Planning Appeals Commission

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Appeal Decision

Appeal Reference:	2024/A0052
Appeal by:	Mr Colin Fletcher
Appeal against:	The refusal of full planning permission
Proposed Development:	Demolition of existing buildings on site and erection of 12 no. apartments including associated and ancillary works
Location:	28 The Square, Ballyclare
Planning Authority:	Antrim and Newtownabbey Borough Council
Application Reference:	LA03/2023/0277/F
Procedure:	Written representations and Commissioner's site visit on 19th September 2025
Decision by:	Commissioner Laura Roddy, dated 15th October 2025

Decision

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

Preliminary Matters

2. The Council, in their rebuttal evidence, expressed dissatisfaction with the size and presentation of the appellant's evidence, stating that it could not readily identify what the main points being made by the appellant were, and that they were therefore at a disadvantage. The appellant's Statement of Case (SoC), including all appendices, amounted to some 75 pages. The SoC, minus appendices, included only ten pages of text and this also contained a short summary. The appendices included documents already submitted to the Council during the course of the planning application including a copy of the Transport Assessment Form, two letters from the appellant to the Council and a copy of the Council's report on the application to the planning committee. All of the appendices were already before the Council. Given this, and as the appellant's main argument is found in less than ten pages, I disagree with the Council that they were at a disadvantage.

Reasons

3. The main issue in this appeal is whether the appeal development would provide sufficient parking.

4. Section 45(1) of the Planning Act (NI) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. Section 6(4) of the Act states that where regard is to be had to the LDP, the determination must

be made in accordance with the plan unless material considerations indicate otherwise.

5. The Antrim and Newtownabbey Local Development Plan 2030 Plan Strategy (PS) was adopted on 3rd July 2025 and parties were provided an opportunity to comment on the new policy context. In accordance with the transitional arrangements as set out in the Schedule to the Planning (Local Development Plan) Regulations (NI) 2015 (as amended), the Local Development Plan (LDP) is now a combination of the Departmental Development Plan (DDP) and PS read together. In accordance with the subject legislation, any conflict between a policy contained in the DDP and those of the PS must be resolved in favour of the PS. In this appeal there is no DDP as the Department did not prepare and adopt any development plans under the Planning (Northern Ireland) 1991 Order, and the LDP therefore comprises the PS only.

6. The appeal site is located within an area covered by the Newtownabbey Area Plan 2005 (NAP), published in March 1993. Whilst NAP was never formally adopted, the appeal site was shown within the 'limit of development' and 'proposed town centre boundary' for Ballyclare. The plan notes that Ballyclare is the main centre for housing, shopping and commerce. Policy TNC1 states that future retail and office growth will be directed towards Ballyclare town centre. Policies TCN2 to TCN5 focus on easing traffic congestion, reviewing public parking facilities in the town centre and dealing with traffic management measures to improve town centre circulation.

7. The draft Belfast Metropolitan Area Plan (dMAP) effectively replaced the NAP in 2004. In May 2017, the Court of Appeal declared the adoption of the 2014 draft Belfast Metropolitan Area Plan (dBMAP) unlawful. Nevertheless, the dBMAP 2004 remains a material consideration in certain circumstances. Within this, the appeal site is also located within the proposed 'settlement development limit' and 'town centre' for Ballyclare. There are no other designations or policies within the draft plan which are pertinent to the appeal proposal.

8. In accordance with paragraph 1.9 of the Strategic Planning Policy Statement (SPPS), as the Council have now adopted the PS the previously retained policies set out in the suite of regional Planning Policy Statements (PPSs) have now ceased to have effect within this Council area. As the policies set out in the PS are now in effect it therefore falls to the Commission to assess the appeal in the context of the LDP, in accordance with the above legislative provisions and the reason for refusal as provided by the Council.

9. The Council consider that the appeal development is contrary to Policy SP 3.10 'Access and Parking', Policy DM 10 'Access and Parking' and criterion (j) of Policy DM 25 'Urban Design' of the PS in that there is inadequate and inappropriate parking provision for the proposed development. Policy SP 3.10 states that the Council will seek to ensure that all new development provides safe access arrangements that will not significantly inhibit the free flow of traffic and that sufficient car and cycle parking is provided. Policy DM 25 relates to urban design and states that the Council will require development within settlements to demonstrate a clear understanding of the characteristics of the site, its wider context and how the proposal will connect with the surrounding area. All development will be expected to deliver high quality design in its layout and appearance and demonstrate that it has considered the criteria specified within the policy. The Council consider the proposal fails to comply

with criterion (j) which requires proposals to incorporate adequate and appropriate provision for parking and the storage and disposal of waste. No concerns have been raised in respect of waste.

