Planning Appeals Commission

Appeal Decision

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Appeal Reference:	2019/A0085.
Appeal by:	Mr Joe Briers.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Demolition of existing mill building, annexes, stores, garages & erection of 1 detached, 8 semi-detached dwellings and 14 apartments & associated siteworks.
Location:	39 Upper Dunmurry Lane, Dunmurry.
Planning Authority:	Belfast City Council.
Application Reference:	S/2010/0436/F.
Procedure:	Written representations and accompanied site visit on 17 December 2019.
Decision by:	Commissioner Mark Watson, dated 31 July 2020.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether or not the proposed development would:
   - be acceptable in principle;
   - maintain or enhance the overall character and appearance of a draft Area of Townscape Character (ATC), including whether or not the existing buildings make a material contribution to the character and appearance of that draft ATC and should be retained;
   - respect the character of the surrounding area;
   - provide sufficient private amenity space;
   - include sufficient information in order to properly assess the development in terms of site levels and any arising design consequences;
   - provide an adequate standard of parking;
   - adversely impact on neighbouring residential amenity;
   - prejudice road safety, including that of pedestrians, as well as increase traffic congestion and air pollution;
   - pose a danger to human health by way of contamination on the site; and
   - adversely impact on the existing sewage and drainage infrastructure capacity, as well as other unspecified local amenities.

Policy Context

3. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) to be unlawful on 18 May 2017 and consequently BMAP must be

disregarded. The Lisburn Area Plan 2001 (LAP), despite its vintage, now operates as the LDP for the area the site lies in. In it the site lies within the development limit and is not zoned for any purpose. There are no policies or proposals within the LAP material to the appeal development.

4. A further consequence of the aforementioned Court of Appeal judgement is that the draft BMAP, published in 2004, is a material consideration in the determination of this appeal. In draft BMAP (dBMAP) the appeal site lies within the settlement development limit for Metropolitan Lisburn and is not zoned for any purpose. The southern half of the site, including all the buildings, lies within the proposed Dunmurry ATC (ML22). The text for the draft ATC identifies multiple key features of the ATC. Although none specifically include the appeal site, a key feature is the two storey brick terrace of workers' houses winding up the hill from its parent mill.

5. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) and those of both Planning Policy Statement 7 – Quality Residential Environments (PPS7) and Planning Policy Statement 3 – Access, Movement and Parking (PPS3). I will address the matter of the applicability of the Addendum to Planning Policy Statement 6 – Areas of Townscape Character (APPS6) and the related provisions of the SPPS later on. Whilst several of the reasons for refusal related to SPPS core planning principles, they are not operational policy in themselves and in any event the concerns raised fall under the various aforementioned planning policy documents. Guidance contained in Creating Places – achieving quality in residential developments (CP) is also of relevance to the appeal proposal.

The appeal site

6. The appeal site comprises a portion of land situated on the northern side of Upper Dunmurry Lane, with four buildings on it, known locally as Stewart's Mill. Buildings 1 and 2 (as per annotation on the Appellant's submitted Site Location Map) adjoin one another. Building 1, which was the main mill building, is a red brick built three storey structure, with a hipped-end, slated roof. The street-facing windows have largely been covered by with vented panels, whilst the top floor windows have been stopped up using concrete blocks. Building 2 is a smaller two storey building which lies adjacent and east of Building 1. It too has a hipped-end slate roof. Its brickwork has been painted over in white, with the street-facing windows covered with metal protective grills. Buildings 1 and 2 occupy a roadside position at the southern end of the site. Building 3, which was originally a print works, is a long rectangular two storey brick built building which sits at a right angle to the road. The ground floor areas of each of the buildings are presently used by a number of individual vehicle repair or bodywork businesses. The upper floors of Buildings 1, 2 and 3 are largely vacant with some historic limited storage use. Building 4, a smaller single storey building finished in brickwork, lies to the north of Building 1 further within the site.

7. The existing site access is located in the gap between Buildings 2 and 3, affording extremely limited visibility for exiting vehicles as those buildings block the sight lines. There are yard areas in the northern half of the site. These areas are largely used for the storage of old vehicles and auto parts. The appeal site lies opposite and north of a terrace of two storey dwellings. A terrace of older two storey brick dwellings lies adjacent and west of the site frontage facing onto Upper

Dunmurry Lane. A recently built office building lies adjacent and east of the site. The site lies within a largely residential area with some elements of commercial use.

