Appeal Decision

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Appeal Reference:	2020/A0122
Appeal by:	Mr Ian McCulla - Carvale Developments Ltd.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Erection of 5 storey mixed use building consisting of ground floor retail unit and 40 apartments (comprising of 16 1-bed, 20 2-bed, 4 3-bed) and rooftop amenity space. Covered car parking, cycle parking, and bin stores provided at ground floor level to serve apartments. Vehicular and pedestrian access for apartments provided at Parkgate Avenue and pedestrian access for retail unit provided on Madison Avenue East. Includes demolition of existing vacant retail unit fronting Madison Avenue East.
Location:	Lands between 2 and 12 Parkgate Avenue and opposite 19A Madison Avenue East, Belfast.
Planning Authority:	Belfast City Council
Application Reference:	LA04/2019/1473/F
Procedure:	Informal Hearing on 5th November 2021
Decision by:	Commissioner Gareth Kerr, dated 10th March 2022

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposal would have an adverse impact on local character and residential amenity, whether it would create a quality residential environment and whether there is adequate provision for car parking. Third parties also raised concerns relating to the principle of the proposed retail use on the ground floor.

3. The Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) unlawful on 18th May 2017. This means the previous Belfast Urban Area Plan 2001 (BUAP) acts as the LDP for this area. However, the draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, is a material consideration for any development proposals in the area. The Belfast Local

Development Plan Draft Plan Strategy has also been raised as a material consideration in this appeal.

4. In both the BUAP and dBMAP, the site is unzoned land within the development limit of Belfast and two proposed strategic road schemes intersect just to the north of the site – the Holywood Arches Bypass and Connsbank Link. Neither has been built. Policy TR10 Strategic Highway Measures: Eastern Approaches Strategy of the BUAP indicates that both road schemes are designed to relieve congestion at the Newtownards Road and Holywood Arches area. The lines for these roads were to be protected from other development. The two protected road lines were broadly retained in dBMAP, but following a public inquiry they did not appear in the version of BMAP purported to be adopted. The inquiry report into dBMAP, which is also a material consideration, recommended that they be deleted from the plan if they were not to be publicly funded. Their deletion in the unlawfully adopted version of BMAP and the approval of other developments in recent years that would impact upon these road lines would suggest that there is now no prospect of these roads being built. However, the road lines remain technically protected unless the Department for Infrastructure adopts BMAP (which appears unlikely) or a new LDP is adopted by Belfast City Council. Therefore it is necessary to determine whether the road lines would be impacted by the appeal proposal.

5. The appellant referred me to Plan Amendment No. 1 Map No. 6 of dBMAP which shows the road line in greater detail. It is evident from this map that the Holywood Arches Bypass would require widening of Parkgate Avenue to the eastern side and not the western side where the appeal site is located. It would join the proposed Connsbank Link to the north of the site. As this is a more recent and detailed expression of the proposal than that contained in the BUAP development strategy, I attach greater weight to dBMAP in terms of how the roads would potentially be accommodated in this urban environment. Based on Plan Amendment No. 1 Map No. 6 of dBMAP, I conclude that the appeal proposal would have no effect on the protected road line, and is therefore not contrary to BUAP or dBMAP.

6. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out regional policy for retailing and the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also indicates that certain existing Planning Policy Statements (including PPS 3 – Access, Movement and Parking, PPS 7 – Quality Residential Environments, the Addendum to PPS 7 – Safeguarding the Character of Established Residential Areas, PPS 12 – Housing in Settlements and PPS 13 – Transportation and Land Use) and other supplementary planning guidance are retained. The SPPS is no more prescriptive than the retained policies on the residential and car parking aspects of the appeal, so these aspects of the appeal will be determined in accordance with the retained policies as set out in paragraph 1.12.

7. The appeal proposal is a five storey block which would be built right to the edges of the site. On the ground floor, there would be a retail unit which would front onto Madison Avenue East at the western side of the site. The ground floor plan indicates that it would have a floor area of 370m^2. Also on the ground floor there would be a bin store, a lift / stairwells and a parking area accessed from Parkgate Avenue with 13 car parking spaces and 14 cycle spaces. The next four floors would each contain 10 residential apartments. Most of the flat roof would be devoted to a garden area

with sitting areas and free standing planters set behind a glass balustrade 3m back from the edge of the roof. The stair and lift cores would rise a further 2.5m above the roof. External finishes include red brick and grey aluminium. Bright coloured porcelain tiles are proposed along the ground floor frontage on Parkgate Avenue.

