
Appeal Reference:	2021/A0177
Appeal by:	Irwin Carr Consulting Ltd.
Appeal against:	The refusal full planning permission.
Proposed Development:	Proposed Retention of Existing Office/Storage Building to be used in conjunction with No. 7 Osbourne Promenade
Location:	Lands located to the rear of No. 7 Osbourne Promenade (together with rear access and parking from Great Georges Street South), Warrenpoint, Co. Down.
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2021/0408/F
Procedure:	Written representations and Commissioner's site visit on 6 th August 2024.
Decision by:	Commissioner Jacqueline McParland, dated 28 th August 2024.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the appeal development is:
 - acceptable in principle;
 - detrimental to the setting of a listed building; and
 - detrimental to the character of the Area of Townscape Character (ATC) and Area of Outstanding Natural Beauty (AONB).
3. Section 45(1) of the Planning Act (Northern Ireland) 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 Local Development Plan (LDP), the determination must be made in accordance with the plan unless material considerations indicate otherwise.
4. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the LDP for the area within which the appeal site is situated. In it, the appeal site is within the settlement limit of Warrenpoint and also identified as being within the Mournes AONB. The BNMAP also contains a designation WB 34 entitled "Area of Townscape Character Town Centre and Seafront". Designation WB 34 outlines a list of key features which should be taken into consideration when assessing development proposals, however this list does not contain any key features

relevant to the appeal development or location. The BNMAP does not contain any strategic policies relating to the appeal proposal.

5. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as the local Council adopts a Plan Strategy (PS). No PS has been adopted for this area. The SPPS sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. The retained policy of relevance to this appeal are Planning Policy Statement 2: Natural Heritage (PPS 2), Planning Policy Statement 4: Economic Development (PPS 4), Planning Policy Statement 6: Planning, Archaeology and Built Heritage (PPS 6) and its addendum entitled Areas of Townscape Character (APPS 6). As no conflict arises between the policy provisions of the SPPS and retained policy insofar as it relates to the appeal proposal, the latter provides the relevant policy context.
6. The building subject to this appeal is a two-storey building with a rear return set to the rear of a property at No. 7 Osbourne Promenade. The appeal building faces onto a private lane accessed by St Georges Street, which serves some of the rear garden areas of the properties of Osbourne Promenade. The building is finished in unpainted rough cast render with stone inserts randomly placed throughout its front elevation. It has a pitch roof to the main building and a flat roof to the rear return. It has dark grey UPVC windows, black UPVC rainwater goods, black roof tiles and a grey composite door. The front elevation of the building has a large shop front type window at ground floor level facing out onto the shared private lane, which has a roller shutter affixed to it.
7. Osbourne Promenade comprises of a terrace of eleven buildings. The rear gardens of Nos. 10, 11 and 12 Osbourne Promenade adjoin a recently constructed apartment complex which has elevations onto Great Georges Street and the private lane. This apartment complex also abuts the rear yard area of No. 9 Osbourne Promenade. The rear of the properties along the remainder of Osbourne Promenade comprises of the rear yards, outbuildings and the rear returns of each of the properties. The rear return of No. 9 Osbourne Promenade contains a UPVC window.
8. The apartment complex development has finishes including black roof tiles, UPVC windows and rainwater goods. The rear returns of No. 10 Osbourne Promenade and No. 3 Great Georges Street also abut the rear yard area of No. 9 Osbourne Promenade. Both rear returns contain UPVC windows. The modern rear return of No. 8 Osbourne Promenade is two-storey, has a flat felt roof, a metal staircase to its rear elevation and has UPVC doors and windows. A further rear return is present to No. 6 Osbourne Promenade. It also has UPVC windows. Within the wider area along Great Georges Street, Church Street and Havelock Parade some buildings of traditional design and proportions have modern materials such as UPVC windows and black roof tiles.
9. The Council consider that the appeal development is contrary to paragraph 6.91 of the SPPS and criterion (c) of Policy PED 9 of PPS 4. Paragraph 6.91 of the SPPS states that all applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as

access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development. Criterion (c) of Policy PED 9 of PPS 4 requires that proposals for economic development will not have an adverse impact on natural or built heritage. The Council's concerns relate to the appeal development's impact on the setting of an adjacent listed building, the setting of the ATC and the character of the AONB.