10. Policy DM10.1 states that the Council will support development proposals where it is demonstrated that: (a) there is the capacity on the road network to accommodate the type and amount of traffic likely to be generated, or where any adverse impact can be suitably mitigated, taking into account the cumulative impacts of development; (b) access arrangements do not prejudice road safety or significantly inconvenience the flow of people or goods; and (c) adequate provision is made for car and cycle parking and any necessary servicing arrangements. DM 10.2 states that in assessing access and parking arrangements, the Council will continue to take account of the supplementary guidance set out in the following documents: Development Control Advice Note 15: Vehicular Access Standards (DoE, 1999); Creating Places: Achieving Quality in Residential Developments (DoE/DRD, 2000); and Parking Standards (DoE, 2005).

11. CP provides guidance on the number of parking spaces to be provided within new residential development. Table 7 sets out the parking requirements for apartments that only have communal provision. For unassigned parking, as per the appeal proposal, one bedroom apartments would require 1.25 spaces and two bedroom apartments would require 1.5 spaces. As the proposed development is for 7 no. one bedroom apartments and 5 no. two bedroom apartments, and based on the guidance in guidance in table 7 of CP, I consider that 16.25 parking spaces would be required for the appeal proposal. The appeal proposal includes three parking spaces in total, including one accessible space. There is therefore a shortfall of 13.25 car parking spaces, or approximately 80%. Although the Council accepts that a reduced level of parking provision may be considered acceptable to serve a social housing development in a town centre, it considers that an under provision of 80% is not acceptable and has not been justified. The appellant has put forward a number of reasons they consider a lower parking provision to be justified on the appeal site including the site's location, public transport links, availability of on-street parking, nature of the proposal as social housing and the planning history of the site and surrounding area.

12. Paragraph 6.23 of Policy DM 10 states that in assessing the appropriate amount of car parking required for individual proposals, account will be taken of the specific characteristics of the development and its location. A reduction in car parking provision may be acceptable in the following circumstances:

    - Where it forms part of a package of measures to promote alternative transport modes, particularly where this has been demonstrated and accepted through the Transport Assessment process;
    - In locations which are highly accessible and well served by public transport;
    - Where co-location of facilities provide opportunities for shared parking arrangements; and/or
    - Where new development is proposed close to existing public car parking and it is demonstrated there is available spare capacity.

13. In relation to the characteristics of the development, the appellant states that the proposal is for social housing where car ownership is typically lower. A letter is provided from Arbour Housing Association (AHA) who the appellant states is the

social housing provider who will develop and operate the appeal proposal, if approved. The letter from AHA states that there is a high social housing need in this Council area with a need for 64 homes in Ballyclare. It also states that the uptake of parking spaces within social housing schemes is lower than might be experienced in private developments. However, the appeal is in the name of a private individual, is not described as social housing in the description, there is no evidence of any agreement that AHA will deliver the proposal if approved and no conditions or legal agreement put forward to ensure the proposal would be delivered as social housing. Therefore, I do not consider the appeal proposal to be a social housing development and consequently give little weight to this particular argument.

14. The letter provided by AHA also refers to five planning permissions for social housing across Northern Ireland where the parking provision was lower than the standards set out in CP. For the five examples given they have provided a location, planning reference, number of apartments and number of car parking spaces. They have not provided a copy of any of the documents associated with those planning permissions or set out how they are similar to the appeal before me. Therefore, I am not aware of the reasons the planning authorities accepted a reduced parking provision in those cases and cannot be certain that they are on all fours with the appeal proposal. For this reason, I do not consider these decisions lend support to a reduced parking provision on the appeal site.

15. Paragraph 6.23 of Policy DM10 refers to the location of the development as being a material consideration when assessing the appropriate amount of parking required for proposals. The appeal site is located within the town centre of Ballyclare. It has access to a good range of shops and services within the immediate vicinity and is well served by public transport with bus stops nearby on The Square and Doagh Road. Bus services operate regularly to Larne, Carrickfergus and Belfast. I consider that the highly accessible nature of the appeal site would weigh in favour of a reduced parking provision as residents would be less reliant on private vehicles in order to have access to shops and services.

