Planning Appeals Commission

Appeal Decision

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Appeal Reference:	2017/A0207
Appeal by:	Nuport L & R Ltd
Appeal Against:	The non-determination of an application for full planning permission
Proposed Development:	Residential development of 9 no detached and 2 no semi detached dwellings and garages with access from Old Park Road
Location:	Land east of Old Park Road, south of The Close, The Knowe and The Hollow (off Old Park Drive) and north of Cameron Park, Ballymena
Planning Authority:	Mid and East Antrim Borough Council
Application Reference:	LA02/2017/0878/F
Procedure:	Informal Hearing on 9 May 2018
Decision by:	Commissioner D McShane, dated 29 June 2018.

Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

Preliminary Matter

2. The Council sought to submit new evidence to the Hearing. A segment of a preferred option drawing, which was discovered after the submission of the Statement of Case, was reported to give a more detailed projection of how the proposed connection road would tie into the existing road network and the proposed distributor road to the east of the site. The drawing was described as having been produced by Roads Service engineers over 20 years ago; it has not been subject to public consultation, has not been published, is not currently and never has been in the public domain. The drawing relates to a Roads Service scheme; however the DFI Roads witness stated that the scheme would be developer led. In this context, I have not been persuaded that the information is relevant to this appeal or that it would make any meaningful difference to my assessment. The Council readily accepted this approach and the appeal has been determined on the basis of the information already submitted.

Reasons

3. The main issue in this appeal is whether the proposed residential development would prejudice the implementation of a transport scheme identified in the Ballymena Area Plan 1986-2001 (BAP).

4. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. Notwithstanding that the Ballymena Area Plan 1986-2001 (BAP) was adopted in 1989 and is now 17 years after its stated end date, it operates as a LDP. The BAP envisaged 5 road schemes for Ballymena during the plan period. One of these is the west link, which includes a connection to Old Park Road. The 0.8 ha appeal site incorporates land required to implement the proposed connection road. Consequently, the proposal falls to be assessed against Policy AMP 4 of Planning Policy Statement 3: Access, Movement and Parking (PPS 3), which states that planning permission will not be granted for development that would prejudice the implementation of a transport scheme identified in a development plan.

5. Paragraph 5.30 of PPS 3 sets out three matters that must be taken into account in assessing whether the implementation of a particular scheme would be prejudiced by a development proposal: the nature of the proposal; the programming of the transport scheme; and the extent to which implementation of the scheme would be compromised by the carrying out of the proposed development.

6. The proposed west link transport scheme is shown on Map 2 of the BAP as an indicative dashed line. It runs from Ballymoney Road in the north to Galgorm Road in the south. In addition, it includes a connection, a short spur approximately 160m in length, to Old Park Road to the west. The purpose of the road scheme is not set out in the BAP; however, it seems reasonable to accept the rationale of DFI Roads that the west link was intended to serve as a distributor road that would divert traffic flow around Ballymena to ease congestion in the town centre while the connection to Old Park Road would increase interconnectivity from the distributor road to the western part of Ballymena. Land in this area that was zoned for housing in the BAP has since been developed. As such, the purpose of the road scheme is local and not strategic. I am reinforced in this conclusion by the statement in the Mid and East Antrim Borough Council Preferred Options Paper (2017), which indicates that "DFI has confirmed that all the road schemes yet to be implemented in the Borough are classed as "Non-Strategic Road Schemes".

7. In terms of programming, the BAP states that the west link is not likely to be implemented early in the plan period as it is anticipated that the existing system of roads will accommodate the anticipated traffic for a considerable time. Paragraph 7.2 of the plan states that the need for individual elements of the future highway network will be reviewed in the light of actual traffic growth and changing circumstances. Traffic flow is monitored on an ongoing basis. The blueprint map for Ballymena presented in the Sub Regional Transport Plan 2015, which was published in 2007, includes the indicative line of the west link road scheme; however the indicative connection to Old Park Road is not shown. The DFI Roads witness was unable to explain why the connection road had been omitted.

8. In terms of funding it was confirmed that the west link, including the connection road, does not appear in the Strategic Road Improvement Programme and nor is it listed in any other public construction roads programme. The expectation of DFI Roads is that the road scheme would be provided by developers. However, while a road corridor has been preserved free of development, the housing zonings have already been developed. Significantly, this includes the land immediately to the north and to the south of the appeal site. There is no indication that any of the

developers of the housing land were required to contribute financially to the provision of the connection road to Old Park Road or the wider scheme. In these circumstances, there is considerable uncertainty about how the road scheme would be funded.

9. The third matter to be addressed is the extent to which implementation of the scheme would be compromised by the carrying out of the proposed development. The housing development would have no impact on the wider west link scheme. Therefore, the question is whether it would compromise the connection road to Old Park Road.

10. It was not disputed that the connection road to Old Park Road does not represent the sole means by which interconnectivity from the proposed distributor road to western Ballymena may be achieved. Further opportunities are provided via Old Galgorm Road and Galgorm Road. However, I accept that it is likely that the proposed connection to Old Park Road would ease traffic on other junctions: namely the roundabouts at Galgorm Road and the access from Old Galgorm Road onto Galgorm Road.

