Appeal Decision

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Appeal Reference:	2020/A0136
Appeal by:	AMS Capital Ltd
Appeal against:	The refusal of full planning permission
Proposed Development:	New apartment block comprising 4 No. two bedroom apartments and 1 No. 3 bedroom apartment with associated parking, site works and landscaping
Location:	16 Dromore Road, Hillsborough
Planning Authority:	Lisburn and Castlereagh City Council
Application Reference:	LA05/2019/0211/F
Procedure:	Informal Hearing on 14th October 2021
Decision by:	Commissioner B Stevenson, dated 21st January 2022

Decision

1. The appeal is dismissed.

Reasons

2. The main issue in this appeal is whether the proposal would create a quality residential environment.

3. Section 45(1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The adopted Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal in May 2017. As a consequence, the Lisburn Area Plan 2001 (LAP), published in July 2001, operates as the LDP for the area wherein the appeal site lies. The Draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, also remains a material consideration.

4. In both plans, the appeal site lies within the settlement limit of Hillsborough on unzoned whiteland approximately 200m west of the Hillsborough Conservation Area (CA). The plans have no policies of relevance to the appeal proposal. Accordingly, residential use on the appeal site would accord with the plans in

principle subject to compliance with other material considerations including those set out in prevailing regional planning policy.

5. Regional policy of relevance to this appeal is contained in the Strategic Planning Policy Statement 'Planning for Sustainable Development' (SPPS). In the absence of an adopted Plan Strategy, retained Planning Policy Statement 7 "Quality Residential Environments" (PPS7) is also relevant. There is no conflict or change in policy direction between the provisions of the SPPS and the above-mentioned retained policy insofar as it relates to this case. Accordingly, PPS7 provides the appropriate policy context for assessing this appeal. In addition, Creating Places (CP) sets out supplementary planning guidance.

6. The appeal site comprises a parcel of rough land that was formerly part of a petrol filling station. The topography falls significantly from the road to the rear of the site. The subject site lies behind the residential development of Charlotte's Court on the northern side of Dromore Road and between the Pantridge Lane residential development to the north-east and undeveloped lands to the south-west. Further along the northern side of the Dromore Road, the residential development of Royal Park Avenue is beyond Pantridge Lane and the Lady Hill Court residential development is south-west of the undeveloped lands.

7. Charlotte's Court consists of 3 No. two and a half storey, large, detached dwellings; two of which front onto the Dromore Road. The appeal proposal is essentially the second phase of this development and consists of five apartments which would be set within a large single L-shaped block building with car parking underneath and associated landscaping. The appeal proposal would read as three storeys when viewed from Charlotte's Court and as four storeys from Pantridge Lane.

8. It was undisputed that full planning permission (S/2011/0523/F) for a residential development on the undeveloped land to the south-west has lapsed. As such, it carries limited weight in this appeal. Third parties raised concerns regarding the granting of planning permission of the recently constructed Charlotte's Court development (LA05/2015/0345/F). However, such concerns lie outside the scope of this appeal and should be raised directly with the Council. The approved residential development at Pantridge Lane includes two apartment blocks; one of which abuts the appeal site. The neighbouring apartment blocks measure around 15m in width, 10m in depth and are two and a half storeys with a hipped roof and dormer windows. There were some concerns raised by the objectors that the stamped approved drawings do not reflect what is on the ground at Pantridge Lane. However, I am satisfied that my analysis of the issues in the appeal is based on the most up-to-date permission and on what is implemented on the ground.

9. Policy QD1 'Quality in New Residential Development' of PPS7 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 subject to complying with certain criteria. The policy expands to say that in established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character,

environmental quality or residential amenity of these areas. The Council and objectors' concerns related to criteria (a), (g) and (h) of Policy QD1.

10. Criterion (a) of Policy QD1 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". Criterion (g) requires that the design of the development draws upon the best local traditions of form, materials and detailing. Criterion (h) requires that the design and layout of the appeal proposal will not create conflict with adjacent land uses and that there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

11. The Council considered that the appeal proposal would result in unacceptable damage to the local character in terms of its layout, scale, height, form, proportions, massing and appearance. Concern was also raised with the design of the development.