16. A Transport Assessment Form (TAF) dated March 2023, which includes a Parking Survey, was submitted by the appellant during the course of the planning application. The TAF indicates that the peak traffic times for the appeal proposal would be from 8am to 9am and 5pm to 6pm, with less than 5 trips in each peak hour. It also provides details from the 2011 census showing that car ownership in the area is low, especially among those living in apartments, with 50% of those living in apartments having no car and an average of 0.56 cars per household for those living in apartments.

17. The parking surveys were completed on Thursday 16th February 2023 and Monday 20th February 2023, both at approximately 7.45pm. The survey indicated that 40-41 out of the 89 on street spaces were available within 200m of the appeal site. A number of these spaces were in closer proximity to the appeal site including 4 directly behind the appeal site along Park Street (4 spaces were available in this area on both survey dates). At my site visit, at 3pm on a busy Friday afternoon, I was able to get parked easily in an unrestricted space in Park Street immediately behind the appeal site. I also observed a number of parking spaces available in both restricted and unrestricted spaces within the survey area.

18. The Council have raised a number of concerns in respect of the Parking Survey including that the surveys were undertaken in the evening, that residents would also require parking during the day and that some of the available spaces are restricted to one hour parking during the daytime hours. They consider it has not been demonstrated that the peak period for residential parking is during the hours stated by the appellant or that Councils or the Department for Infrastructure (DfI) Roads accept parking surveys for residential development during the hours of 7pm to 7am. Concerns have also been raised that some of the spaces are too far away from the proposal and would therefore not be overlooked by the proposed development to allow informal surveillance which would reduce risks of theft and vandalism, per the guidance in CP.

19. The appellant has provided an extract of a document which they state to be from DfI Roads in relation to guidance for a Parking Survey for a development proposal in Belfast. This states that the survey should be carried out on a number of days when residential parking demand is at its peak i.e. weekdays, early morning (e.g. before 7am) or evenings (e.g. after 7pm) and that surveys must show available and occupied spaces within a 200m radius of the proposed site. It is unhelpful that a copy of the document was not provided in full by the appellant. However, the Council have not provided any evidence to contradict this and furthermore I note that DfI Roads have not objected to the appeal proposal and have not noted any issues or concerns with the methodology used, noting only that the proposed parking provision is substandard. Given this, I accept that the survey has been prepared in accordance with guidance issued by DfI and that the peak period for residential parking demand is between 7pm and 7am. I see no issue with the survey including parking spaces located at up to 200m from the appeal site. While cars parked in these spaces would not be overlooked by the appeal proposal itself, the spaces would still be within the town centre, and overlooked by other development therefore still benefiting from informal surveillance as envisaged by CP.

20. Furthermore, the Council argue that it has not been demonstrated that the parking spaces will be available to the proposed occupants and that the spaces serve the surrounding commercial and retail units. Therefore, the Council consider they should not be relied upon for the appeal development and would displace the cars currently parking in the town centre which would have to go elsewhere, potentially impacting on the viability of the town centre. This argument advanced by the Council ignores the fact that the Parking Survey demonstrates that there is spare capacity for parking in the public parking spaces currently available in the vicinity of the appeal site. Other cars would not be displaced by those using the appeal proposal, rather there is sufficient capacity to accommodate both the existing town centre parking requirement and the appeal proposal.

21. Overall, for the reasons stated, I accept the findings of the Parking Survey which demonstrate that there are approximately 40 free parking spaces within 200m of the appeal proposal which the users of the proposal could avail of. While some of the available spaces within 200m have parking restrictions (time limit) during the daytime hours, they have no restrictions during the hours of peak parking demand for residential development. The findings of the survey are also consistent with my on site observations that there was spare capacity within the public parking areas, noting that this was during the daytime and the peak period for retail/commercial use. I also observed that parking was available within the Market Square Car Park immediately opposite the appeal site. While this is chargeable from Monday to

Saturday (8.30am to 6.30pm) it nonetheless provides an opportunity for free parking overnight and on Sundays, or another option for parking during the day albeit it would be chargeable. While this was not included within the Parking Survey it offers additional capacity for parking in close proximity to the appeal site. Therefore, I consider that the appellant has demonstrated that there is available spare capacity for the appeal proposal within existing public car parking and that this weighs in favour of the reduced parking provided for the appeal proposal.