11. It is noteworthy that the access road proposed from Old Park Road to serve the dwellings has been designed significantly above the standard required for a housing development of this scale; a 6m wide carriageway with 2m wide footpaths either side run the length of the site resulting in a total width of 10m. DFI Roads argue that this falls short of the standards required for a distributor road; a 7.3m wide road, 2m wide footpaths and 1m wide maintenance strips either side resulting in a total width of 13.3m. It was stated that the absence of a road to these dimensions would be contrary to the development plan; however the plan contains no specific advice on geometry and it refers clearly to this portion of the scheme as a connection road not as a distributor road.

12. With some flexibility in the dimensions of the road, the connection road and the housing development would not be mutually exclusive. However, there is a recognised pinch point at the eastern end of the site in the vicinity of Site 11 and the shared private drive to the dwellings on Site nos.10, 11 and 12. This is a full application; however the Appellant agreed that if it was considered necessary to overcome concerns, the proposed dwelling on Site 11 may be omitted from the development and this can be secured by condition. Such a reduction in the scheme would not cause any prejudice to the public and the description of development has been amended accordingly. Providing the dwelling on Site 11 is omitted from the proposed housing development, a connection road and the proposed housing development are not mutually exclusive. The erection of the remaining 11 dwellings would not prejudice the implementation of a connection road.

13. DFI Roads expressed concern that if the appeal development were to be approved an unacceptable precedent would be created for all other road schemes identified in the BAP, which are yet to be constructed. The road corridor as shown by the indicative dashed line in the BAP has been maintained free from development in its entirety for over 30 years. However, it is significant that the proposed housing development would impact only the connection road between the proposed distributor road and Old Park Road; a distinct portion approximately 160m long. Furthermore, I have already concluded above that, providing the dwelling on Site

11 is omitted, the connection road and the housing development can co-exist. Consequently, no unacceptable precedent would arise in respect of the west link distributor road corridor or other road schemes identified in the BAP. Accordingly, the Council has failed to sustain its draft reason for refusal based upon Policy AMP 4 of PPS 3.

14. A small stream marks the eastern site boundary; however a Drainage Assessment submitted with the application confirmed that there is no development in the floodplain. Furthermore, a drainage hydro-brake, which will be adopted and therefore maintained by NI Water, has been incorporated to ensure that surface water run-off will be maintained at green field rates. I have not been persuaded that the sewage system would be incapable of dealing with an additional eleven dwellings. I note that there is no objection from DFI Rivers or NI Water to the proposal. I have not been persuaded that there would be a negative impact on any protected or priority species. I am satisfied that the housing layout in terms of design and scale is acceptable. Furthermore, the design, separation distances and ground levels are such that any unacceptable overlooking or impact on light would be precluded. These Third Party concerns are not sustained.

Conditions

(1) The dwelling on Site 11 shall be omitted from the development.

(2) The development shall be begun before the expiration of five years from the date of this permission

This decision approves the following drawings, with the exception of the dwelling on Site 11, which shall be omitted from the development:-

- Drwg 01: Site Location Map (Scale 1:2500)
- Drwg 03: Site Analysis (Scale 1:500)
- Drwg 04: Concept Plan (Scale: 1:500)
- Drwg 05: House Type 'RG 2256' – (Triple Aspect) Plans Section & Elevations (Scale1:100)
- Drwg 06: House Type 'RH 1382' - Plans, Section & Elevations (Scale 1:100)
- Drwg 07/1: House Type 'RL 1774' – (Dual Aspect) Plans, Section & Elevations (Scale 1:100)
- Drwg 09: Detached & Semi Detached Garage – Plans, Section and Elevations (Scale 1:100)
- Drwg 10: Site Sections – a-a and b-b (Scale 1:100)
- Dwrg 11: Road Construction Details (Scale 1:20, 1:25 and 1:200)
- Drwg 12/1: Private Streets Determination (PSD) Layout (Scale 1:250)
- Drwg 13: Road Sections (Scale as noted 1:500 and 1:100)

Drawings submitted with Statement of Case:

- Drwg 1708-10: Screen Walling and Fencing Details (Scale 1:50 and 1:20)
- Drwg 1708-01 LP Rev A: Landscape Proposals (Scale 1:500)
- Drwg 1708-01 Rev K: Site Plan – Fencing and Walling (Scale 1:500)

COMMISSIONER D MCSHANE

List of Appearances

Planning Authority:-	Mr H McAllister (Mid and East Antrim BC) Mr G Lynch (DFI Roads)
Appellant:-	Mr S Beattie (instructed by Donaldson Planning) Mr D Donaldson (Donaldson Planning) Mr J Keenan (Transportation Consultant) Mr B Orr (TJK Consulting)
Third Parties:-	Mr J Boland Ms J Robinson Mr D Hoey

List of Documents

Planning Authority:-	"LPA 1" Statement of Case
Appellant:-	"AP 1" Statement of Case and Appendices
Third Parties:-	"TP 1" Statement of Case