental concerns regarding the by-products, land-fill destination and transport sustainability, the length of waste contracts, that the Granville Eco Park in Dungannon had been subject to 97 noise and odour complaints

The Planning Manager advised the Committee that the planning process was concerned with land-use and the suitability of the proposed CAD facility in land-use planning terms. He outlined that the issues raised around the commercial viability of the proposal were not planning policy considerations.

The Committee was advised that the applicant had demonstrated a need for the proposal in accordance with the Waste Management Strategy and the Waste Management Plan and requirements of PPS 11: Planning and Waste Management.

In relation to the technical environmental concerns that the objector had raised, he highlighted that the application and Environmental Statement had been assessed by statutory consultees, including DAERA Northern Ireland Environment Agency (NIEA) and the Environmental Health team, a non-statutory consultee. He reminded the Members that no technical objections had been raised.

He drew the Committee's attention to the Late Items pack, where an objection had been received from John Finucane MP, Gerry Kelly MLA and Carál Ní Chuilín MLA. The Members were advised that a copy had been uploaded to the Planning Portal. The Committee was advised of the key concerns which were raised and the officers' response to them.

The Committee was advised that a further letter had also been received from the applicant, in response to the matters raised by GPBL in its objection letter of 12 April 2021. The Planning Manager outlined the key points which were raised and the officers' response to them.

(Councillor Brooks left the meeting at this point in proceedings)

The Chairperson welcomed Councillor Whyte to address the Committee. He stated that he had concerns with the meteorological data which had been submitted and objected to it on the basis that:

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- the wind analysis used for odour and air pollution in respect of the site were taken at the Belfast International Airport at Aldergrove, not at Belfast City Airport, where there was also a meteorological station;
- there was no mention of Aldergrove airport in the Local Air Quality Management Technical Guidance;
- there was no legal requirement that Aldergrove airport should be used for gathering meteorological data;
- the NIE standing advice it stated that historical data from Aldergrove airport was used, not that it should be used; and
- he urged the Committee to reject the proposal and that measures of air pollution and odour should be taken from a site within the city.

The Chairperson then welcomed Mrs. C. Ní Chuilín MLA to the meeting. She stated that she had strong objections to the proposal, including that:

- the viability and sustainability of such a facility were questionable, given that current waste contracts remained in place for a further 10 years;
- she remained unconvinced that the proposal would not have an effect on the expansion of the nearby Film Studios;
- she believed that the large, multi-million pound leisure-led proposal should not be ignored;
- she struggled to see how such a facility was compatible with the redevelopment in the area; and
- the North Belfast community deserved better investment and she urged Committee to reject the proposal.

In response to a Member's question regarding the potential impact of the facility on the film studios, she stated that the impact on the film studios should not be dismissed given the importance that it had in terms of job creation and investment in North Belfast.

(Councillor Brooks re-joined the meeting at this point. As he had not been present for the whole discussion, he did not participate in the vote.)

The Chairperson then welcomed Mr. K. Carlin, Project Manager for the Giant's Park Leisure proposal and Mr. J. Maneely, spokesman for the Local Residents' Group who lived near the Granville Eco Park in Dungannon, which was a similar facility.

Mr. Carlin stated that:

- he felt that his concerns, submitted to the Council on 13th April, had not been given due consideration by planning officers, as the Addendum report had been published the next day;
- CAD facilities often caused nuisance to the surrounding areas, despite Environmental Impact Assessments having been carried out;

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- a Freedom of Information request had shown that 97 noise and odour complaints had been lodged with the NIEA in the past 14 months in respect of the Granville Eco Park in Dungannon, even though it was located in the middle of an industrial park;
- the proposal for the AD plant carried a significant risk, not only for thousands of people in North Belfast, but also to the delivery of the planned 200 acre leisure park;
- once built, the regulation of the plant would fall to the NIEA;
- the radius considered as part of the odour assessment for the Dargan Road application was 350metres, whereas residents as far as 1km from the Granville site had been impacted by noise and odour issues. This therefore removed all residents of North Belfast;
- the applicants letter of 12th March confirmed their intention to bid for the Arc21 waste contract in 2029, which, if successful, could put current operators out of business;
- the MSW organic fines, mostly food waste, was currently ending up in black bins, and that another unknown operator would be involved in that process;
- the other 50% of the by-product had been ignored by the applicant;
- no evidence to support the applicant's claim that 75% of the liquid digestate would be recycled in the AD process;
- the site was zoned for a mixed-use employment generating uses and the proposed facilitated only sustained 22 jobs and the acceptance of waste management as a land use, as set out within one of site requirements, the second requirement stated that the development of the site would only be permitted in accordance with the overall comprehensive masterplan, why was there such an emphasis placed on one of the key site requirements and complete disregard for the other; and
- GPBL would never have invested such a significant amount of money in the site, had it known about the potential AD plant.