22. The appellant refers to the planning history on the site as justifying a lower parking provision. While planning history is not one of the factors referred to in Paragraph 6.23 of the PS, I agree it can be a material consideration. Planning permission was granted in November 2022 for 3 no. commercial units and 4 no. two bedroom apartments at the appeal site (LA03/2022/0791/F). The Council state that the parking requirement for that development was considered to be 32 parking spaces (26 spaces for commercial use and 6 spaces for residential). In that case however, the Council accepted a total of 7 spaces indicating that these spaces were provided for the residential element of that development, with parking provided at a ratio of 1 space per apartment plus 1 additional accessible space, with parking needs for the commercial use being met by spare capacity on-street. While the Council argue that the 7 spaces provided were for the residential use, and spaces were provided at a 1:1 ratio for the residential element of the proposal, there is no planning condition or legal agreement restricting the use of the parking spaces for residents only. I therefore agree with the appellant that they could be used by anyone and that there was a shortfall of almost 80% of the required spaces for that development.

23. While this permission was approved prior to the adoption of the PS, I note the considerations indicated as justifying lower parking provision are similar in Planning Policy Statement 3: Access, Movement and Parking (PPS3) and in paragraph 6.23 of Policy DM10 of the PS. That decision was also taken by the same Council, on the same site with the Council accepting development on the site with a shortfall of almost 80% of the parking provision required by CP. This indicates that the Council considered there to be spare capacity on street (at least 25 spaces) at that time and that development at this specific location could avail of that spare capacity. The appeal proposal would have a shortfall of 13 spaces which is almost half of the shortfall of the extant approval on the site and within the 25 spaces the Council considered could be met by spare capacity on-street. I consider this to weigh heavily in favour of the appeal proposal where there would be a similar shortfall in parking (82%).

24. The appellant also refers to another permission nearby to justify the lower parking provision. Application U/2014/0363/F was approved in April 2016 for a mixed use comprising community and residential uses at 8-14 The Square. This included 39 apartments and would require 55.25 parking spaces. However, 14 spaces were considered acceptable in that case, also representing a shortfall of approximately 80% parking provision. Despite the location in close proximity to the appeal site, I consider it to be distinguishable from the appeal before me. The vintage of that decision means it was approved in a different policy context when BMAP was the adopted development plan for the area (adopted in 2014 and not quashed until 2017). Whilst BMAP had been successfully challenged in the High Court at the time of the decision in 2016 I note the Council took the view at that time that BMAP enjoyed presumptive validity until such time as a decision on what remedy to grant had been taken by the Court. The case officer's report took into consideration the

site's location within the Area of Townscape Character in considering the parking provision as well as a fallback position for the site and the fact that the development was for active elderly apartments as the application was made by a social housing provider (Choice). These circumstances are distinguishable from the appeal before me, and I therefore give this decision limited weight in justifying a lower parking provision for the appeal proposal.

25. Given the site's location within a town centre, in close proximity to shops and services with good public transport links and the low car ownership for those living in apartments, as demonstrated by the census data, I am satisfied that the parking requirements in this area would be lower than those indicated in the guidance and standards in CP. The shortfall in parking spaces is therefore likely to be less than the 13 indicated based on this guidance. Nonetheless, there remains a shortfall in the parking spaces provided. The supporting text to Policy DM10 indicates that reduced parking may be acceptable when one of the specified criteria is met. In the appeal before me, I find that two of the specified criteria are met being i) the location of the appeal proposal in a highly accessible area which is well served by public transport and ii) the development is proposed close to existing public car parking where the Parking Survey has demonstrated that there is available spare capacity of up to 40 spaces, significantly more than the shortfall in spaces provided. While the use of the word 'may' indicates that reduced parking will not always be acceptable when one of these criteria is met, in this case I consider that the proposal's ability to meet two of the four stated criteria is sufficient to justify the lower parking provision. Furthermore, the extant planning permission on the site, where a lower parking provision was also accepted by the same Council, also weighs in favour of justifying the lower parking provision for the appeal proposal.