12. Paragraph 4.6 of the amplification text to the policy expects developers "in preparing layouts to have greater regard to the site context, in particular the characteristics of landform and the townscape" setting. Paragraph 4.8 emphasises that analysis of context is particularly important for infill housing and backland development in established residential areas. There was no dispute between the parties that the appeal site lies within an established residential area.

13. On the northern side of the Dromore Road where the appeal site lies, a uniform pattern of development exists. This contrasts with the looser urban grain on the opposite side of the road where substantial detached dwellings sit on large plots. Abutting the appeal site, the appeal proposal would read closely with the recently constructed neighbouring developments of Pantridge Lane and Charlotte's Court. Given the separation distance of Royal Park Avenue and Lady Hill Court from the appeal site, I do not consider that these developments form a significant part of the local context for comparative analysis. In my judgment, the more relevant context is the immediate residential developments of Pantridge Lane and Charlotte's Court on the northern side of Dromore Road. This area comprises a broadly uniform urban grain of predominantly medium density development that encompasses a mix of mainly detached and semi-detached dwellings set within medium sized plots. The properties therein are mostly two and two and a half storeys.

14. Paragraph 4.12 of Policy QD1 says that "proposals must respect the individual characteristics and features of the site itself" including topography while paragraph 4.13 emphasises that "particular care will be necessary in preparing layout proposals on sloping sites in order to minimise the impact of differences in level between adjoining properties, existing or proposed."

15. The appellant argued that the appeal proposal would be of an acceptable scale at this location with the longer and shorter 'legs' of the proposed 'L' shape building being 24m and 18m respectively. However, both elements of the development would be longer in length when compared with most of the other residential properties in the area. The L-shape building would of itself create an overall

footprint size that would be approximately double that of the neighbouring apartment buildings and other dwellings within the locality. The visual impact of this would be appreciable.

16. The L-shape layout arrangement with a double-in-size footprint to the Pantridge Lane apartments would be discordant with the surrounding urban grain and the subsequent mass and scale of the proposed apartment block would appear bulky. Its three-dimensional impact would be incongruous in the locality. The appellant stated that the appeal proposal would be some 1.5m lower than the dwellings in Charlotte's Court. However, the ridgeline would be approximately 2m higher than the ridgeline of the neighbouring Pantridge Lane apartment block. Consequently, the height of the appeal proposal would appear as visually jarring and out of keeping with part of the surrounding context.

17. The proposed layout (with a 24m long north-eastern/rear main gable elevation approximately 3-4m from the common boundary) would also be at odds with the surrounding pattern of development. The north-eastern gable elevation would sit close to the site boundary in contrast to the surrounding building-to-building separation distances along this common boundary. Whilst the rear single-storey sunroom of Site 3 Charlotte Court is approximately 3m from the common boundary, its main elevation is approximately 7m from the common boundary. The Pantridge Lane properties are generally around 10m from the common boundary. Given that the north-eastern elevation of circa. 24m in length would be around 3-4m from its site boundary, the proposed layout would not be akin to the surrounding context. As such, the appeal proposal would not follow the surrounding urban grain and pattern of development.

18. Given the L-shaped layout, the overall footprint size and the proposed ridgeline height especially when viewed from Pantridge Lane, the combined layout, scale and massing of the proposed apartment building would be out of keeping and uncharacteristic of the built form of the local area. It would not be in harmony with the surrounding urban grain. Thus, I conclude that the appeal proposal would not respect the surrounding context and would cause unacceptable damage to the local character of the area.

19. The appellant considered that the design narrative of Charlotte's Court should be continued given that the appeal proposal is the second phase of this residential development. It is their view that the design and materials proposed are wholly consistent with the first phase. The two and a half storey dwellings at Charlotte's Court are finished in clay facing brick or render with vertically emphasised windows and metal cladded dormers with concrete tiled pitched main roofs. The Pantridge Lane development is finished in render with black concrete tiled hipped roofs. Whilst there is the odd flat roof return, pitched and hipped roofs remain the main roof type in the area. As such, I consider that the proposed flat main roof would be uncharacteristic of the locality and therefore visually incongruous.