In response to a Member's question, Mr. Maneely advised the Members that he lived 700metres away from the Granville plant and that it had taken over his and his neighbours' lives. He advised the Committee that they regularly monitored, complained and reported issues relating to the noise and odour emanating from the plant to the NIEA, and paid for their own noise and air quality consultants. He stated that the low frequency noise caused interrupted sleep for residents and that the odour prevented them from enjoying their gardens and outdoor areas. He cautioned the Committee that, if there was an on-shore wind and the AD plant was in place at Dargan Road, between 3,000 and 11,000 houses would be affected in North Belfast.

The Committee then welcomed Mr. S. Beattie QC and Ms C. McParland, Agent, to the meeting. They were given seven minutes to address the Committee. Mr. Beattie outlined that:

- it was the third time that officers had presented a detailed report having considered a comprehensive environmental statement, a series of consultees' responses and an investigation and enquiry

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arising from the objections and that the recommendation had remained an approval;

- paragraph 3.8 of Strategic Planning Policy stated that there should be a presumption in favour of development;
- the application was consistent with the BUAP, draft BMAP 2015, and that the overall Masterplan had been in place for over 10 years and the departures the Council had already permitted had been consistent with the overarching policy;
- this was a departure from the masterplan, as was the leisure-led project;
- substantial weight should be given to the responses from statutory consultees and that they had no objections subject to conditions;
- viability was not a material consideration;
- he clarified an error within the objection letter from the Sinn Fein representatives, in that the contracts would be entered into after planning permission was granted, not after the facility was built/operational;
- the submission from Mr Maneely was not evidence, the Granville plant was not the subject of any enforcement proceedings, and that the Planning Committee could only deal with evidence, not assertions;
- the proposition that the Council did not have any power once the facility was built was incorrect - the Council had powers under the Public Health Act 1978 in respect of noise and odour abatement;
- the Council owned the CHP engines and they did not understand there to be any complaints in relation to them;
- the area had been zoned for mixed-use and had been whiteland for over 20 years; and
- their client had spent over £3million on the project so far, and that it would send an unfortunate message to those in the renewable energy field, that planning policy would be set aside or ignored.

In response to a Member's question regarding the odour issues described by Mr. Maneely, Mr. S. Wise, Energia, outlined that the sites were designed differently and that more exotic materials would go to the Granville site. He explained that the level of treatment was different for issues like odour. He stated that they had a site in Dublin and were committed to being a good neighbour. The Committee was advised that the building would be under negative air pressure to ensure that it was not causing air leakage. He explained that the emissions were treated comprehensively through an ammonia scrubber, a biofilter and a carbon scrubber.

In response to a further Member's question, Ms. S. Allen, Principal Environmental Planning Officer at Shared Environmental Service (SES), provided information in relation to the application's impact on the nitrogen critical thresholds in the European Designated Sites.

She explained that there was not an indicative nitrogen level for marine systems and that the most comparable would probably be the advisory nitrogen levels for salt marshes, where the threshold was between 20-30kg/ per hectare per annum.

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She outlined that the background levels of nitrogen were slightly higher than that, and were now 22kg/ per hectare, per annum. However, the Committee was advised that SES' assessment had been based on the contribution from the project itself, which was 0.9% of the critical load, and, in their view, in view of the nature of the extent of the site, the dilution factor and the nature of the habitat, they were satisfied that 0.9% could not have an adverse effect on the site and that view had been endorsed by the NIEA.