The proposed development

8. The appeal proposal seeks to demolish the existing buildings on the site and erect an apartment block comprising 14 units over four levels, as well as 9 two-and-a-half storey dwellings, of which 8 are semi-detached and 1 is detached. The apartment block is to be finished in rustic red brick with areas of painted render and cedar panelling. The top floor is to be comprised of a metal clad attic style structure. The dwellings are to be finished in rustic red brick with slate roof, though there is some difference between two of the submitted drawings for the detached dwelling, as one refers to use of reclaimed brick from the workshop building, whilst the other does not. Basement parking is proposed for the apartment block, whilst in-curtilage spaces are proposed for the dwellings. Landscaping and two areas of public open are also proposed.

The principle of redevelopment, including the matters of demolition of the existing buildings and their material contribution to the draft ATC

9. Section 23(2) (a) of the Planning Act (NI) 2011 sets out that demolition is a building operation, which is a form of development as understood within the Planning Act. Section 24(1) requires that planning permission is required for the carrying out of any development of land.

10. Part 33 of the General Permitted Development (NI) Order 2015 (GPDO) entitled Demolition of Buildings, paragraph A.1 states that development is not permitted by Class A if the building is in an area of townscape character or an area of village character except in certain listed circumstances. Paragraph A. 2 states that for the purposes of Part 33 “area of townscape character” means an area designated as such in a departmental development plan or in a local development plan prepared under Part 2 of the 2011 Act or a draft of such a plan. Thus this legislation acknowledges there is a difference between a designated and draft ATC, though the aforementioned GPDO provisions nevertheless apply to both.

11. The Council’s first and second reasons for refusal were respectively based on Policies ATC1 and ATC2 of the APPS6. Policy ATC1 pertains to demolition control within ATCs, stating that there will be a presumption in favour of retaining any building which makes a positive contribution to the character of an ATC. It goes on to state that demolition of an unlisted building in an ATC will normally only be permitted where the building makes no material contribution to the distinctive character of the area. Policy ATC2 of APPS6 pertains to new development within ATCs, stating that development proposals will only be permitted within an ATC where the development maintains or enhances its overall character and respects the built form of the area. As the appeal development entailed both demolition and new buildings the Council considered that both policies applied.

12. Paragraph 4.26 of the SPPS states that design is an important material consideration in the assessment of all proposals and good design should be the aim of all those involved in the planning process and must be encouraged across the region. It goes on to state that particular weight should be given to the impact of development on existing buildings, especially listed buildings, monuments in state care and scheduled monuments, and on the character of areas recognised

for their landscape or townscape value, including ATCs. Paragraph 6.21 of the SPPS states that in managing development within ATCs designated through the LDP process the council should only permit new development where this will maintain or enhance the overall character of the area and respect its built form. Paragraph 6.22 goes on to state that the demolition of an unlisted building in an ATC should only be permitted where the building makes no material contribution to the distinctive character of the area and subject to appropriate arrangements for the redevelopment of the site. There is no conflict or change in policy direction between the provisions of the SPPS and those in APPS6.

13. Notwithstanding this, both the policies within APPS6 and the related provisions of the SPPS refer to ATCs. No reference is made to draft ATCs, which do not have the same status or legal standing as a designated ATC. I am therefore not persuaded that Policies ATC1 and ATC2 of APPS6 and the aforementioned provisions of the SPPS are applicable to the consideration of the appeal development.

14. According to the submitted evidence five objections to the proposed Dunmurry ATC designation were submitted and considered under the dBMAP public inquiry process. The Commission recommended no change to the plan in respect of these objections. It is therefore likely, if and when BMAP is lawfully adopted, a Dunmurry ATC designation will be included. Furthermore, the evidence stated that the Commission also considered that Policy UE3, pertaining to control of development in ATCs, be deleted and that a more detailed analysis of the character of the area be undertaken in the form of a design guide. The Council accepted that it cannot be assumed that the key features of the Dunmurry ATC would be included within any lawfully adopted BMAP.