8. The Council's first and second refusal reasons refer to the SPPS, Policy QD1 of PPS 7 and Policy LC1 of the Addendum to PPS 7 (APPS 7). The appellant disputed whether the APPS 7 applies at this location. APPS 7 provides additional planning policy provisions on the protection of local character, environmental quality and residential amenity within established residential areas. Established residential areas are defined at Annex E as residential neighbourhoods dominated by medium to low density single family housing with associated private amenity space or gardens. These areas may include buildings in commercial, retail or leisure services use, usually clustered together and proportionate in scale to the size of the neighbourhood being served. It goes on to state that in recognition of the desirability of promoting increased density housing in appropriate locations, Policy LC1 will not apply to certain locations including along key and link transport corridors (including designated arterial routes) within cities and large towns.

9. The area in which the appeal site is located is characterised by a mix of uses. While the northern section of Parkgate Avenue is predominantly residential, the southern end closest to the appeal site hosts a variety of land uses including retail units, a place of worship, a car mechanic's and a public car park. Limited residential use is also evident. The Madison Avenue East side of the site is dominated by a large health centre, other retail units and car parking. The Holywood Road to the south east of the site and the Newtownards Road further to the south west have a variety of commercial uses.

10. While established residential areas can include buildings in commercial, retail or other uses, they should be dominated by medium to low density single family housing. This is not the case in the locus of the appeal site where non-residential uses prevail. This is a mixed use area in close proximity to the key transport corridor of the Newtownards Road with its regular Glider and other bus services. Accordingly, I do not consider it to be an established residential area within the terms of APPS7 and Policy LC1 is not a material consideration in this appeal.

11. Policy QD1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. The policy sets out nine criteria that proposals for residential development will be expected to conform to. The Council raised concerns in relation to criteria (a), (h) and (i). In addition, objectors raised concerns under criteria (c) and (f).

12. Criterion (a) requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. The main thoroughfare close to the appeal site is the Holywood Road which is lined with a range of single-, two- or three storey commercial buildings of various architectural styles. The former S&R Electric building at 56 Holywood

Road to the south of the site is three storey with its gables facing the Holywood Road and the appeal site. On Parkgate Avenue, most buildings are two storey. On Madison Avenue East there is a two storey retail building and the Arches health centre which rises up to five storeys. The objectors argued that the Arches Centre should not be taken into account as it was built prior to the introduction of the modern planning system in 1972. However, it is a permanent feature of the locality and although a one-off in terms of its height, it does contribute to the character of the overall area. The appellant refers to four other taller buildings further to the north east on the Holywood Road, but due to their distance from the site (between 130 and 230 metres) these do not read with the appeal proposal. Therefore, I do not attach significant weight to them in the determination of the appeal.

13. Although the proposed building would be higher than the adjacent building at 56 Holywood Road (the former S&R Electric building), the existing three storey building would screen views of it from the Holywood Road. The development would be viewed primarily from Parkgate Avenue (to the east) and Madison Avenue East and Westminster Avenue North (to the west). When viewed from the streets to the west, the viewer would generally have their back to the Arches Centre and so it would not read with the proposed five storey development. It would appear dominant in comparison to existing two storey development on Madison Avenue East. When viewed from Parkgate Avenue, the eave level of the new building would be 0.48m higher than the ridge level of 56 Holywood Road and 4.8m higher than its eave level. While the Arches Centre is visible in the distance, the very high eave level adjacent to the street (almost 5m higher than the eaves of the adjacent large building) would be out of keeping with the established character of Parkgate Avenue itself which is dominated by two storey buildings with a degree of set-back from the street. Because of its scale and massing, the development would not respect its context, particularly on Parkgate Avenue. It would appear as a dominant and overbearing feature in the street scene indicative of overdevelopment.

14. One would normally expect the tallest buildings in this type of urban area to be along the main thoroughfare (the Holywood Road in this case) with smaller scale development on the side streets. This is generally the case on Parkgate Avenue where most development is two storey. While the appeal site may be able to accommodate up to three storeys given its proximity to the end of the street and the taller S&R Electric building to the south east, I am not persuaded that a five storey block as proposed would respect the surrounding context and streetscape. It would be inappropriate to the character of the area in terms of its scale and massing. The presence and appearance of a single tall building (the Arches Centre) within the surrounding context on Westminster Avenue North is not sufficient of itself to outweigh my concerns regarding the proposed scale and massing of the development and its impact on local character. The Council's and objectors' concerns under criterion (a) are sustained.