The Divisional Solicitor advised the Committee that, in respect of Mr Maneely's submission, as it was a different site with different considerations, the issues which were mentioned could not be translated into concerns which would necessarily arise in respect of the application which was in front of the Committee. She echoed the comments made by Mr. Beattie QC, in that the Committee should therefore give very limited weight to the comments made by Mr. Maneely.

A number of Members stated that they felt Mr. Maneely's contribution was important in that it was his lived experience of living close to a similar facility. Members raised concerns regarding the facility being incompatible with the surrounding uses, including the impact that low frequency noise could have on the nearby film studios.

A Member raised a concern regarding the viability of the project, which, while he acknowledged it was not a material consideration, he felt that Case officers would regularly highlight if a proposal would create a large number of jobs and that, therefore, the viability of a project was in fact a consideration for officers.

A further Member stated that the Council had been clear in its investment in clean tech jobs in the North Foreshore site for a number of years. He stated that the Film Studios were a world class facility and had been built to the highest standard in respect of soundproofing.

A Member stated that the Council was ever evolving and that decisions could and would change over time. He ask whether officers, as part of the Local Development Plan process, had engaged with other stakeholders around the future of waste management facilities within Belfast. In response, the Planning Manager (Policy) confirmed to the Committee that they had engaged with the Department for Infrastructure and the surrounding Councils, and that policies had been created as part of the Draft Plan Strategy which was undergoing examination at present. He stated that the content of the policies were similar to PPS11 but that they would not be adopted as formal policy until the LDP had been formally agreed.

In response to a further question regarding the zoning at the overall site, the Planning Manager (Development Management) reminded the Committee that it had to base its decision on current policy context and that the appropriate adjacent land uses had been taken into consideration by officers during the assessment. He stated that the more sensitive "residential standards" in respect of noise and disturbance had been applied when assessing the impact of the application in relation to the nearby Film Studios and that Environmental Health had confirmed that it was content that there would be no undue conflict.

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In response to a further question regarding the Giant's Park leisure element, he advised the Committee that there was no proposed use for leisure in the zoning of the site. Moreover, irrespective of the fact that there was no technical evidence to state that there would be a conflict of uses on the site, he added that the GPBL proposal was only at PAD stage, that a planning application had not yet been submitted and that it would therefore be unreasonable for the Committee to refuse an application because of a conflict with a proposed use which was not zoned and where planning permission had not yet been applied for.

A further Member raised concerns of the site's impact on the ammonia and nitrogen levels and the policy context in which the Committee was having to make its decision. She stated that it was concerning that there was no scientific basis for the use of the 1% threshold, and that it was currently under review in order to bring it more into line with the evidence of damage and case law. She stated that it was disappointing that a representative from DAERA had not been in attendance to answer questions on the issue.

The Divisional Solicitor advised the Committee that, while she understood Members' frustrations at some shortcomings in certain policies, current planning policies must be applied and that significant weight should be attributed to the responses from statutory consultees.

A further Member stated that they had issues with DFI Roads' response in relation to transport sustainability, whereby it had stated that "at this time there is no policy under which DfI Roads can assess and comment on the sustainability of a proposal at the regional level". He advised that he felt there was a lot of uncertainty around the proposal.

In response to further Members' questions, the Divisional Solicitor added that the Clean Neighbourhoods Act (NI) 2011 provided the Council with powers in relation to noise and odour in the form of abatement notices. She added that, if a noise or odour issue was not adequately dealt with by way of an abatement notice, the Council had the power to apply to the High Court for an injunction, restraining the use of the premises until it was satisfied that the issue had been dealt with.

The Chairperson advised the Committee that, if Members were minded to go against the officers' recommendation to approve the application, a Member could propose a deferral of the application and ask that officers would submit formal refusal reasons based on the issues which had been raised during the discussion to the next meeting. He explained that it would allow the Committee to see the full refusal reasons and that it could then amend them if necessary.

Moved by Councillor Maskey and
Seconded by Councillor McCullough,

That the Committee agrees to defer consideration of the application and asks that officers submit formal reasons for refusal at the next meeting, based on the fact that the application:

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- is incompatible with adjacent land uses and is contrary to PPS11 WM1, in that it is incompatible with the character of the surrounding area and adjacent land uses, namely with the adjacent film studios and its expansion and also with the GPBL proposals; and
- that the film studio extension has been built in the zone which was zoned for Waste Management in the Masterplan, and that the waste management element therefore no longer existed.

