Planning Appeals Commission

Appeal Decision

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Appeal Reference:	2020/A0107
Appeal by:	Locka Ltd
Appeal against:	The refusal of full planning permission
Proposed Development:	Demolition of existing buildings and erection of 270 no. apartment building comprising 8, 5 and 3 storey elements, provision of hard and soft landscaping including communal courtyard gardens, public realm, provision of 40 no. car parking spaces, cycle parking, substation and associated works.
Location:	Havelock House, Ormeau Road, Belfast
Planning Authority:	Belfast City Council
Application Reference:	LA04/2020/0067/F
Procedure:	Remote Hearing on 30th June 2021
Decision by:	Commissioner Andy Speirs, dated 5th October 2021

Decision

1. The appeal is dismissed.

Preliminary Points

2. The objectors considered that no acceptable Environmental Impact Assessment (EIA) determination had been undertaken by the Council. It was argued that the Council failed to provide a written statement compliant with the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 (the regulations). It was submitted that regulation 8.15 requires that the Council's determination must provide reasons for the conclusions; in this case "… a collection of letter Ys …" were included, "… which apparently indicate that the selection criteria were considered". It was also argued that the Council initially failed to publish the determination and statement as required under Regulation 44.

3. The Council's EIA determination sheet was included in documents forwarded to the PAC. The determination was undertaken in early February, and was signed and dated before the statutory deadline. The determination lists the matters that were considered and the letter 'Y's to which the objector refers indicates such. I was advised that the determination had been posted online on the 'Planning Portal', to which the public has access. I recognise that the determination was of the form normally undertaken and do not accept that

there was a procedural flaw in the manner in which the Council dealt with the matter.

4. The third parties raised what they referred to as "serious issues" relating to the appellant company's representatives' engagement with the Council Planning Department. It was submitted that there was a "reasonable suspicion" that the Council's case officer's initial recommendation was predetermined. I note that the design of the proposal was discussed during Pre Application Discussions (PAD) prior to the planning application being submitted. The Council, as a body, decided to refuse the planning application, notwithstanding the planners' recommendation to approve. It is the refusal that the Commission must consider. Ultimately, if the third parties are dissatisfied with the way the Council determined the planning application, this should be raised directly with Belfast City Council.

5. The third parties expressed concerns regarding community involvement in the planning process in respect of the application. I note that neighbour notification and advertising in the press took place in the normal fashion. I was advised that the planning application was subject to statutory pre-application public consultation. Whilst I understand that the Covid 19 pandemic may have impacted on the consultation exercise, the large number of objections, many very detailed in their comments, demonstrates that public awareness of the proposal was, and is, considerable. I note that the Council's development management report to BCC committee stated that "in accordance with the requirements of Section 27 of the Planning Act (NI) 2011, the applicant served a Proposal of Application Notice (PAN) on Belfast City Council on 3rd August 2018 (LA04/2018/1982/PAN). Belfast City Council responded confirming that the PAN and associated approach met the requirements of Section 27 of the Planning Act and was acceptable".

Reasons

6. The *main* issues in this appeal are whether:
   - demolition of the existing buildings is acceptable;
   - the proposal would adversely affect the settings of listed buildings;
   - the proposal respects its physical context and is of an appropriate design;
   - the proposed parking arrangements are acceptable; and,
   - whether there would be detrimental impact on the residential amenity of adjacent dwellings.

7. Many of the third parties objected to the demolition of Havelock House. Several submissions were made in respect of the historical importance of the building as studios for Ulster Television. Many third parties suggested that the building should be listed by the Northern Ireland Environment Agency (NIEA).

8. The PAC cannot list a building, nor treat a building as being listed if it is not. I note that Historic Environment Division (HED) of the NIEA, having

considered the matter on three occasions, declined to 'list' the property. Part 33 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 allows for the demolition, without planning permission, of any building, provided it does not lie within a designated area of townscape or village character. As the site does not lie within such an area, the buildings thereon can be demolished at any time by the developer. This was acknowledged by a third-party representative during the hearing.