15. Criterion (c) requires that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. The proposal would provide a rooftop amenity space measuring 434m^2. Some of the apartments would also have balconies. Supplementary planning guidance in "Creating Places – Achieving Quality in Residential Developments" states that at higher densities, private open space for apartments may be provided in the form of privately maintained communal gardens. It states that roof gardens will be acceptable and

should range from 10 to 30m^2 per unit. The proposal would meet the minimum requirement. However, objectors stated that the open space will not be supervised, overlooked, secure or safe for residents and therefore its suitability and usability are in doubt. This concern links to criterion (i) which requires that the development is designed to deter crime and promote personal safety. Given the guidance in "Creating Places" for this type of development, I am not persuaded that the provision of rooftop amenity space is unacceptable in security terms. While not directly overlooked, the space would be accessible only by residents of the block and not by the wider public. The roof would provide a secure outdoor space for residents. The objectors' concerns regarding open space provision are not sustained.

16. Also under criterion (i), the Council raised concerns about the lack of active frontage along Parkgate Avenue as the ground floor at this side of the building is comprised mainly of car parking and a third party argued that the increase in density of population could lead to an increase in anti-social behaviour. The appellant argued that the use of backlit frosted glass along the ground floor frontage will give the impression of surveillance and improve the current situation. I have been given no persuasive evidence that an increase in population density of itself would lead to an increase in crime. However, it is important that the development is designed to deter crime. While the apartments on the upper floors would overlook the street providing a degree of informal surveillance, I consider that the lack of any active frontage at ground floor level where pedestrians would be walking is indicative of a poor quality residential environment. These concerns would not be outweighed by the use of backlit frosted glass. The Council's concerns regarding security from crime are sustained.

17. The Council's first refusal reason also refers to the density of the development. The parties agreed that the proposed housing density is 400 dwellings per hectare (dph). I have already found that Policy LC1 (which requires that the proposed density is not significantly higher than that found in the established residential area) does not apply at this location. However, housing density remains a material consideration in assessing how the scheme would respect its surrounding context under Policy QD1. The existing housing density on Parkgate Avenue is 65 – 75 dph.

18. Planning Control Principle 1 of PPS 12 encourages increased housing density without town cramming. It states that an increase in the density of housing development should be promoted in town and city centres and other locations which benefit from high accessibility to public transport facilities. It should also form an integral part of major housing or mixed-use development proposals. As the appeal site is in a highly accessible location and the scheme is a mixed use development, an increase in housing density is appropriate in principle.

19. Objectors referred to Policy HOU4 of the Council's draft Plan Strategy which provides guidance on density bands for development in the city. It indicates that in inner city areas a maximum density of 150 dph will be appropriate whilst in outer city areas a maximum density of 125dph is appropriate. In accordance with PPS 12, I consider that the accessible location of the appeal site would enable it to successfully accommodate a higher density of development than that existing further north on Parkgate Avenue. However, the proposed density of 400 dph would not be in keeping with the character of the area. Even if Policy HOU4 were to be given determining weight, an acceptable housing density would likely fall within the

75 – 150 dph range that it suggests for inner city areas such as this, which the appeal proposal clearly exceeds. The proposal is therefore contrary to the Draft Plan Strategy. I conclude that the development proposed would represent overdevelopment of the site and that it would not respect the surrounding context due to its scale, massing and appearance. The Council's and objectors' concerns regarding housing density are sustained.

20. Criterion (h) of Policy QD1 requires that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. The Council's first and second refusal reasons both make reference to this criterion and concerns were raised by third parties. Matters for consideration include dominance, overshadowing of neighbouring properties, perceived overlooking, the impact on adjacent sites and the outlook from the proposed apartments.