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

LA04/2020/0426/F - Reconstruction of petrol station and ancillary retail unit including the replacement of fuel tanks, pumps and canopy alterations. Hot food takeaway unit, ATM, compactor and provision of an EV charging facility at 228 -232 Stewartstown Road

The Principal Planning officer outlined the key aspects of the application for full planning permission to reconstruct a fire damaged petrol station and associated shop. She advised the Committee that it had been due to consider the application on 19th January, 2021, but that an objection had been received at a late stage and the application was subsequently removed from the agenda to allow time for further consideration. Since January, she explained that the description of the proposal had been altered and the revised description had been advertised in the local press and neighbour notified.

The Committee was advised that the site was located within the development limits as designated in the Belfast Urban Area Plan and draft BMAP. The application had been assessed against relevant planning policy, dBMAP, SPPS and PPS3.

The Committee was advised that two further objections had been received from the nearby Beckett's Bar. The objector raised anomalies with the floor space figures presented by the agent, and stated that additional retail floor space would be created and therefore parking provision should be increased. Further consideration of the floorspace figures revealed that the plans were accurate. However, figures relating to uses at question 24 of the P1 application form were incorrect. There was a total increase in floor space of 108sqm at the proposed petrol filling station shop, 88sqm of which was retail use. There was no change in the footprint of either the chip shop or nail bar to the front of the site. The updated floor-space figures were published to the planning portal on 3rd February.

The Committee's attention was drawn to the late Items pack. An email had been received from an objector, Carlin Planning, raising issues which had previously been raised, including a shortfall in parking spaces and concerns regarding road safety. The Case officer's response to the comments were provided to the Committee, including that DFI Roads had been consulted on the late objection and that their position remained unchanged. The Members were also advised that adjacent local businesses had been considered, that the site was well served by public transport and there had been no significant issues with parking or road safety at the site prior to the fire.

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The Chairperson welcomed Mr. R. McCausland BL to the meeting. He was speaking on behalf of an objector, Fernmount Trading (NI) Ltd & Sharp (NI) Limited. He advised the Committee that:

- His client was concerned about the intensification of the site as the current parking provision at the site was inadequate and that his client's car parking facilities were used as an overspill;
- the application was contrary to Policy AMP7 of PPS3, which stated that development proposals were required to provide adequate provision for car parking and appropriate servicing arrangements;
- that none of the circumstances applied in terms of Policy AMP7 of PPS3, which would allow a reduced level of car parking provision;
- DFI Roads' position had changed over time and, in September 2020, it had considered that the application was unacceptable and that a Travel Plan and Service Management plan would be required;
- it was totally possible that cars would enter this site and then realise that no parking spaces were available, leading to tailbacks onto the public road which would be a road safety issue;
- the current under provision of parking had stemmed from piecemeal development and intensification of the site.

The Chairperson then welcomed Mr. D. Diamond, Kevin McShane Ltd, to the meeting. Mr Diamond advised the Committee that they had been providing transport planning and engineering support to the applicant. He explained that:

- the application fulfilled the reinstatement of an existing fire damaged Petrol Filling Station development with an associated retail unit;
- it constituted a 'like for like' replacement of an established land use on the site and the proposals aimed to restore the site layout to its pre-fire condition;
- DFI Roads had noted in its consultation response that the site had operated without significant traffic issues and, additionally, that the location and design of the site layout offered excellent visibility in both directions onto the Stewartstown Road;
- Kevin McShane Ltd had provided a robust analysis of parking demand and supply at the proposed site, demonstrating how the mixed nature of the site lent itself to shared parking between the different site uses;
- Council planners had concluded that the shared parking provision at the proposed site was acceptable to satisfy the nature of parking demand at this location.

The Committee granted approval to the application, subject to the imposing of the conditions set out within the case officer's report and delegated power to the Director of Planning and Building Control for the final wording of the conditions.