9. Objectors suggested that the Council should have considered Havelock House as a 'Non-Designated Heritage Asset'; these are referred to in paragraph 6.24 of the Strategic Planning Policy Statement for Northern Ireland (SPPS), which states "the effect of an application on the significance of a non-designated heritage asset such as an unlisted vernacular building, or historic building of local importance should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Councils may wish to bring forward bespoke local policies for such buildings". The Council has stated that it was inappropriate to consider the issue of non-designated heritage assets outside the process of producing its Local Development Plan. It must be acknowledged that the SPPS refers to 'bespoke local policies for such buildings'. I was advised that the emerging Plan does not address the issue of non-listed heritage assets. As there is no statutory protection at present for non-listed buildings, even if they have some heritage value, I cannot attach weight to the matter. I consider it understandable, in the circumstances, that the appellant company's Heritage Statement did not include analysis of the heritage value of Havelock house, given the absence of any statutory or policy protection for the building, together with the proposal to demolish it.

10. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6(4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. As the Council states, "the adoption of the Belfast Metropolitan Area Plan (BMAP) in 2014 was declared unlawful as a result of a judgement in the court of appeal delivered on 18 May 2017. This means that the Belfast Urban Area Plan 2001 (BUAP) provides the statutory plan context for the area. Within the BUAP the site is unzoned land within Belfast city centre".

11. Draft BMAP must also be accorded appropriate weight in considering the proposal. In dBMAP (2004) the site is unzoned land with Belfast City Centre and falls with the Shaftesbury Square Character Area. I note that in the unlawfully adopted BMAP the site's status remained unchanged from that of the draft Plan.

12. BUAP Tall Buildings Policy CC12 states that high buildings must be sympathetic in scale to the traditional height of buildings in the City Centre. I note that the policy seeks to ensure that high buildings :-

- Do not mar or dominate the surrounding hills or the scale of attractive Belfast views;
- Relate sympathetically in design to the urban structure of the city;
- Relate sympathetically to their immediate surroundings;
- Relate sympathetically to buildings or groups of buildings of architectural and historic interest

13. The Council pointed out that the BUAP was published in 1990 and "over the intervening three decades buildings higher than 6 storeys have been approved and built in the city centre. As a result, the urban context is quite different to that at the time when the statutory BUAP was published". The Council took the view that the proposed development did not conflict with the bulleted criteria in policy CC12 of the BUAP. I do not disagree with this analysis.

14. With regard to draft BMAP, the Council recognised that the site lay within the Shaftesbury Square Character Area, Designation CC016, where a design criterion advocates that buildings should be 2 or 3 storeys in height (with the exception of Shaftesbury Square, Dublin Road and Bradbury Place). However, another criterion indicates that "development proposals shall take account of the height of adjoining buildings". The appellant company took the view that, given the existence of the '88 Portland' building at 8 storeys high, there is a conflict in applying the policy and that in such circumstances it was trite law that conflict should be resolved in favour of the appellant. The Council considered that, as building heights within the area of the appeal site vary from 2 storeys to 8 storeys, the height of the proposed development, varying from 3 storeys to 8 storeys, reflected building heights in the area. I am not persuaded that the proposal conflicts with the draft BMAP. With regard to the proposed use of the site for residential development, there is no impediment to such in either Plan. Government encourages the provision of housing on previously developed land in urban areas.

15. Other planning policy context for the proposal is provided by the SPPS introduced in September 2015. The SPPS makes it clear that the provisions of, inter alia, Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage (PPS6), Planning Policy Statement 3 – Access, Movement and Parking (PPS3), and Planning Policy Statement 7 - Quality Residential Environments (PPS7) will continue to apply until such time as a new development plan is in place for the area. Guidance in the document Creating Places is also relevant.

16. The appellant company's rebuttal comments state that "BCC at paragraph 7.3 refer to paragraphs 4.26 and 4.27 of the SPPS and the importance of good design. Significantly, and inexplicably, the proper policy test is omitted and not addressed. The test at paragraph 4.27 is: "planning authorities

should not refuse permission on design grounds, unless there are exceptional circumstances". I note that this quotation follows the words "Where the design of proposed development is consistent with relevant LDP policies and/or supplementary design guidance …". The paragraph goes on to say that "planning authorities will reject poor designs, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings, or not in accordance with the LDP or local design guidance".