21. The appellant provided montages of the proposed building from three viewpoints. These were prepared using VU.CITY software. The images produced, whilst illustrating the appearance of the proposal, are of limited assistance in assessing the dominance of the development given the failure to show the smaller scale development on the eastern side of Parkgate Avenue (Figure 6), the high viewpoint further away on Parkgate Avenue (Figure 7) and the distance from the Madison Square East elevation (Figure 8). The impact of the development would be truly appreciated from street level and from within neighbouring buildings. I consider that the unacceptable scale and massing of the building, particularly in relation to the established smaller scale development on Parkgate Avenue, would dominate views within the street and from existing properties. This effect would be most pronounced at Nos. 1 and 3 Parkgate Avenue, opposite the site. When viewed from the street in front of the development and from the dwellings opposite, it would be unacceptably dominant in the streetscape. The five storey building would tower over these dwellings and would result in an unbalanced street width ratio, contrary to Figure 7 of the Living Places Urban Stewardship and Design Guide (supplementary planning guidance which was referred to by the objectors).

22. Concerning overshadowing, I have considered the Transient Overshadowing Study provided with the appellant's evidence. Although it only illustrates the shadowing that would be caused by the proposal on one day (21st March – which the appellant stated was the worst case scenario), it assists in understanding the existing environment and the changes that the proposal would cause. For much of the day, shadows cast northwards would impact on an adjacent vacant site. The proposal would cast shadows across the front of the Gospel Hall and Nos. 1 and 3 Parkgate Avenue from around 3pm onwards. The setting of the two dwellings is such that they are already in shadow for much of the day (including their front parking and amenity space) from the taller buildings at 56 and 58 Holywood Road. I am not persuaded that they would experience loss of light to a significantly greater degree as a result of the proposal. The additional shadowing of the Gospel Hall which is not occupied throughout the day would not justify the refusal of planning permission. The Council's and objectors' concerns regarding overshadowing are not sustained.

23. The main impact of overlooking on existing properties would also be on Nos. 1 and 3 Parkgate Avenue. Paragraph 7.17 of "Creating Places" states that great care will

be needed in designs where new residential schemes, such as apartments, include living rooms or balconies on upper floors as this can cause a significant loss of amenity to adjoining dwellings, particularly where they are close to the boundaries of existing properties. Paragraph 7.18 of "Creating Places" allows for greater flexibility in assessing the separation distance for apartments in inner urban locations, but notes that schemes likely to result in a significant loss of privacy or overlooking, particularly of existing properties, will not be acceptable.

24. The development would be approximately 14 metres from the frontage of Nos. 1 and 3 Parkgate Avenue. All the apartments on the eastern side of the proposed building would have full height windows in both the bedrooms and living areas and they would also have balconies off the living areas. The key consideration is whether the 14 metre separation distance across the street is sufficient. I consider that as Parkgate Avenue is a relatively narrow side street, that the relationship is front to front and that any acceptable scheme on the site is likely to adopt the building line established by 56 Holywood Road (the back of the footway), 14 metres between frontages is acceptable for this inner urban location. There will be no overlooking of existing private amenity areas. The main adverse impact on the dwellings opposite would be the dominance of the block due to its scale and massing. The Council's and objectors' concerns regarding overlooking are not sustained.

25. Objectors argued that the proposal would blight the land to the north of the site. I was advised at the hearing that a planning application for 14 social housing units on this land remains under consideration by the Council (Ref: LA04/2020/1377/F). Objectors felt the appeal proposal would overshadow and overlook the proposed social housing if both were built. The appellant argued that the social housing application was submitted well after the appeal proposal and its layout (which was provided in an appendix to the appellant's evidence) indicates that the appeal development would face onto a proposed car parking area in what is a typical urban relationship. They also pointed to the orientation of the proposed buildings so that they would not directly overlook one another. As there is no approved development on the adjacent site, I cannot attach determining weight to a proposal that remains under consideration. The scale of the appeal proposal has been found unacceptable for the reasons set out above. If the scheme on the land to the north is eventually approved, it would be incumbent upon designers to take account of it in drawing up a suitable development for the appeal site and any impacts would be assessed during the planning process.

26. The residential amenity of the proposed apartments must also be considered. Paragraph 4.15 of the Justification and Amplification text for Policy QD1 and paragraph 7.11 of "Creating Places" require developers to take account of the need to present an attractive outlook. The development would be built right to the boundaries of the site and this results in some apartments having a poor outlook over adjacent brownfield land rather than a public street. This is particularly the case for apartments 1 and 6 on all levels. The appellant argued that apartment 6 on each floor looks towards the Connswater River to the north which is an amenity. However, it would do so across an adjacent vacant site which may in future be developed. Therefore the view towards the river would not overcome the legitimate concerns about the outlook from these particular apartments. Potential future development of adjacent sites could result in a detrimental impact on the residential amenity of these particular apartments including a sense of being hemmed in. Also, the bedrooms in

apartments 2, 3 and 4 on all levels would have no external windows and would only receive natural light from small light wells extending from the roof. These features are indicative of overdevelopment of the site and would result in a poor quality residential environment.