10. Section 91 (2) of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting, and in considering whether to grant listed building consent for any works, a planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Council consider that the appeal development is contrary to Paragraph 6.12 of the SPPS and criterion (b) of Policy BH 11 of PPS 6. Paragraph 6.12 of the SPPS indicates that it is important that development proposals impacting upon listed buildings and their settings are assessed, paying due regard to these considerations, as well as the rarity of the type of structure and any features of special architectural or historic interest which it possesses. Criterion (b) of Policy BH 11 of PPS 6 states that development proposals will normally only be considered appropriate where the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building. Specifically, the Council raised concerns in relation to the presence of UPVC windows and doors, UPVC rainwater goods, black roof tiles and the roller shutter to the window on the front elevation of the appeal development.
11. Nos. 8 and 9 Osbourne Promenade are grade B2 listed buildings. The Department for Communities' Historic Environment Division (HED) in their consultation response dated 5th August 2021 stated "uPVC is not considered to be an appropriate material for use within the setting of a listed building. Suitable materials would include painted hardwood timber windows and doors, cast metal rainwater goods and a natural slate roof. The materials used on this building are considered to have an adverse impact on the setting of the listed buildings."
12. The Council have further concerns that the appeal building, if approved, would not maintain or enhance the overall character of the area and would not be in accordance with paragraph 6.21 of the SPPS and Policy ATC 2 of APPS 6. The Council raised further concerns that the appeal development fails to respect features of importance to the character, appearance and heritage of the landscape of the area and fails to respect local architectural styles, local materials and design in the AONB. The Council state that due to the materials used, the appeal development would not be in accordance with Paragraph 6.187 of the SPPS and criteria (b) and (c) of Policy NH 6 of PPS 2.
13. The drawings which accompany a planning application give effect to the development for which planning permission is sought. Whilst the description of the development relates to the retention of an existing office and storage building, the drawings submitted do not match or detail the architectural features or materials used within the construction of the appeal building. Drawing Number PL-02, dated 8th June 2021, details the existing floor and elevation plans for the appeal development. The roller shutter, UPVC rainwater goods and random patches of stonework to the external walls, which were architectural features on the appeal development at the time of my site visit and at the time the appeal development

was assessed by the Council, are omitted from this drawing. Furthermore, drawing number PL-02 does not detail the materials of the appeal development apart from the external walls, which are noted to be painted smooth render. I note this is not what was present on the appeal development at the time of my site visit or at the time of assessment by the Council. There are no finishes on the drawing to detail the finishes of the windows, doors or roof.

14. Such discrepancies and omissions are unhelpful, and I would expect drawings to be accurate and detailed for a full planning application, particularly one relating to development already built. Given the absence of some of the architectural design features, a full schedule of detailed finishes and the omissions within the submitted plans to that which is constructed at the appeal site, I am unable to make a meaningful assessment of the appeal development in having special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and reach a thorough and structured conclusion on the acceptability of the development when considered against criterion (c) of Policy PED 9 of PPS 4, Policy BH11 of PPS 6, Policy ATC 2 of PPS 6 and criteria (b) and (c) of Policy NH 6 of PPS 6 and paragraphs 6,12, 6.187, 6.21 and 6.91 of the SPPS. Accordingly, the Council has sustained its first, second, third and fourth reasons for refusal.

15. As the Council has sustained all its refusal reasons, the appeal must fail.

This decision is based on the following drawings: -

Drawing Number	Scale	Dated by the agent	Plan Title
PL-01	1:2500	23rd Feb 2021	Site Location Map, Area Zoning Map, and Existing NI Flood Map
PL-02	1:100	08th June 2021	Existing Building Plans and Elevations
PL-03	1:500	23rd Feb 2021	Existing Building Section and Site Layout Plan
PL-04	1:500 & 1:200	18th May 2021	Existing Site Layout and Existing Site Massing Sections

COMMISSIONER JACQUELINE MCPARLAND

List of Documents

Planning Authority: -	"A1"	Statement of Case
	"A2"	Rebuttal
Appellant: -	"B1"	Statement of Case
	"B2"	Rebuttal