17. The objectors referred to the planning history of the 'Portland 88' building, immediately to the north of the appeal site, and considered its approval to have been inappropriate. Irrespective of the views of third parties, the building is there and has a visual impact which cannot simply be set aside. It is part of the physical context for the proposal; however, it is not the only building and does not set a precedent for automatic approval of similarly tall buildings in the vicinity. Neither does it 'set the standard' in terms of building to plot ratio and what is acceptable in terms of impact on neighbouring properties. Each proposal, including the appeal project, must be considered on its individual merits, taking into account all relevant factors.

18. The Council's first reason for refusal relates to the height, scale, massing and design of the proposed building and it was submitted that the proposal would have an over-dominant impact on the Grade B1 listed Klondyke Building to the east; and the Grade B+ listed Rose Cottage in Walnut Court to the north west. It was argued that the proposal would adversely affect the setting of these listed buildings; as a result it fails to accord with paragraph 6.12 of the SPPS and Policy BH11 of PPS6. The objectors supported the Council's analysis in respect of this matter.

19. Policy BH11 of PPS6 is entitled 'Development affecting the Setting of a Listed Building'. It states that "The Department will not normally permit development which would adversely affect the setting of a listed building. Development proposals will normally only be considered appropriate where all the following criteria are met: (a) the detailed design respects the listed building in terms of scale, height, massing and alignment; (b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and (c) the nature of the use proposed respects the character of the setting of the building. A critical issue in this appeal is whether criterion (a) is met. It should be noted that policy applies in respect of all 'grades' of listed buildings.

20. Paragraph 6.30 of PPS6 points out that "the design of new buildings planned to stand alongside historic buildings is particularly critical. Such buildings must be designed to respect their setting, follow fundamental architectural principles of scale, height, massing and alignment and use appropriate materials. This does not mean however that new buildings have to copy their older neighbours in detail. Some of the most interesting streets in our towns and villages include a variety of building styles, materials and forms of construction of several different periods, which together form a visually

harmonious group". Paragraph 6.31 goes on to say that "the extent to which proposals will be required to comply with the criteria in Policy BH 11 will be influenced by a variety of factors: the character and quality of the listed building; the proximity of the proposal to it; the character and quality of the setting; and the extent to which the proposed development and the listed building will be seen in juxtaposition".

21. The concept of the setting of a listed building is important. I accept that it can extend beyond the 'pink wash' shown on listing maps or plans. In this case, the reason for refusal, and the Council's concerns, relate to 2 listed buildings among several that lie in the general area. Rose Cottage, at No. 7 Walnut Court, sits in a cul-de-sac, surrounded by modern 1 and 2 storey public housing. Evidence indicates that it was originally constructed in 1862 in a (then rural) area south of Belfast which was part of the estate of the Earl of Donegall. The 'Portland 88' building lies to its rear, as does the existing Havelock House Complex. Rose Cottage pre-dates the modern development around it by a considerable margin of time and the original setting for the building has been largely lost. In my opinion, the important views of Rose Cottage are from Walnut Court, from which the attractive design and materials of this relatively modest dwelling can be appreciated. The Extract from the NI Buildings Database on Listed Buildings, contained in the Council's evidence, makes no mention of the importance of the skyline to the rear of Rose Cottage. There is no evidence to suggest that the skyline to the East or South-east along Ormeau Road is a critical element in its already altered setting and, although the proposal would form a dominant backdrop, similar to the 'Portland 88' building, it would not detract significantly from an appreciation of this listed building.