27. As I have found that the appeal proposal would have an unacceptable adverse effect on existing properties due to dominance and would provide some of the proposed apartments with an unacceptable outlook which would compromise their residential amenity, the proposal fails to comply with criterion (h) of Policy QD1.

28. While the Council had no objection to the retail element of the proposal in principle, the objectors questioned the need for additional retail floorspace in this location. There is one existing building on the site – a two storey brick warehouse-type building that was previously part of the former S&R Electric business which was based at 56 Holywood Road to the south of the site. The appellant maintained that the existing building had been used for retailing by S&R Electric in addition to the main shop, but the objectors argued that the furniture and appliances were displayed in the main shop which was the point of sale and the building to the rear was an ancillary location for collecting items that had been purchased. It was agreed at the hearing that I would carry out an internal inspection of the building.

29. After the hearing I was shown inside the building which still had some beds, headboards, sideboards, fireplaces and other furniture which had been for sale and a counter for use by staff. The remaining items of furniture still had the original price labels on them and it was apparent that both floors had been used for the display of goods for sale and were accessible by customers. Based on my internal inspection of the building, I am satisfied that it was in retail use and could lawfully continue as such. As the proposal would increase the retail floor space from around 340m^2 to 370m^2, I calculate this to be a 9% increase in the retail floorspace. In order to consider the impacts of this, the retail policy in the SPPS must be applied.

30. The SPPS introduces a town centres first approach for retailing. A sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date LDP. Proposals that exceed a threshold of 1000m^2 also require a retail impact assessment. The appeal site is in an area of mixed use beyond any designated town or district centres. In the absence of a current and up-to-date LDP (as in this case) applicants must prepare an assessment of need which is <u>proportionate</u> (my emphasis) to support their application.

31. It was agreed by the parties at the hearing that a suitable catchment for a small retail unit in this area would be a five minute walk from the site. The appellant provided an analysis of the catchment for the proposed retail unit and found that it did not contain any primary retail core, town centres or edge of centre locations, so there were no sequentially preferable sites within its whole catchment. The objectors also provided a five minute walk catchment area, but noted that this took in Connswater Shopping Centre (designated as a District Centre in dBMAP) and surrounding shops such as Lidl, Home Bargains and Wyse Byse. In assessing the differences between the submitted catchments, I walked from the site to the shops at Connswater and I am not persuaded that any of these would fall within a five minute walk, especially

given the need to cross the busy Newtownards Road. On this basis, I attach greater weight to the appellant's catchment and assessment of need.

32. Given the established retail use that I have found on this site, the relatively small increase of around 9% in net floor space and the distance from the Connswater District Centre, I consider that the appellant's assessment of need is proportionate to the scale and context of the development and the ground floor retail unit is acceptable in principle. As no retail impact assessment is required for a small-scale retail unit at this location, the presence of some vacant retail units on the main shopping streets in the area does not outweigh my conclusion. The objectors concerns regarding retail need are not sustained.

33. The Council's third refusal reason states, "*The proposal is contrary to the SPPS and Policies* (sic) *AMP7 of PPS 3 Access, Movement and Parking, in that the applicant has failed to submit information to demonstrate that the access will not prejudice road safety and that adequate provision for car parking has been made."* At the hearing it was clarified that the Council have no concerns in relation to the vehicular access to the site or its impact on road safety. Their concern relates solely to car parking provision for the retail element of the proposal. However, third parties object to the level of parking provision for both the retail and residential elements and argue that the residential parking provision fails to comply with criterion (f) of Policy QD1 (adequate and appropriate provision is made for parking). Accordingly, both elements are before me in the appeal.

34. The appeal proposal includes provision for 13 car parking spaces on the ground floor. These are for the residential element of the development. Other relevant documents submitted with the application included a Transport Assessment Form, a Residential Travel Plan and a Parking Statement. These contend that there is sufficient spare capacity available in nearby public car parks or on-street to cater for the development.

35. Policy AMP7 of PPS 3 states that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. The appeal site is not within an area of parking restraint, but is within 100 metres of one at the Newtownards Road which is designated in dBMAP (a material consideration).