15. The Council considered that despite their unlisted status and existing physical condition, Buildings 1, 2 and 3 materially contributed to the distinctive character of the draft ATC. The Objectors referred to the buildings on the site, without excluding Building 4, as the Council had specified. As it is not known how any lawfully adopted BMAP will describe the overall character of the area to be designated, it is not possible to assess the impact of the appeal development on that character. However, regardless of the lack of a policy context, the impact of the appeal development on the overall character of the proposed ATC remains a material consideration and can be objectively assessed. The Council and Objectors cited the buildings' architectural character, siting and their framing a key view into the draft ATC, all as factors materially contributing to the character of the draft designation. They also considered that the buildings contributed to the sense of place given their original purpose linked to the expansion of Dunmurry in the 19th century. The Council considered that the buildings were capable of repair and that insufficient exploration of alternative uses for the building had been undertaken. These matters are assessed below.

Structural condition

16. The structural condition of the buildings is a point of contention between the Appellant and Council. Over the course of the planning application three structural reports have been submitted; two from the Council and one from the Appellant. The Appellant's report, dated 26 May 2016 concluded that Building 1, if it was proposed for conversion to residential use, would not be permitted under Building Regulations given the excessive deflection of the flooring beams, as well as issues

with the brick arches. It noted deterioration of the exterior brickwork, timber rot and removal of cast iron columns that supported the first floor. It identified that unsympathetic repairs had contributed to its overall decline both physically and in terms of its historic character. Building 2 was considered to be in an unsafe condition with evidence of long term damp penetration and associated wet rot of the roof timbers and first floor timbers. There were also severe signs of dry rot in the first floor timbers. Building 3 was assessed as having damp penetration issues, with wet and dry rot in the floor timbers and window surrounds. Significant dry rot was identified in the suspended timber section of the ground floor. Signs of settlement were also evident given the ground floor was noticeably off-level. The overall conclusion was that the three buildings were in poor states of condition and unsuitable for renovation.

17. The Council's first report, dated 12 December 2016, identified the masonry of Building 1 at second floor level to be in generally poor condition and also pointed to the floor beams being unable to satisfy regulations for loading. Some of the cast iron columns supporting the first floor and one supporting the second floor had been removed. Building 2 was assessed as having a weakened first floor and high levels of dampness in the walls at ground floor level. Building 3 had damp in most of its walls and determined the eastern elevation to be unsafe arising from very little remaining bond between the clay bricks. The report pointed to unsympathetic repairs over the years resulting in moisture penetration, leading to weakened spalling masonry and rot of floor and roof timbers. The report opined that these unsympathetic and insufficient repairs to the buildings have both seriously weakened their structural fabric, as well as destroying their historic appeal. It also pointed out that notwithstanding the wet and dry rot issues, the floor beams under domestic loading would not satisfy the requirements of Timber Code BS5268 Pt. 2. The overall conclusion was that all three buildings had lost their weather-tightness and become irreparable, with their remediation judged unfeasible.

18. The second Council commissioned report, dated 9 October 2019, concluded that each of the three buildings retained structural robustness and could be capable of repair and reuse, with any defects easily remedied. It pointed to the fact that despite the loss of support columns on the ground floor, Building 1 had remained intact. It also disagreed with the assertions of both previous reports pertaining to domestic floor loading calculations. The second Council report also considered that insufficient evidence had been submitted to justify the demolition of the buildings.

19. Clearly there is a degree of subjective assessment both in terms of the structural integrity of the buildings as well as what would and would not be feasible in terms of remediation and reuse of the buildings. Notwithstanding this, the overall conclusions of the Appellant's report and the first Council report were broadly similar; that the buildings were incapable of renovation and reuse. I note that the Council's second report was undertaken by a conservation engineer, thus it is somewhat unsurprising that there is a greater emphasis on the retention of the buildings. The assessment therein was also based on a visual inspection of the buildings externally. No internal assessment appears to have taken place, unlike with the previous two assessments.