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**(Reconsidered item) LA04/2019/1833/F –
New dwelling to replace previous dwelling
on site at 11 Ashley Park, Dunmurry**

(Councillor Hanvey did not participate in the vote on this item as he had not been present for the duration of the officer's presentation when it had been presented previously, on 19th January, 2021.)

The Principal Planning officer provided the Committee with an overview of the application, which had previously been presented at the meeting on 19th January.

She explained that the item had been deferred for a second time at that meeting, on the basis that Members had requested legal advice in relation to the planning position of the site in respect of its current status, regarding the demolition of the previous dwelling on site and whether that constituted willful abandonment, a nil use or neither.

The Principal Planning officer outlined that the Case officer remained of the view that the demolition of the original dwelling had resulted in a nil use of the land, when considered in light of previous relevant case law. She explained that DCS No 400-002-136 considered the lawful use of a site following demolition. In that case, the inspector had declined to confirm that the construction of three replacement dwellings in Leicestershire would be lawful following demolition of the original dwellings and that it created a nil use on the site. The case was clear that demolition had resulted in nil use.

The Committee was advised that it was confirmed that the previous dwelling was demolished in 2013.

The agent had stated that the established residential use for the previous 115 years had not been taken into account. The Principal Planning officer advised that it remained that no planning permission had been granted on the site for the replacement of the dwelling and the length of time the previous dwelling stood was not a relevant factor. Once the previous dwelling was demolished the site contained a nil use.

The agent made reference to case law, in regards to establishing whether an existing use had been abandoned in circumstances where the residential building was still on the land, in various states of dilapidation, or where the use of the land for certain commercial uses had discontinued for a number of years. The Principal Planning officer explained that none of the cases addressed the lawful use of a residential site following the demolition of the dwelling. The case of *Iddenden and Others V. Secretary of State for the Environment and Another* [1972] 1 WLR 1433 did, however, deal with circumstances such as these, i.e., where there had been demolition of the residence, albeit it was in the context of enforcement. In that case, the Court were of the view that the established use was lost once the demolition had occurred.

She outlined that the Planning Service was unaware of any PAC decisions in respect of the issue and the applicant's agent had not provided any. Officers were however aware that the approach had been used by some English planning appeal decisions. She added that officers remained of the view that the application site currently had a nil use and, as such, there was no lawful existing access. The Members were also

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advised that the proposed access to Ashley Park was sub-standard and would prejudice road safety.

The Committee was reminded that DFI Roads had been consulted and objected to the proposal as it was considered contrary to policy AMP 2 of PPS 3, in that the proposed access would prejudice road safety. The visibility splays were deemed to be inadequate.

The Chairperson advised the Committee that the agent, Mr. T. Gourley, had spoken at the last meeting at which the application had been considered, on 19th January. However, Mr. Gourley had requested to address the Committee again to discuss the legal arguments as he believed they had been misconstrued. The Committee acceded to his request and he was welcomed to address the Committee.

Mr Gourley stated that, as a former Planning officer, he was disappointed in the Case officer's report. He stated that:

- he had concerns regarding the robustness of the legal opinion;
- the Case officer's report relied upon one single appeal of a certificate of lawful use, relating to the commencement of a permission in a rural area and that it was not comparable with the application in question;
- paragraph 4 of that appeal decision, which had been relied on by the planning office, stated that a dormant use could still be an extant lawful use;
- paragraph 5 of the same decision clearly stated that no abandonment was being argued by the Council in that particular case - it accepted that repeated applications maintained the use, which applied in the current application;
- the focus of the appeal concerned the formation of a new unit by merging 3 sites into one site for a dwelling, thereby creating a new "chapter or use", and that the case was completely different from the proposal for 11 Ashley Park;
- the Iddenden case determined that even though a building on a cement depot was demolished, but that no nil use arose and that the use of the site remained, albeit in a different way of operating. He stated, therefore, that the use of the access at 11 Ashley Park was still in existence and still be in entitlement to use;
- the photographs did not clearly demonstrate the dropped kerbs and did not accurately depict the visibility; and
- his letter of support detailed 3 court decisions and that the Case officer's report did not detail any.