22. The Klondyke building was part of the Belfast Gasworks complex and sits within the Gasworks site, on the eastern side of Ormeau Road. The NI Listed Buildings Database refers to it as a large red brick building orientated on an east-west axis and on the south west corner of the Gasworks site. Its west gable fronts the Ormeau Road and a tall brick wall runs along its south boundary. The main block originally contained the coal-gas retorts and the slightly narrower section at its east end, the water gas plant. Its western gable abuts the public footpath and the main views of the gable are from Ormeau Road itself, travelling in both directions. The Listed Buildings Database states that "the west gable is of special note. It has an advanced base course of quarry-faced granite blocks laid to regular courses and coped with chamfered granite. Surmounted by four shallow brick pilasters between four panels (two of which are blank) framed with moulded sandstone dressings. Modern glazed units have been inserted into the two middle panels. An ornately detailed terracotta frieze runs across the top of the gable. Over it is a pedimented gable trimmed with moulded sandstone dressings. Its tympanum carries three panels framed with moulded sandstone. The middle panel carries a dressed sandstone plaque bearing the Belfast coat of arms and motto - Pro tanto quid retribuamus (For so much which shall we repay). It is flanked by bas-relief sandstone panels bearing '18' and '91' (1891) against a herringbone-brick background". I note from the Database that the Klondyke

Building met various criteria for listing, including, inter alia, its proportion, ornamentation and setting.

23. The Ormeau Road is, and always has been, part of the setting of the Klondyke building. The appeal site is also part of that setting as it lies directly opposite the listed building. The ornamented gable of the Klondyke building was clearly designed as a statement, a feature to be seen and admired. Observing this gable from Ormeau Road, the impression one gains is of a grand, heavily ornamented, Victorian-era building. Its height is not very dissimilar to that of Havelock House. The 8-storey 'Portland 88' building sits around 50m to the Northwest and, to my mind, this building does not impinge significantly on the appreciation of the Klondyke building or interfere with its setting to any appreciable degree such that it would render the impact of the appeal proposal more acceptable. The proposal to erect an 8-storey block along almost the entire frontage of the appeal site (even with the set-back of part of the 8th floor) would, in my opinion, greatly alter the character of the immediate vicinity and the proposed apartment building would loom over the gable of the listed building, detracting from the appreciation of its scale and proportions, and rendering the building less visually significant. This would be apparent when travelling in both directions along Ormeau Road, past the appeal site. In my opinion the height and massing of the proposal would be inappropriate, seen in juxtaposition with the Klondyke building; the detailed design does not respect the setting of the listed building in terms of scale, height, or massing and this conflicts with PPS6 policy BH11. I judge that the Council's first reason for refusal is sustained.

24. The Council's second reason for refusal is based on Policy QD1 of PPS7, in particular criterion (a) thereof, and on paragraphs 4.12, 4.26 and 4.27 of the SPPS. The Council considers that "the proposed development, by reason of its height, scale, massing and design, would be out of keeping with its surrounding context and would have an over-dominant impact when viewed from Ormeau Road and the residential streets to the west and north west, unacceptably harming the character and appearance of the area".

25. Paragraph 4.12 of the SPPS states "other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the abovementioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas". Paragraph 4.26 indicates 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. 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 …". Paragraph 4.27 advises that "where the design of proposed development is consistent with relevant LPD policies and/or supplementary design guidance, planning authorities should not refuse permission on design grounds, unless there are exceptional circumstances. Planning authorities will reject poor designs, *particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings* (my emphasis), or not in accordance with the LDP or local design guidance".

26. The headnote of policy QD1 states that "Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area". The policy goes on to indicate that "All proposals for residential development will be expected to conform to all of the following criteria: (a) 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; …".

27. I have already concluded that the proposal would have an unacceptable impact on the setting of the listed Klondyke building. As the latter is part of the 'context' within which the proposal falls, there is clearly conflict with criterion (a) of PPS7 policy QD1.