20. During the site visit I, along with the parties present, was afforded full access to the interiors of Buildings 1, 2 and 3. I noted significant deterioration of portions of brickwork, both inside and out, areas of rotting timbers and damp penetration, as well as numerous unsympathetic and makeshift repairs to external surfaces. The Appellant pointed out to me areas where he had undertaken such repairs over the years. There were also weeds growing in parts of the walls. From my overall observations I am minded to place greater weight on the conclusions of the first two reports than those contained in the more recent Council commissioned report. From the totality of the available evidence I agree that the three buildings are not structurally sound and in the unlikely event that they could be repaired to a safe standard, notwithstanding the actual costs of doing so, it is likely that it would require such a high degree of intervention that it would undermine what little remaining intrinsic value they might have. Whilst Building 4 was not assessed as part of the submitted reports, I was able to make my own assessment of it. In my judgement it is in a broadly similar physical condition to the other buildings and would present similar challenges in terms of repair and repurposing for other uses.

21. Objectors pointed to the present uses of the existing buildings contradicting the Appellant's position that they are unsafe. I am not persuaded of this reasoning given the use of the buildings is almost completely limited to ground floor level and the vehicle repair activities being carried out therein require only a basic standard of shelter and a power supply to function. From my own observations the conditions within the areas of the buildings in use are utilitarian at best. The Appellant himself stated that he had to find some use for the buildings as a return on his investment whilst pursuing planning permission for housing; a feasible enough rationale.

22. Whilst the Council stated that there had been insufficient exploration of alternative uses for the buildings and a lack of market testing for such alternatives, these are not policy tests. What is before me is a proposal for demolition of the existing buildings and a new residential use sought for the site. Nor is the fact that enabling development has not been explored a fatal factor against the appeal development. It is a subjective and contested matter as to whether the existing buildings would even constitute a significant place that would merit enabling development in the first instance. The Council's reference to ongoing pre-application discussion pertaining to a potential scheme involving retention of the façade of Building 1 is not in itself an indicator of the entire building being capable of retention. Nor does it take account of the challenges of providing a safe and satisfactory access with visibility splays in the event of that building being retained. Objectors considered that to allow demolition of the buildings would set a dangerous precedent, however, each application must be considered on its own merits and evidential context.

Contribution of the buildings to the draft ATC

23. Whilst factually it is the case that Buildings 1, 2 and 3 partially frame the view into the draft ATC from the west given their size and roadside positions, it is the terrace of brick workers' houses adjacent to the west on higher land that forms the actual feature framing this view and approach into the ATC, as well as contributing materially to the character of the draft designation. This terrace is acknowledged as a key feature for the draft designation, which specifically refers to the '*two storey brick terrace of workers' houses, winding up the hill from its parent mill, facing the stone railway bridge*'. Despite the assertions from the Council and a

number of Objectors, there is nothing to suggest to the passer-by that the buildings on the appeal site, by their roadside position, physical presence, or overall layout, are themselves significant or contribute to the sense of place in Dunmurry through their contribution to its historic expansion. Despite their roadside position and age, the physical degradation over the years coupled with unsympathetic modifications and repairs have resulted in the buildings presenting as largely unattractive and unkempt, possessing little of the merit, architecturally or culturally, they may once have had. I am not persuaded that the buildings make a positive contribution to the character of the area that would merit their retention. For these reasons I conclude that Buildings 1, 2 and 3 do not make a material contribution to the distinctive character of the draft Dunmurry ATC. I conclude similarly in respect to Building 4 as a consequence of its design, location and overall condition. This element of the Council's first and second reasons for refusal and the related concerns of the Objectors are not sustained. However, notwithstanding this, I must still assess the effect of the proposed new development upon the surrounding area, including the draft ATC, a matter raised by both the Council and Objectors.

The proposed design and layout, including its potential impact on the draft ATC

24. Policy QD1 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. The policy goes on to state that in Conservation Areas and Areas of Townscape Character housing proposals will be required to maintain or enhance their distinctive character and appearance. Again, as the policy refers to ATCs but no reference is made to drafts ATCs, I am not persuaded that this element of Policy QD1 is applicable to the appeal development.

25. 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) is that the design of the development draws upon the best local traditions of form, materials and detailing.