In response to a Member's question, the Mr. Gourley advised the Committee that there was an existing entrance at the site which had been used for many decades. The dwelling had fallen into disrepair, having been vandalised and burned, and that, on account of it being a dangerous structure, Lisburn City Council had directed the owner to demolish the property as a result of force majeure. He stated that, had it not been for the

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anti-social behaviour, the application would be for the replacement of a structure, not a new access, and that the existing access would have been acceptable.

The Planning Manager (Development Management) advised the Committee that the issue at hand was one of highway safety. Visibility in a westerly direction was highly deficient as advised by the Department for Infrastructure. This matter required particular attention because of the potential implications of a road access which could result in injury, serious injury or even a fatality. The applicant would be able to exercise their right of appeal if the application was refused.

The Committee resolved to refuse the application in accordance with the officer recommendation and delegated power to the Director of Planning and Building Control for the final wording of the refusal reasons.

**(Reconsidered item) LA04/2020/0857/F –
Demolition of existing hostel building and
redevelopment to provide four-storey building
comprising 15 No. residential units, office space
and ancillary development at Ormeau Centre,
5-11 Verner Street**

Moved by Councillor Garrett,
Seconded by Councillor Collins and

Resolved - That the Committee agrees to defer consideration of the application to allow the ongoing engagement to continue between the developer and local residents.

The Committee noted, as the application had not been presented, that all Members' present at the next meeting, would be able to take part in the debate and vote on this item.

**LA04/2020/2200/F & LA04/2020/2201/DCA –
Demolition of Nos. 27 to 37 Linenhall Street
and Nos. 8-10 Clarence Street and erection of
seven storey office building at 8-10 Clarence Street
27-37 Linenhall Street and existing car park at the
corner of Linenhall Street and Clarence Street**

Moved by Councillor Hussey,
Seconded by Councillor McCullough and

Resolved - That the Committee agrees to defer consideration of the application to allow the developer to submit further information in respect of viability and improvements to public realm.

The Committee noted, as the application had not been presented, that all Members' present at the next meeting, would be able to take part in the debate and vote on this item.

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**LA04/2021/0024/F & LA04/2021/0025/DCA –
Retrospective single storey extension to front of
existing single storey garage/ Minor demolition
works to front garage at 10 Broomhill Park**

(The Chairperson, Councillor Hussey, having declared an interest in this item, did not participate in the vote on the item and indicated that he would leave the meeting after he had spoken on it.)

(Councillor McKeown in the Chair)

The Principal Planning officer provided the Committee with the details of the retrospective application for an extension to the front of an existing single storey garage.

She explained that the key issues which had been considered by officers included:

- scale, massing and design
- impact on the surrounding character
- impact on the Malone Conservation Area; and
- impact on amenity.

She drew the Committee's attention to the Late Items pack and clarified that no petition had been received, but that five objections had been received. The objections raised issues including inaccuracies in PHD form, that it was contrary to policy and legislation, the retrospective nature of the application and issues surrounding the building lines. She advised the Members that the issues raised in the objections had been considered in the Case officer's report.

She advised the Members that, on balance, having taken into account the relevant planning policy legislation, representations received and other material considerations, it was considered that the proposal would integrate well with the existing dwelling and would not detract or harm the character and appearance of the surrounding area in accordance with Policy EXT1 of PPS7 (Addendum): Residential Extensions and Alterations, PPS6 and the SPPS. It was considered that the proposal would preserve the character and appearance of the Malone Conservation Area and was in line with 'A Design Guide for the Malone Conservation Area'.

The Committee was advised that the Council's Conservation and Heritage Team had been consulted and had offered no objection to the proposal

In response to a Member's question regarding a previous application for the house, which had been rejected, the Principal Planning officer drew the Committee's attention to the site history. She advised the Members that the previous application had been for a much larger extension to the first floor of the property. She emphasised to the Members that a property being within a Conservation Area did not mean that works could not take place, but rather that they had to be sensitive to the surrounding area. She explained that the application was for a 1.8 metre extension to the garage and that it would not impact on the wider Conservation Area.

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The Chairperson invited Councillor Hussey to address the Committee.