36. Policy AMP7 goes on to state that beyond areas of parking restraint identified in a development plan, a reduced level of car parking provision may be acceptable in a number of circumstances. Those relevant to the appeal site include:
    - where, through a Transport Assessment, it forms part of a package of measures to promote alternative transport modes; or
    - where the development is in a highly accessible location well served by public transport; or
    - where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking.

    All parties accepted that the appeal site is in a highly accessible location.

37. The Justification and Amplification text for Policy AMP7 refers to wider government policy aimed at achieving more sustainable travel patterns. In certain instances it will no longer be appropriate or desirable for developers to fully meet demand for car parking generated by their developments. This is especially the case in city centres and other defined locations where alternative modes of transport exist. PPS 13 – Transportation and Land Use states that controls on parking should be employed to encourage more responsible use of the private car and to bring about a change in travel behaviour. It is no longer sustainable to assume unrestrained access by private car to all facilities, particularly within larger urban areas.

38. The appellant's evidence refers to the availability of parking spaces in nearby public car parks and on street (based on 9 surveys undertaken at different times), the low level of car ownership in this part of the city and the highly accessible location which is well served by public transport. I am persuaded that these factors justify a reduced level of car parking provision in order to encourage more sustainable modes of travel.

39. Dealing firstly with the retail element of the proposal, I have already found that the existing building on the site contains approximately 340m^2 of retail floorspace. This unit could lawfully operate with no requirement for any additional parking provision. The parties agreed at the hearing that the retail floorspace of the existing building can be subtracted from the new retail floorspace proposed when calculating any additional parking requirement. There would be a net increase of 30m^2 of retail floorspace. The Department's Parking Standards require one space per 14m^2 in the case of food retailing and one space per 20m^2 for non-food retailing. It is not clear which type of retailing is proposed. Even in the worst-case scenario, the net increase of 30m^2 would require an additional two parking spaces.

40. I visited the site on two occasions and noted a high level of car parking in the surrounding area. However, on both occasions I was able to park my car on street close to the proposed retail unit without much difficulty. I also noted available spaces in a number of the public car parks referred to by the appellant. The car park at Parkgate Avenue was approximately half-full. Those closer to the Arches Centre were busier, but still had some spaces. My observations on both occasions corroborate the appellant's surveys and along with them persuade me that there is sufficient parking capacity in the area to accommodate the additional demand that would be generated by the retail unit. The Council has not sustained its third reason for refusal and the objectors' concerns in respect of parking for the retail unit are not determining.

41. With regard to the objectors' concerns about the residential parking element, it was not disputed that the baseline requirement for the 40 apartments (before any reductions) was 57 spaces. The appellant refers to the following factors to justify a reduction in car parking provision:
    - census data on car ownership which states that the average car ownership is 0.81 cars per household in the immediate locality and 0.68 within the electoral ward and that apartment dwellers have a lower car ownership rate of 0.62;
    - the proximity of the site to local shops and facilities including the health centre and Connswater Shopping Centre;

- high quality walking and cycling routes in the area including the intersection of the Comber Greenway and Connswater Greenway;
- the site's proximity to bus stops on the Holywood Road where 15 services stop and bus stops on the Upper Newtownards Road where 18 services stop (including the Glider), with buses to the city centre at least every 10 minutes.

On the basis of the above factors, they argue that the overall requirement should be in the region of 25 spaces, half of which are provided on site and the remainder using spare capacity on street and in local car parks. A number of surveys were undertaken overnight and it was found that there were 110 spaces available.

42. While there are other good options for journeys to and from the site at this highly accessible location, I consider that most households are still likely to have a car. Therefore I am not persuaded that the factors set out above justify a reduction as low as 25 spaces for a residential development of 40 units. However, the total requirement is somewhat academic given the availability of parking spaces in the area, particularly overnight, demonstrated by the appellant's surveys. Even if the baseline requirement of 57 spaces was adopted, it has been shown that there is sufficient parking space in the locality to accommodate this. The objectors argue that a number of the public car parks referred to should be discounted because they have 12-hour time restrictions on parking. This would not make them unsuitable for use at some times to serve additional cars associated with the development. Enforcement of time restrictions is a matter for the City Council and in any case, I consider that there are sufficient unrestricted spaces available in other car parks or on-street to serve the development.