28. The residential areas on the western side of Ormeau Road have a fine urban grain and I consider that the existing buildings at Havelock House are not significantly out of keeping with this. Photographs provided by third parties show that the relationship between the older parts of the buildings on the appeal site and residential streets to the west was long-standing, stretching back many decades. The Havelock House complex itself is part of the context for the proposed development, albeit that the buildings thereon would be removed. 'Portland 88', as I have already stated, whilst part of the context also, should not be adopted as a dominant element informing the design concept for all new development in the locality. The massing, scale and height of the proposal are, to my mind, excessive; the articulation of the front elevation of the proposal, which extends along almost the entire site frontage on Ormeau Road, is insufficient to break up its visual impact. The fragmentation of form and surface does not sufficiently break up the large mass of the frontage. In my opinion, the proposal, when viewed together with the 8-storey 'Portland 88' structure, would result in an extensive and overdominant feature in the streetscape along Ormeau Road; I disagree with the appellant company that Coyle's Place would represent a significant break in the frontage that would mitigate against this impact, given that the gap between buildings is shown at only 10m on submitted plans. I accept that there are other buildings in excess of 2 stories on Ormeau Road, in the

immediate vicinity, and to the south of the appeal site; however, none of these, apart from 'Portland 88', is of similar height to the appeal proposal.

29. The proposal must also be considered from viewpoints in the residential areas to the West and North-west, from which the 'bulk' of the 'Portland 88' building can already be discerned. Presently, the buildings on the appeal site have little visual impact when seen from the housing estate. Whilst the appellant's design team has attempted to reduce the scale and massing of the proposal by 'stepping down' the three rear returns, the main part of the apartment block would rise considerably above these and conflict with the existing urban grain would be apparent. I acknowledge that in city centres change in the urban fabric will occur over time and that taller/larger buildings can be anticipated on some sites. Where established residential areas exist, impact on local character needs to be carefully considered. In my opinion the proposal, due to its scale, height, massing and building to plot ratio, does not sensitively address the transition from the prominent appeal site on Ormeau Road to the 'tight' layout of the streets and culs-de-sac of the residential areas adjacent. It would become an unacceptably dominant element in the skyline, discernible from Walnut Court, Walnut Street and Vernon Street. The dominant impact of such a tall building is already appreciable when viewing 'Portland 88' from Walnut Court. The impact of the proposal would be greater, given the scale of the building. The proposed development fails to respect the surrounding context. This conflicts with PPS7 policy QD1 criterion (a) and paragraphs 4.12 and 4.27 of the SPPS. I judge that the council's second reason for refusal is sustained. I acknowledge that the design of the proposed building was deemed acceptable by the Council's planning officers during PAD discussions; however, the Council itself decided to refuse the planning application for the reasons stated in the decision notice; it is this refusal that I have considered.

30. The Council's third reason for refusal relates to the height, scale, massing and design of the proposal. The Council's view was that there would be an over-dominant impact on residential properties and a loss of outlook and amenity to occupants; the proposal therefore fails to accord with paragraphs 4.12, 4.26 and 4.27 of the SPPS and criterion (h) of Policy QD1 of PPS 7. There is a degree of overlap with the second reason for refusal in terms of the reference to over-dominance of the proposed building.

31. When visiting the site, I observed that apartments in 'Portland 88' overlook the rear gardens of dwellings in Walnut Court. 'Portland 88', in my opinion, also has a significant over-dominant effect on closest neighbours. These issues primarily emanate from the proximity of that 8-storey building to the rear boundary of its plot.

32. I recognise that the appellant company has sought to "incrementally step down (the proposed building) to respond to the scale of the adjoining dwellings to the west". I accept that this has resulted in dwellings to the

immediate West of the site being further away from the tallest part of the proposed 8 storey development. As the appellant company's evidence states, "the rear of Nos. 22-50 Walnut Street are between 57m and 81m from the rear of the 8 storey element of the proposed development which is 59.5m from the Listed Rose Cottage at 7 Walnut Court and 61m from the side of No. 71 Vernon Street. The 8 storey element of Portland 88 is approximately 28-29m from the rear of Nos. 9-11 Walnut Court …". The appellant further states that "the 7 storey elements of the proposed development are between 41.5m and 55m from the rear of Nos. 22-50 Walnut Street, 38m from the side of No. 71 Vernon Street and 32.5m from the rear of the listed Rose Cottage". The evidence goes on to advise that the separation distances between the tallest elements (8th and 7th storeys) of the proposed development is significantly greater than the distances from 'Portland 88' and its closest neighbours to the West.