Councillor Hussey advised the Committee that he felt that the application should be refused on the basis that:

- a larger scale application had previously been submitted by the applicant, including an extension to the garage and the first floor, which had been refused by the Committee and that decision had been upheld by the PAC;
- the applicant had started the construction of the garage extension and had then been contacted by Planning enforcement in respect of the unauthorised works;
- it should be noted that the applicant had then quickly finished the garage extension before submitting the retrospective application seeking permission for it;
- Policy 5.2.32 in the Design Guide in respect of the Malone Conservation Area determined that no side extensions and no front extensions were permitted, and that the applicant was well aware of the rule; and
- the Broomhill area was one of the first developments in Belfast to have integrated garages.

(Councillor Hussey left the meeting at this point in proceedings)

The Deputy Chairperson then welcomed Mr. C. Bryson, who was speaking on behalf of an objector, Mr. B. Johnston. Mr Bryson stated that the Committee should refuse the retrospective application as:

- the applicant would have been well aware of the need to obtain demolition consent and planning permission for the works and it seemed that the applicant had total disregard for, and was hoping to circumvent, the planning process;
- the work progressed even when the applicant had been contacted by officers from the enforcement section;
- the site was within the Malone Conservation Area and thus planning control should be applied more rigorously;
- Planning policy BH12 of PPS6 required that work must conform with the relevant design guidance, not "should broadly conform with";
- the extension to the garage constituted a 55% increase in length, which brought the front line closer to the street and thereby increased its visibility and prominence;
- Policy 5.2.32 of the Design Guide stated that any extension should be to the rear wall of the existing building and nowhere did it state that extensions to the front were permissible;

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- the proposal changed the 3D form of the dwelling and therefore the character and interrelation of spaces in Broomhill;
- in relation to the previous application for the same house, the PAC decision stated that any extension affected a buildings 3D form;
- permitting that type of front extension would set a dangerous precedent for the Malone Conservation Area;
- the extension also breached the established building line along that section of Broomhill Park, the design guide makes clear that building lines could apply to side boundaries on corner plots and that was the case for Nos 8 and 14, and, when considered alongside Nos 10 and 12, they formed strong building line; and
- the proposal affected the residential amenity of 12 Broomhill Park, with the extension of a long gable wall which further exacerbated the feeling of enclosure, which was contrary to Policy EST1 of the Addendum to PPS7, as it resulted in undue dominance.

(Councillor McCullough left the meeting at this point in proceedings)

A Member asked the Principal Planning officer to clarify why they were recommending an approval, if Section 5 of the Design Guide for the Malone Conservation Area did not permit front extensions. In response, the officer drew the Committee's attention to Paragraph 9.7 of the Case officer's report, whereby it stated that "In terms of the original single storey attached garages at an Inter-War Residence, paragraph 5.2.47 [of the Design Guide] states that it would not be appropriate to add another storey but does not state that extending the existing ground floor garage to the front would be inappropriate. Therefore, it is important that the extension is assessed against the key legislative test which is whether the proposal preserves the character or appearance of the Conservation Area."

A number of Members stated that, while they were disappointed that it was a retrospective application, they did not feel that the extension was out of character for the area. Further Members stated that a site visit might be appropriate.

Moved by Councillor Garrett
Seconded by Councillor Collins,

That the Committee grants approval to the application, subject to the imposing of the conditions set out within the case officer's report and delegates power to the Director of Planning and Building Control for the final wording of the conditions.

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

(The Chairperson, Councillor Hussey, re-joined the meeting at this point)

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LA04/2021/0320/F - Variation of Condition 3 (agreement of proposed materials prior to commencement) of planning permission LA04/2015/0264/F to enable a change to the proposed materials to be agreed prior to occupation of the development (currently under construction at lands bounded by Bedford Street INI Building, McClintock Street and Franklin Street

The Principal Planning officer outlined the details of the application.

The Principal Planning officer advised the Committee that the applicant was seeking to vary Condition 3, which required details of materials to be submitted and approved prior to 'commencement' of development to agreement prior to 'occupation' and to enable a change to the proposed materials.

The Committee was advised that no representations had been received regarding the proposal. The Principal Planning officer explained that, having taken account of the planning history on the site, the proposed changes were considered compliant with the development plan and other relevant policies.

He outlined that HED had been consulted and was satisfied that the proposed finishes were acceptable in the context of the listed Ewart building.