43. An objection from a local business which has a service access on Madison Avenue East argued that the additional traffic attracted to the appeal development would hinder access to their premises and have a resultant effect on their trade, but I was given no persuasive evidence that harm would be caused. Members of Parkgate Avenue Gospel Hall also objected to the appeal proposal due to the level of parking provision. However, I found adequate parking space available at both my site visits, particularly in the public car park adjacent to the Gospel Hall and demand is likely to be lower in evenings and at weekends when the Gospel Hall is more likely to be in use. While the development would attract additional traffic to the existing streets, this would not be of a scale that would justify the refusal of planning permission. DFI Roads had no objections on grounds of road safety or traffic progression on the existing streets. The objectors' concerns about parking provision and congestion are not sustained.

44. In addition to car parking provision, Policy AMP7 refers to appropriate servicing arrangements. The Council and objectors raised several concerns in this regard. The appellant stated that a service management plan was submitted, but the Council stated they had not received it. However, they acknowledged the matter could be dealt with by the imposition of a condition if the appeal was allowed. The objectors queried how the retail unit would be serviced given no lorry bay is provided and the only access was the front door which is separated from the street by a dog-leg road in third party ownership. They also questioned the functionality of the proposed bin store. The appellant stated that the road to the front was adopted and argued that the existing retail unit was serviced in the same way and could re-open with no service plan. The small increase in floor area ($30m^2$) or the overall total floorspace ($370m^2$) do not meet the threshold for provision of a lorry space ($750m^2$).

Given that the above matters could be addressed through planning conditions, the objectors' concerns are not determining in the appeal.

45. Objectors referred to a consultation response from NI Water stating that the local sewer network has insufficient capacity to serve the development. However, this could be overcome through the provision of a private wastewater treatment facility at the developer's expense. It was agreed at the hearing that this matter could be addressed through the imposition of a negative planning condition.

46. In conclusion, I have found that the appeal proposal represents overdevelopment of the site and its scale and massing in relation to surrounding development would cause unacceptable harm to local character and residential amenity, contrary to Policy QD1 of PPS 7. Therefore, the Council has sustained its first and second refusal reasons insofar as they relate to the SPPS and the identified criteria of Policy QD1. Accordingly, the Council's first two refusal reasons along with the related concerns of third parties are determining and the appeal must fail.

This decision is based on the following drawings:-

Drawing No.	**Title**	**Scale**	**Received by Council**	**Received by PAC**
P01 Rev A	Site Location Map	1:1250	14 Jun 2019	08 Feb 2021
P03 Rev E	Proposed Site Plan	1:200	01 Apr 2020	08 Feb 2021
P05 Rev E	Proposed Ground Floor Plan	1:100	01 Apr 2020	08 Feb 2021
P06 Rev C	Proposed 1st & 2nd Floor Plans	1:100	14 Jun 2019	08 Feb 2021
P07 Rev B	Proposed 3rd & 4th Floor Plans	1:100	14 Jun 2019	08 Feb 2021
P08 Rev B	Proposed Roof Garden Plan	1:100	14 Jun 2019	08 Feb 2021
P09 Rev E	Proposed East and West Elevations	1:100	01 Apr 2020	08 Feb 2021
P10 Rev C	Proposed North and South Elevations	1:100	14 Jun 2019	08 Feb 2021
29259/1	Topographical Survey	1:200	14 Jun 2019	08 Feb 2021

COMMISSIONER GARETH KERR

List of Appearances

Planning Authority:-	Mr Ryan Nolan (Belfast City Council)
	Mr Conleth Sloane (Department for Infrastructure)
Appellant:-	Mr Ryan McBirney (Independent Planning Consultant)
	Mr Martin Kelly (Gravis Planning)
	Mr Richard Agus (MRA Partnership Ltd.)
	Mr Jeremy Jackson (JAG Architects)
	Mr Ian McCulla (Carvale Developments Ltd.)
Third Parties:-	Mr Simon Turbitt BL
	Mr Michael Worthington (Pragma Planning)

List of Documents

Planning Authority:-	A	Statement of Case Belfast City Council
	B	Roads Conditions (provided at rebuttal stage) Belfast City Council
Appellant:-	C	Statement of Case Gravis Planning
	D	Rebuttal Statement Gravis Planning
Third Parties:-	E	Statement of Case for McKay (Newtownards) Ltd. and Prestige Trophies Pragma Planning
	F	Letter of Objection Prestige Trophies Ltd.
	G	Letter of Objection Parkgate Avenue Gospel Hall