26. The proposed apartment block, which would occupy a position similar to that of Building 1, is intended as a focal point for the new development as a whole. However, despite the use of red facing brick with soldier courses above and below the windows, it appears to be a fairly generic modern apartment design which bears little relation to its surrounding context. The modern style attic level on the top floor would be more suited to a dense inner city location both in terms of design and finish, reading as a very alien feature in the local context. Whilst the design of the actual dwellings within the site is not in itself objectionable, the largely semi-detached layout and disposition of the dwellings would be at odds with the terraced and street-fronting, finely grained character of the surrounding area.

27. The overall layout is suburban in nature and one largely dictated by the internal road layout and parking requirements. This bestows the layout with an engineered and overly dominant hard-surfaced ambience, which, even with the proposed open space areas, would present as appearing over-developed in terms of hard surfacing. CP recommends a minimum of around 10m between the rear of new houses and the common boundary. The proposed dwellings in the northern most

part of the site would lie between approximately 6 – 9m from their rear to the common boundary. The resultant rear garden areas are configured in a manner which gives them a cramped and awkward appearance. I note from the Site Layout Plan that a 2m high decorative brick wall is proposed along the rear of those properties, which would reinforce this cramped effect. The proposed area of open space along the site frontage would create a sizeable gap along the street frontage, at variance with the general established character of the area, which is one of built development fronting onto Upper Dunmurry Lane.

28. It was the Appellant's case that the proposed layout was a response to several factors; the constraints of the site, including its shape and topography, avoiding any adverse impact on neighbouring residential amenity, provision of a safe access, as well as also responding to an approved but unimplemented permission for housing (ref. S/2008/0571/F) on adjacent land to the north and north-west. That permission has since lapsed and that approved layout, including the three storey apartment development component, nor the factors outlined above, do not justify the proposed appeal development, the layout of which, when taken as a whole, does not respect its surrounding context. The Appellant's supporting information, including the Planning Statement submitted during application stage, would not persuade me otherwise. Whilst there may well be other design solutions that could meet these site constraints whilst also respecting the surrounding context to a policy compliant standard, I nevertheless agree that the appeal development taken as a whole fails to meet criteria (a) and (g) of Policy QD1 of PPS7, as well as the related provisions of the SPPS. The Council's third and sixth reasons for refusal and the related concerns of the Objectors are sustained.

29. Even though the appeal development would replace existing buildings that are in a poor physical and visual condition, for the same reasoning as given above, the appeal development would fail to respect the built form of the area. It would not in its proposed form maintain or enhance the overall character of the draft ATC given its variance with the character of the area and resultant harm to that character. Thus any stated planning gain derived from the removal of the existing buildings and areas of vehicle storage within the site, as was suggested by the Appellant, would be outweighed by the design and layout issues arising from the proposed development. The Council's first and second reasons for refusal and the related concerns of the Objectors are to this extent sustained.

Private amenity space provision

30. Criterion (c) of Policy QD1 states that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Whilst the appeal development entails a sufficient level of public open space, the Council pointed to a number of the proposed dwellings lacking adequate private amenity space. The normal expectation in CP would be 70 sq. m for family sized dwellings. A number of the rear, private amenity spaces for dwellings range between approximately 50 and 60 sq. m, with only three of the 9 dwellings having private amenity space provision of approximately 70 sq. m or more. However, notwithstanding this, the qualitative value of several of these rear garden areas is questionable as they are awkwardly shaped or constrained by the line of the appeal site boundary, resulting in a space that would be of limited use for a family sized dwelling.

31. Whilst the suggested figures in CP are guidance and I accept that the assessment of the 'feel good factor' pertaining to amenity space, entails a subjective element, given these dwellings are intended as family homes, I agree that there is an overall shortfall of private amenity space, in quantitative, but more critically, in qualitative terms. The unusual configuration of the rear garden spaces of several dwellings would appear cramped, with this effect further reinforced by the 2m wall along the rear boundary line. Even if the proposed development has been designed to offer a range of housing choice in terms of the mix of buildings and variety of rear garden sizes, the appeal development taken as a whole does not satisfy criterion (c) of Policy QD1 of PPS7. The Council's fourth reason for refusal is sustained.