He drew the Members' attention to the Late Items pack, where a formal response had been received from the Urban Design Officer. He explained that it confirmed the position set out in the Case officer's report, whereby the Urban Design Officer had no objections to the proposed change in materials, subject to the submission of annotated elevations clearly highlighting those sections of the building where the change of materials was proposed and CGI views showing the approved materials to enable comparison with the proposed materials. The late items report also confirmed receipt of the annotated plans and CGIs. He added that the Conservation officer had also advised that he was content and had no objection.

A number of Members stated that the application to vary the condition was frustrating, given that the construction had almost been completed and that the original condition had not been adhered to.

The Committee granted approval to the application, subject to the imposing of the conditions set out within the case officer's report and delegated power to the Director of Planning and Building Control for the final wording of the Section 76 Agreement and the conditions.

LA04/2020/1783/F - Change of use and refurbishment of the ground floor and part of the first floor of a three storey building in the Conway Mill Complex to a new training gym with elevation changes at St John Bosco ABC, Conway Mill, 5-7 Conway Street

The Members were provided with the details of the application, which was partly funded by the Council.

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It sought full planning permission for a change of use and refurbishment of the ground floor and part of the first floor of a building in the Conway Mill Complex to provide a new training gym with elevation changes.

The key issues which had been considered during the assessment included the principle of development and the acceptability of the proposed use, impact on a listed building, road issues, impact on the surrounding character, contamination and noise.

The Committee was advised that it was considered that the proposed change of use and alterations would not adversely impact the character and appearance of the surrounding area and would not impact on surrounding neighbouring properties.

No objections had been received and consultees had offered no objection to the proposal.

The Committee granted approval to the application, subject to the imposing of the conditions set out within the case officer's report and delegated power to the Director of Planning and Building Control for the final wording of those conditions.

**LA04/2020/2093/F - Change of use from retail
furniture showroom to fitness/exercise training
centre and leisure at 71 Ballysillan Road**

The Committee was advised of the key aspects of the application which sought full planning permission for a change of use from a retail furniture showroom to a fitness/exercise training centre. The Members were advised that the Council had an estate in the land.

The Members were advised that the main issues which had been considered in the assessment of the application were the principle of development, impact on the character and appearance of the area, impact on amenity, access and parking and road safety. The proposal had been assessed against and was considered to comply with the BUAP, Draft BMAP, PPS3 and the SPPS.

The application had been neighbour notified and advertised in the local press and no letters of representation had been received.

Environmental Health had been consulted and was content with the proposal, subject to an informative being attached to the decision regarding the transmission of potential noise.

DfI Roads had also been consulted and had offered no objection, subject to a condition being attached relating to the provision for cycle parking.

The Committee granted approval to the application, subject to the imposing of the conditions set out within the case officer's report and delegated power to the Director of Planning and Building Control for the final wording of the conditions.

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LA04/2020/2469/F - Pedestrianised public space to include cafe/bar/storage container/canopy areas, performance stage, outdoor seating and associated works (temporary permission) on Brunswick Street

The Committee was provided with the details of a Belfast City Council application. The Members noted that temporary planning permission was sought for a change of use of public road for a pedestrianised public space.

The Members noted that the proposed change of use would not adversely impact the character and appearance of the surrounding area. The proposed temporary use of the site for entertainment and food and drink consumption would add variety to an area that was dominated by the same use type.

The Committee was advised that no objections had been received.

The Committee granted approval to the application, subject to the imposing of the conditions set out within the case officer's report and delegated power to the Director of Planning and Building Control for the final wording of the conditions.

LA04/2019/2653/F - Demolition of existing property and erection of a 9 storey building (overall height 37m) comprising a ground floor retail unit together with cycle parking and plant areas: and 8 floors of grade A office accommodation at Chancery House 88 Victoria Street

Moved by Councillor Collins,
Seconded by Councillor Maskey and

Resolved - That the Committee agrees to defer consideration of the application as Members had not been able to access all of the relevant documents through the Planning Portal.

The Committee noted, as the application had not been presented, that all Members' present at the next meeting, would be able to take part in the debate and vote on this item.

Chairperson