33. There are no rear-facing balconies and the main outlook from the proposed apartments in the rear returns on the main block has been designed to overlook the landscaped gardens, Coyle's Place and the railway line to the South. There are no West-facing windows proposed at ground level at the end of the returns, nor at first and second floor levels. I was advised that windows serving stairwells on the rear first and second floors are proposed to be fitted with frosted glazing. Whilst windows at third floor, and above, face towards the West, these are situated sufficiently far enough from the rear of existing dwellings such that any degree of overlooking would be minimal, and direct views would mainly be over their roofs. The separation distances largely comply with guidance in the Creating Places document. The proposed rooftop amenity areas, similarly, would be well removed from neighbouring dwellings. I am not persuaded that loss of amenity through overlooking or loss of privacy would occur at dwellings in Walnut Court, Walnut Street, or Vernon Street.

34. Concern was raised by residents of the 'Portland 88' building in respect of potential loss of privacy. The proposal would be situated around 10m from the living room windows in the South-facing elevation of 'Portland 88'. At the hearing I was advised that the design incorporates an offset so that there would be no direct views from the proposed building into accommodation opposite, including bedrooms and living rooms. This offset would assist in protecting the amenity of existing residents. Paragraph 7.18 of Creating Places states that "greater flexibility will generally be appropriate in assessing the separation distance for apartments and infill housing schemes in inner urban locations or other higher density areas. This matter should be appropriately addressed in the overall design concept for the development, but schemes likely to result in a significant loss of privacy or overlooking, particularly of existing properties, will not be acceptable". I consider that the relationship between the two buildings is acceptable and, given the city centre location, a degree of flexibility is justified. I judge that there would not be an unacceptable adverse effect on existing properties in 'Portland 88' in terms of overlooking.

35. Concerns were raised by third parties in respect of the likelihood of the proposal overshadowing existing properties. I am satisfied that appropriate methodology has been adopted by the appellant company in assessing this matter. I note that the Council has not raised an objection in respect of the issue. I am satisfied that the information before me demonstrates that no unacceptable overshadowing of existing residential properties would result from the proposal.

36. Third parties complained that the proposal would be likely to result in anti-social behaviour and cited the 'Portland 88' development as an example. It was submitted that noisy residents, particularly of Air B&B rentals, and the existence of useable balconies, have resulted in problems. The appellant company stated that a 24-hour management presence would exist at the building. I note that there are no balconies proposed on the parts of the buildings facing existing residents. Ultimately, anti-social behaviour is a matter of management and law enforcement and should not weigh against the proposal.

37. Objectors felt that a 'Health Assessment' should have been undertaken in respect of the impact of the proposal on the local community. To my knowledge there is no planning policy in place that specifically requires submission of a 'Health Assessment' for residential development; however, a raft of policy exists to protect residential amenity from adverse impacts of new development. I note that Air Quality and Noise Impact Assessments were submitted with the planning application and were assessed by BCC Environmental Health Office (EHO), which raised no concerns regarding impact on human health. Whilst the third parties criticised the appellant's noise assessment, no convincing technical explanation was provided as to why it was fatally flawed or why EHO could not rely upon it. I note that the EHO has recommended conditions in respect of noise control. Noise during construction, as well as dust and air pollution, are matters that can be controlled by condition; in any event such impacts would be confined to the construction period only. Concerns regarding potential noise from the proposed car parking could be mitigated by some form of enclosure and secured by condition. I am not persuaded that potential for noise pollution or air pollution should weigh against the proposal.

38. Concerns were raised by objectors that water and drainage Infrastructure would be inadequate to serve the proposed dwelling units. I note that a Flood Risk and Drainage Assessment was submitted in support of the planning application and that neither NI Water nor DfI Rivers had any objection to the development. No persuasive technical or empirical evidence was submitted by third parties to justify the statements made and I am not persuaded that these issues are fatal to the proposal.