Information pertaining to site levels and potential need for retaining structures

32. The appeal site occupies a sloping landform, with areas adjacent to the south-western portion of the site boundary being below road level. There is a difference of approximately 4m in height across parts of the appeal site. Site levels have been provided with the submitted plans and I note the indicative lines denoting the locations for 2m decorative brick walls to the rear garden areas and 2m high decorative rendered walls elsewhere within the site. However, notwithstanding this, there is insufficient information to properly assess whether any actual retaining structures would be required in order to fully implement the proposed development, as well as their effect on the residential environment proposed through the appeal proposal. The appeal development seeks full planning permission and given the topography of the site and surrounding landform, such details would be necessary at this stage in order to assess their effect on the quality of the proposed residential environment, even if no retaining structures were required.

33. Whilst the Appellant pointed to supporting drawings submitted during the course of the application, including one showing how the development related to the adjacent approved housing application which contained a sectional view, I am not persuaded that this would be sufficient as their focus was more upon the relationship with the adjoining approved development, rather than allowing for assessment of the overall quality of the residential environment within the site. The lack of adequate information on these matters does not satisfy the general policy thrust of Policy QD1 of PPS7 for achieving a quality and sustainable residential environment. I therefore find the Council's fifth reason for refusal well founded and accordingly sustained.

Residential amenity matters

34. Criterion (h) of Policy QD1 of PPS7 states 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. Although the Council had no issue in respect of this criterion, Objectors raised several concerns under this matter.

35. Objectors considered that the appeal development would bring about a general loss of privacy. Whilst the appeal development would introduce a new residential element, along with resultant associated traffic movements, this must be viewed within the context of an existing urban area with the locality largely characterised by residential use. The current uses on the site also generate a fair degree of traffic through both customer visits and the delivery of parts. I am not persuaded

that the granting of permission would bring about any difference in noise and general activity from residential use that would unacceptably adversely affect the residential amenity, including the general privacy of, existing residents. Whilst the apartment development would be located close to the Upper Dunmurry Lane roadway, its setback through provision of a new footpath and the setting back of the uppermost attic floor level are such that, when taken with the position of the existing dwellings opposite and the separation afforded by the road itself, no unacceptable overlooking would occur on what is already the public facing aspect of the existing dwellings opposite the site. Whilst one Objector considered that views from their new extension would be obscured, given the separation distances involved and variances in site levels I am not persuaded this would warrant rejection of the appeal development.

36. As the site lies to the north of the dwellings opposite, the appeal development would not give rise to any overshadowing given the course of the sun throughout the day. In respect of the terrace of dwellings to the west of the site, the separation distance and difference in site levels between the proposed apartment block and the existing terrace is such that I am not persuaded that those properties would be adversely affected by overshadowing.

37. I find that the appeal development would comply with criterion (h) of Policy QD1 of PPS7. The Objectors' various concerns pertaining to residential amenity matters are not sustained.

Parking provision and internal road issues

38. Policy AMP7 of PPS3 states that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. Criterion (f) of Policy QD1 of PPS7 requires that adequate and appropriate provision is made for parking. The Council and Department for Infrastructure Roads (DFI) considered that the development did not meet these requirements as a number of the parking spaces were substandard in size or inappropriately located. Reference was made to the guidance in CP pertaining to the size of in-curtilage parking spaces, with a minimum length of 6m from the back edge of the footway or near edge of a shared surface carriageway. CP also gives a minimum width of 3.2m for such spaces. The Appellant's representative referred to CP repeatedly using the term 'adequate' for provision for manoeuvring space and turning and I agree that this term clearly involves an element of subjective assessment.

39. DFI Roads identified that 10 of the proposed spaces were not acceptable given their location, restricted width and impracticalities associated with their use. Several of the spaces were identified as being less than this minimum length, which I agree would lead to difficulties with parking and ease of manoeuvring. The location of several spaces at the end of a private drive accessed from the turning head would lead to a need for drivers to reverse from the spaces until reaching that turning head. Whilst the private shared driveway may exceed the normal width requirements of CP I still consider that it is likely many vehicles would need to reverse back onto the road within the proposed development from the shared private driveway. Notwithstanding the inconvenience of such manoeuvres, they are also more likely to give rise to conflict with pedestrians within the development, as well as other vehicles using the private driveway, than were the vehicles to exit in forward gear. Two of the spaces within the apartment development are

approximately 4.8m, making parking manoeuvres difficult at best, despite their enhanced width of 3m each. The two visitor spaces situated within 15m of the junction with Upper Dunmurry Lane is, I am told, in contravention of Rule 240 of the NI Highway Code. Although not planning policy, the Highway Code provides rules on road safety and explicitly prohibits vehicle parking within 15m of a junction.