26. While the proposed parking provision falls below the level required by CP, for the reasons stated above I find the provision of 3 parking spaces would be adequate for the proposed development. I am reinforced in this view by the lack of objection from DfI Roads. For the reasons given, the Council's sole reason for refusal, insofar as it relates to parking provision, is not sustained. As the Council's sole reason for refusal is not sustained the appeal must succeed and full planning permission is granted subject to the conditions set out below. These conditions are required, and are considered to be reasonable and necessary, based on the surveys provided, and the consultation responses. The conditions are required to ensure that matters such as landscaping, noise, archaeology and contamination are addressed given the sites brownfield location in a busy town centre.

Conditions

1) Prior to the occupation of any dwelling a hard and soft landscape scheme and landscape management plan for the lifetime of the development shall be submitted to and approved in writing by the Council. The landscape scheme shall identify the location, numbers, species and sizes of all trees and shrubs to be planted along with details of hard landscaping elements of the scheme.

   The plan shall set out the long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space.

The landscape scheme and landscape management plan shall be carried out during the first available planting season after the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Council.

2) If within the first five years of occupation of the development any tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

3) Prior to the commencement of development, details of the 'High Walls' as referred to in the 'Key' on the 'Proposed Site Plan', Drawing No. 02/1, date stamped 18th September 2023, shall be submitted to and agreed in writing with the Council.

4) Prior to occupation of the apartments hereby approved, all habitable rooms shall be fitted with glazing including frames, capable of achieving a sound reduction from outside to inside, of at least 37dB Rw and shall be retained for the lifetime of the development.

5) Prior to occupation of the apartments hereby approved, all habitable rooms shall be fitted with mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction from outside to inside, of at least 37dB Rw and shall be retained for the lifetime of the development.

6) The mechanical ventilation system installed shall draw air from the highest position on the rooftop of the building and from the furthest point away from the adjacent extraction vent.

7) The permitted development shall not be occupied until the remediation measures as presented within Section 5.0 of the 'Outline Remediation Strategy', Document Number 13, date stamped 17th October 2023, have been fully implemented and verified to the satisfaction of the Council.

8) There shall be no amendments or deviations from, the remediation and verification recommendations contained within the Outline Remediation Strategy at Section 5.0 within Document Number 13, stamped 'Received by Planning Section 17th October 2023' without the prior written approval of the Council.

9) After completing any remediation works required and prior to occupation of the development, a verification report shall be submitted to and agreed in writing with the Council. This report should be completed in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

10) If during the development works, a new source of contamination and risks are found, which had not been previously identified, works should cease and the Council's Planning Section shall be notified immediately. Any new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) Guidance. In the event of unacceptable risks being identified, a remediation strategy

shall be submitted to be agreed with the Council before being implemented and verified to the Council's satisfaction.

11) No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted to and approved in writing by the Council. The POW shall provide for:

- The identification and evaluation of archaeological remains within the site;
- Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- Preparation of the digital, documentary and material archive for deposition.

12) No site works of any nature or development shall take place other than in accordance with the approved programme of archaeological work.

13) A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the approved programme of archaeological work. These measures shall be implemented and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

14) The development shall be begun before the expiration of five years from the date of this planning permission.

This decision relates to the following drawings:-

Drawing No.	Title	Scale	Date Received by Council
01	Location Map	1:1250	31st March 2023
02/1	Proposed Site Plan – Rev a	1:200 @ A3	18th September 2023
03/1	Proposed Ground Floor Plan – Rev a	1:200 @ A3	18th September 2023
04/1	Proposed First Floor Plan – Rev a	1:200 @ A3	18th September 2023
05/1	Proposed Second Floor Plan – Rev a	1:200 @ A3	18th September 2023
06/1	Proposed Eastern Elevation (Park Street) – Rev a	1:200 @ A3	18th September 2023
07/1	Proposed Western Elevation (The Square) – Rev a	1:200 @ A3	18th September 2023
08/1	Proposed North Elevation (Side) – Rev a	1:200 @ A3	18th September 2023
09/1	Contextual Elevations – Rev a	1:250 @ A3	18th September 2023

COMMISSIONER LAURA RODDY

List of Documents

Planning Authority:- Antrim and Newtownabbey Borough Council	Statement of Case Rebuttal comments Comments on adopted Plan Strategy Rebuttal to Appellant's Plan Strategy comments
Appellant:- Gavis Planning (agent)	Statement of Case Rebuttal comments Comments on adopted Plan Strategy