39. I judge that there would be no conflict between the proposed development and criterion (h) of PPS7 policy QD1. However, I have already concluded that the proposal would be unacceptably over-dominant, and visually intrusive in the skyline when viewed from the residential areas immediately to the West. This conflicts with paragraph 4.12 of the SPPS. The Council's third reason for refusal is sustained only in respect of this matter.

40. Concerns were raised by third parties in respect of the parking arrangements for the proposal. It was submitted that the 40 spaces that it is proposed to provide within the site is below what would be required and that this would exacerbate parking problems on nearby streets, which already suffer from congestion and illegal parking. I note that 4 of the 40 spaces would be for the sole use of a 'car club' and at least a further 4 spaces for disabled parking.

41. The Council recognised that the quantum of parking provision is below the normal standards. However, it considered that the appellant company's offer to provide additional green travel measures would compensate for the restricted provision. These measures include: provision of travel cards for each residential unit for a period of 3 years; discounted membership of a car club for a period of 3 years; and the appointment of a travel co-ordinator to promote alternative and sustainable modes of transport and implementation of a residential travel plan.

42. The Council pointed to other recent city centre developments approved with limited parking and considered that the location of the site on an arterial route renders the proposal accessible and well served by public transport. I note that DfI Roads was satisfied with the parking arrangements and the 'green' travel measures and did not raise a concern regarding potential parking problems outwith the site. I concur with the Council that enforcement of statutory parking controls on public roads and streets is a matter for the relevant authorities. Control of parking within the development would be a matter for the building's management.

43. I note that some objectors were concerned that public transport in Belfast would be used less frequently than is the case in other cities. There is, in Northern Ireland, a current drive to promote the use of public transport, cycling and walking, in an attempt to improve air quality, promote sustainability, and reduce traffic congestion. In my opinion, without restrictions and the types of arrangements proposed here, such aspirations would be made less achievable. I consider that the parking arrangements are acceptable in the circumstances of this case. I note that the proposed development incorporates internal cycle storage and that there is a Belfast Bike docking station located nearby at the Gasworks.

44. Objectors referred to a previous route/right of way through the site from Ormeau Road through to the existing residential development to the West. Evidence indicates that this access has been unavailable, having been

closed off many years ago during redevelopment of the area. Since that time the site has been occupied by Havelock House. There is no proposal to provide access through the appeal site to connect the housing with Ormeau Road and the existing wall is to be retained along the western boundary of the development.

45. There were third-party submissions that the proposal failed to take into account the site's possible role as an 'interface' between the Donegall Pass and Ormeau Road communities. The appellant company stated that the design team was aware of the interface issue from the pre-application community consultation. Evidence indicates that the community consultation exercise did not raise any aspiration to reopen the interface and it therefore was not factored in to the proposal. The plans indicate access to Ormeau Road only. I was advised that, in the context of the Belfast Agenda, the Council has committed to developing an Interfaces Programme which has yet to be delivered. The Council's 'Good Relations' Unit did not raise any specific concerns regarding the proposal. It would appear that the creation of a link to Donegall Pass from Ormeau Road, via the site, would be seen as beneficial by some and a disbenefit by others. In the absence of clarity on the matter, I consider that it would be unfair to treat the interface issue as a matter fatal to the proposal.

46. The appellant company's statement makes reference to the objective in the Belfast Agenda Community Plan to grow the population of the city centre up to 2035. As the Council's evidence states, the Belfast Agenda cannot be afforded significant weight, given that it is not a planning policy document. I do not disagree with this analysis. Reference was also made to the Belfast City Centre Regeneration and Investment Strategy and to the NIHE's South Belfast Urban Village Regeneration Initiative, neither of which represent planning policy. None of the aspirations iterated in the three aforementioned documents outweigh my conclusions that the proposal is contrary to PPS6 policy BH11 and PPS7 policy QD1.