40. The Appellant's supporting information suggests that amendments could be made to provide a roadside lay-by instead of the spaces within 15m of the junction with Upper Dunmurry Lane. However as this is a full planning application I must assess the development on the basis of what is now before me. Despite the relative proximity to public transport facilities, it is still likely that many occupants of the appeal development would possess a car and use it frequently, particularly if their work required travel to a location not readily accessible through the local public transport network. Notwithstanding debates about the practicality of some of the proposed spaces and driveway widths, which in terms of their efficacy for manoeuvring, I agree that taken as a whole, the standard of proposed parking would not be adequate to ensure safe manoeuvring within parts of the development. The appeal development does not satisfy Policy AMP7 of PPS3 or criterion (f) of Policy QD1 of PPS7. The Council's seventh reason for refusal is sustained to this extent.

Traffic matters, including pedestrian safety and potential resultant air pollution

41. Objectors considered that the traffic arising from the appeal development would prejudice the safety of other motorists and pedestrians. Concerns were also raised in respect of congestion and fears of additional parking on street. The Appellant submitted a Transport Assessment, Traffic Statement and the application was also accompanied by a Travel Plan. I note that DFI Roads raised no objections in terms of the access itself or potential impacts on the functioning of the wider road network. Notwithstanding my earlier conclusions relating to parking standards, I am not persuaded that the traffic movements arising from the granting of planning permission would prejudice road safety or substantially inconvenience the flow of traffic on the public road network, even taking account of the existing levels of traffic in the vicinity. Nor have I any evidence to suggest that the appeal development would give rise to increased use of the existing limited on-street parking in the surrounding residential streets.

42. In terms of pedestrian safety, the appeal development would include provision of a new length of public footpath along the southern site boundary, providing a link between the two existing sections of footpath on the northern side of Upper Dunmurry Lane that flank both sides of the appeal site. Whilst I do not find that this benefit would outweigh the various sustained objections to the appeal development outlined elsewhere in this decision, I accept that the safety of pedestrians using Upper Dunmurry Lane would be enhanced by the proposed development.

43. Whilst a new residential development would inevitably attract new vehicle movements, which in themselves generate a certain amount of pollutants, the site occupies a largely built up urban area with an existing high level of traffic, including the comings and goings of vehicles to the various businesses currently operating from the appeal site. I have no evidence to suggest that the traffic associated with the appeal development would result in any appreciable impacts to air quality

through pollutants. These matters raised by Objectors would not warrant the withholding of planning permission.

Land contamination

44. Objectors stated that the previous historical use of the site had resulted in land contamination, thus they questioned its suitability for residential use. Over the course of the application the Appellant submitted a preliminary risk assessment followed by a further scoping document for a contaminated land risk assessment. Subsequent to that, a land contamination generic risk assessment (GRA) was submitted. The key findings of the GRA were that a number of contaminants including heavy metals were in excess of applicable criteria, as well as lead and asbestos. Such results would not be particularly unexpected given the previous industrial use of the site as a mill and printers. Potential for low level ground gas was also identified at an area within the site, that prior to historic infilling, had been the mill pond. Groundwater sampling taken on the site determined that it was not of significantly reduced quality and would not pose a significant risk to controlled water or human health receptors.

45. The most recently submitted document was a detailed remedial strategy (DRS), entailing three main elements of remediation works. Provision of a clean cover system in garden areas and soft landscaping areas would act as a barrier and effectively break the pollutant linkage between reduced quality soils and future site users. The areas with roads, pathways, driveways and buildings themselves would act as a barrier in the other parts of the appeal site. Provision of gas protection measures appropriate to the identified gas regime classification of CS2/Amber 2 would ensure no issues arising from low level gasses on site. Removal of any remaining underground and above ground storage tanks would be carried out in accordance with the Department of Agriculture, Environment and Rural Affairs - Northern Ireland Environment Agency (NIEA) guidelines.