20. The appellant argued that there is no established local tradition in the design and palate of finishes. Whilst an eclectic mix of finished materials can be found within the surrounding area, there is a limited amount of cladding. However, the entire top storey of the proposal would be wrapped in metal cladding. Whilst providing

some contrast in the streetscape, the proposed cladding material would appear to be an attempt to make the top storey read as the roof. It would also read as top-heavy and thus appear as an over-dominant element of the design when viewed from Charlotte's Court. This cladding in combination with the proposed flat roof would be visually inharmonious given the surrounding context.

21. Paragraph 4.15 of the amplification text to the policy states that "too often properties have backed onto nearby roads or other public areas and created unsightly views" while paragraph 4.16 expands to say that "all buildings should be located and orientated to front onto existing and proposed roads to present an attractive outlook."

22. Whilst the north-eastern elevation would abut the common boundary of No. 8 Pantridge Lane and the side of the neighbouring apartment building and its parking area, there would be an open public view of the appeal proposal from both the footpath and the road that runs along the partial side of No. 8. Notwithstanding the open aspect from Pantridge Lane, the north-eastern elevation would read as a utilitarian rear service elevation which would be visually unacceptable in the street scene. For the reasons set out above, the design of the development would fail to draw upon the best local traditions of form, materials and detailing. Thus, the first and third reasons for refusal based on Policy QD1(a) and (g) of PPS7 are sustained.

23. I now turn to the Council's concerns that related to unacceptable adverse overlooking and subsequent loss of privacy at Site 3 Charlotte's Court and No. 8 Pantridge Lane. In addition, the residents of Nos. 6 and 8 Pantridge Lane raised concerns regarding overlooking into their properties. Third parties also considered that the appeal proposal would be over-dominant and overshadow their properties resulting in the loss of light.

24. Paragraph 4.13 of the justification section of the policy states that "particular care will be necessary in preparing layout proposals on sloping sites in order to minimise the impact of differences in level between adjoining properties, existing or proposed." Paragraph 4.38 expands to say that "the protection of the privacy of the occupants of residential properties is an important element of the quality of a residential environment. It is a particularly important consideration where new development is proposed adjacent to existing properties. Proposals should therefore seek to provide reasonable space between buildings in order to minimise overlooking."

25. Paragraph 7.17 of CP advises that for apartment proposals "where such development is proposed on green-field sites or in lower density areas, good practice indicates that a separation distance of around 30 metres should be observed or, alternatively, consideration given to a modified design. Where such development abuts the private garden areas of existing properties, a minimum distance of around 15 metres should be provided between the rear of the apartments and the common boundary. Greater flexibility will generally be appropriate in assessing the separation distance for apartments in inner urban locations or other higher density areas." Paragraph 7.21 emphasises that the

building spacing required for privacy will normally ensure a satisfactory level of daylight and an acceptable minimum amount of sunlight.

26. The separation distance from the common boundary with Site 3 Charlotte's Court would be approximately 13m. The window on the side elevation of the Charlotte's Court dwelling that would face towards the appeal proposal serves a non-habitable bathroom as per the approved drawing (LA05/2015/0345/F) and has obscured glazing. Given that this window is frosted, there would be no unacceptable overlooking from the appeal proposal into this non-habitable room. There is a single storey sunroom to the rear of this dwelling and a decked outdoor area. The first and second floor windows of the proposed apartment building that would face the rear garden of Site 3 would not serve main habitable rooms. In between both properties, a communal open space area and a hedgerow are proposed and a parking space is shown. Taking the above factors into account, I am satisfied that no unacceptable adverse overlooking into Site 3 would occur. Given the positioning of the sunroom in relation to the sun path and that the proposed apartment building would be of similar height to the building in Site 3, I consider that the appeal proposal would not result in any unacceptable adverse overshadowing, nor would it be over-dominant in relation to this property.