47. Objectors raised concerns that the proposed development did not include social housing. Evidence states that the NIHE consultation response advised that there is no need to recommend further social housing provision given current commitments in the area. I was advised that the NIHE produces a three year Social Housing Development Programme (SHDP) each year, on a rolling basis and that the current SHDP includes two schemes on public land within Donegall Pass which will meet the shortfall in the short/medium term. There is no planning policy requirement to secure 'affordable' units in the proposal; the matter therefore cannot weigh against it.

48. The appellant company pointed to other instances in Belfast City Centre where tall buildings have been approved adjacent to 2-storey dwellings. Whilst this may be the case, I am not persuaded that circumstances in those cases was indistinguishable from the circumstances before me. In this

instance, I have found that the proposal offends against PPS6 and PPS7 and those paragraphs of the SPPS which iterate similar policy. I judge that the Council's three reasons for refusal are sustained. The appeal therefore fails.

This decision is based on the following drawings as numbered by the Council, all received by the PAC on 22nd December 2020:-

Drawing 01 - Site location at scale 1:1250
Drawing 02D Ground floor plan at scale 1:250
Drawing 03A – First floor plan at scale 1:250
Drawing 04A – Second floor at scale 1:250
Drawing 05A – Third floor plan at scale 1:250
Drawing 06A – Fourth floor plan at scale 1:250
Drawing 07A – Fifth floor plan at scale 1:250
Drawing 08A – Sixth floor plan at scale 1:250
Drawing 09/A – Seventh floor plan at scale 1:250
Drawing 10A – Roof plan at scale 1:250
Drawing 11A – Elevation A at scale 1:200
Drawing 12A – Elevation B at scale 1:200
Drawing 13A – Elevation C at scale 1:200
Drawing 14A – Elevation D at scale 1:200
Drawing 15A – Elevation E at scale 1:200
Drawing 16A – Elevation F at scale 1:200
Drawing 17A – Elevation G at scale 1:200
Drawing 18B – Elevation H at scale 1:200
Drawing 19A – Sections AA at scale indicated
Drawing 20A – Sections BB at scale indicated
Drawing 21A – Sections CC at scale indicated
Drawing 22A – Sections DD at scale indicated
Drawing 23A – Sections EE at scale indicated
Drawing 24A – Sections FF at scale indicated
Drawing 25A – Sections GG at scale indicated
Drawing 26B – Hard landscaping plan at scale 1:200@A1
Drawing 27B – Planting plan at scale 1:200@A1
Drawing 28A - Landscape plan at scale 1:200@A1
Drawing 29A – Planting plan ground floor at scale 1:200@A1
Drawing 30A – Hard landscaping plan ground floor at scale 1:200@A1

COMMISSIONER A SPEIRS

List of Documents

BCC:- Doc A - Statement of case with appendices
Doc A1 – Rebuttal comments with appendices

Appellant:- Doc B - Statement of case with appendices
B1 – Rebuttal comments with appendices

Third Parties:- Doc C – Statement of case with appendices Dr K Griffin
Doc C1 – Rebuttal comments with appendices (joint response), Save Havelock House and Dr K Griffin
Doc D – Statement of case with appendices, Save Havelock House
Doc E – Statement of case Mr P McDonald, Donegall Pass Community Forum
Doc F – Statement of case Ms S Green, Donegall Pass Community Forum

Appearances

Council: - Ms D Kylie, Barrister
Mr E Baker, Planning Department
Ms U Cadell, Planning Department
Mr D Madden, NIEA HED

Appellant: - Mr S Beattie, QC
Mr P Stinson, Turley Assocs
Mr A Heasley, Turley Assocs
Mr D Dodds, AB Heritage
Mr N Murray, Todd Architects
Mr B Higgins, Todd Architects
Mr G McGhee, Carson McDowell
Mr Mr J Redmore, Redmore Consulting
Mr M Simms, AWN Consulting
Mr C O'Hara, RPS
Mr G Downes, Olympian Homes
Mr J Lindridge, Observer

Third Parties: - Dr K Griffin, Save Havelock House
Ms P Bradshaw, MLA
Mr J Eltham, Planning Consultant and Resident of Walnut Street
Mr P McDonald, Donegall Pass Community Forum
Ms E Mansfield, Donegall Pass Community Forum