46. These measures could be validated and I note that the Council's Environmental Health Department and NIEA Waste Management Unit raised no objections to the proposed remediation strategy. The conclusions of the submitted evidence is persuasive that, subject to the proposed management regime and measures for removal of certain contaminants from the site contained within the DRS, no harm to human health or environmental receptors would occur. These measures, along with requirements for submission of a verification report, could be secured by planning condition, in the event of planning permission being granted. The matter of land contamination within the appeal site would not warrant the withholding of planning permission.

Sewage capacity, drainage and other local amenities

47. Objectors considered that there was insufficient capacity in the sewage infrastructure to accommodate the appeal development. The consultation response from NI Water indicated no sewage capacity issue. The conclusions of the Appellant's amended Drainage Assessment were not disputed and DFI Rivers Agency raised no objections in respect of drainage matters and surface water from the appeal development. Notwithstanding the Objectors' position, there is no evidence to suggest that the existing sewage infrastructure or local drainage system would be unable to accommodate the appeal development. Nor have I been presented with any evidence that the granting of planning permission would lead to a 'breaking point' of other unspecified local amenities. Whilst reference

was made to other developments, I do not have the information pertaining to those and in any event they are not before me. These matters would not warrant the rejection of the appeal development.

48. *Other Objectors' matters*
Whilst various Objectors referred to the limited nature of the neighbourhood notification process, from the information before me notification was carried out correctly. The assertion that the Council refused to meet with a spokesperson for Objectors regarding the planning application is not a matter for this appeal.

Conclusions

49. For the reasons given above I judge that the existing buildings on the appeal site do not materially contribute to the character of the proposed Dunmurry ATC or that they merit retention on that basis. However, whilst I have found the principle of redevelopment of the site to be acceptable, the overall design and layout of the appeal development fails to meet prevailing policy in terms of the adverse impact it would have on the character of the area, including the draft ATC. The appeal development would also fail to provide adequate private open space for all the proposed dwellings, as well as lacking requisite information pertaining to site levels and the potential implications for the site layout. Nor is the standard of parking to be provided wholly acceptable in terms of providing adequate manoeuvring within the proposed development. The stated benefits of a new public footpath on the northern side of Upper Dunmurry Lane and improved visibility for vehicles exiting the site, as well as increased visibility along part of Upper Dunmurry Lane itself, would not outweigh these matters and justify the granting of permission. Whilst a number of the Council's reasons for refusal and Objector's concerns have not been sustained, the Council's other reasons for refusal and the related concerns of the Objectors have been sustained to the extent specified above and are determining. The appeal must fail.

This decision is based on the following drawings submitted with the application:-

DRAWING NUMBER	**TITLE**	**SCALE**	**DATE**
01	Site Location Plan	1:1250	Jan. 2010
02C	Proposed Site Layout Plan	1:250	Nov. 2016
03A	Semi-detached dwelling Type C (elevations & floor plan)	1:100	Mar. 2015
04	Proposed Mill Floor Plans	1:200	Sept. 2016
05	Proposed Mill Elevations	1:200	Sept. 2016
06	Illustrative Streetscape along Dunmurry Lane	NTS	Sept. 2016
07	Detached Dwelling Front & Rear Elevations	1:100	Jan. 2010
08	Detached Dwelling Side Elevations	1:100	Jan. 2010
09	Detached Dwelling Ground, First & Second Floor Plans	1:100	Jan. 2010

COMMISSIONER MARK WATSON

List of Appearances

Planning Authority:-	Ms KA O'Kane (BCC) Mrs E Hanratty (BCC) Mr G Beckett (DFI Roads)
Appellant:-	Mr T McCoey (Agent) Mr J Briers (Appellant) Mr J Davison Mr J Cowan (JPC Consulting)

List of Documents

Planning Authority:-	'A' Statement of Case & Appendices (BCC) 'B' Rebuttal Statement (BCC)
Appellant:-	'C' Statement of Case & Appendices (T McCoey) 'D' Rebuttal Statement & Appendix (T McCoey)