27. The proposed apartment building would be approximately 3m from the common boundary with Pantridge Lane. Whilst the appellant said that the proposed windows on the elevation facing Pantridge Lane would be confined to the central part of the apartment building and would only overlook the public road and the parking bays in front of the neighbouring apartment building, I judge that there would be unacceptable overlooking from the communal stairwell windows into the rear of No. 8 given the proposed height of the apartment building, its close proximity to the common boundary and the number and positioning of the communal stairwell windows in relation to this property. However, I am satisfied that the unacceptable overlooking can be satisfactorily mitigated by the imposition of a condition to secure obscure glazing.

28. The proposed apartment building would be west of the properties in Pantridge Lane. It would overshadow part of the rear garden of No. 8 and part of the downstairs open plan kitchen/living area in the late afternoon/evening resulting in some loss of light. However, given the general spacing arrangement and the orientation of the buildings relative to the sun's path, I do not consider that the appeal proposal would result in an unacceptable adverse loss of light to No. 8. Notwithstanding the limited distance from the common boundary and the height differential, only part of the proposed gable would be positioned behind the rear garden of No. 8. Given this and that an electricity sub-station would be situated in between, the proposal would not appear as over-dominant from No. 8. As No. 6 would be further away from the apartment building, I do not consider that the appeal proposal would have a negative impact on the amenity of the residents of that property. Thus, I conclude that there would be no unacceptable adverse overlooking, loss of light or subsequent loss of privacy or a feeling of over-dominance to neighbouring residents in Pantridge Lane or Charlotte's Court. The Council's second reason for refusal based on Policy QD1(h) is not sustained.

29. Other matters raised were that the appeal proposal would provide enclosed parking and a landscaped living environment. However, this is insufficient justification to overcome the stated objections to the proposal. Third parties were concerned that if the appeal were allowed, a precedent would be set for developing the adjacent lower fields in that future development could be built to the ridgeline height of the roadside dwellings. However, any upcoming proposals on neighbouring land would have to be considered on their own individual merits.

30. The appellant said that a pumping station would not be necessary as the sewage disposal system would exit the building at a level where it can connect via gravity to the existing sewerage system. As the objectors provided me with no persuasive evidence to the contrary, I have no good reason to query the evidence of the appellant on this matter. Objectors also raised concerns that the appeal proposal would potentially devalue neighbouring properties and that it would not respect biodiversity. Again, no persuasive evidence was presented to satisfy me that the proposal would result in either a devaluation of neighbouring properties or have an unacceptable adverse impact on biodiversity. Concern was also expressed that the appeal proposal does not take cognisance of the Hillsborough CA designation. However, the appeal site falls outside the CA so the specific concerns raised on this issue are not sustained.

31. As outlined above, the appeal proposal would accord in principle with the relevant plans for the area. However, this is outweighed by its failure to comply with regional policy. As the appeal proposal would not respect the surrounding context and would be inappropriate to the character and topography of the site, it would result in unacceptable damage to the local character of the area contrary to Policy QD1 of PPS7. I therefore conclude that the Council has sustained two of its reasons for refusal insofar as stated above and are determining in this appeal. Therefore, the appeal must fail.

This decision is based on the following drawings as numbered and date stamped refused by the Council on 20th October 2020: -

- Drawing 01: Site Location Plan (1:1250)
- Drawing 04B: Site Layout Plan (1:200)
- Drawing 05Rev2: Basement and Ground Floor Plans (1:100)
- Drawing 06: First & Second Floor Plans (1:100)
- Drawing 07B: Site Sections & Elevations (1:200)

COMMISSIONER B STEVENSON

List of Appearances

Council: -	Ms B Ferguson Ms R Taylor (observing) Lisburn and Castlereagh City Council, Planning Department
Appellant: -	Mr T Wilson Tom Wilson Planning
Third Parties: -	Mrs R Barr Mr R N Roulston Ms P Ewart Mr J Andrews

List of Documents

Planning Authority: -	"A" Written Statement of Case Lisburn and Castlereagh City Council
Appellant: -	"B" Written Statement of Case Tom Wilson Planning
Third Parties: -	"C" Written Statement of Case Mr & Mrs Neville
	"D" Written Statement of Case Dr & Mrs Barr
	"E" Written Statement of Case Mr R N Roulston
	"F" Written Statement of Case Ms P Ewart
	"G" Written Statement of Case Mr J Andrews