

# Appeal Decision

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<b>Appeal Reference:</b>	2022/A0006
<b>Appeal by:</b>	Mr Breen
<b>Appeal against:</b>	The refusal of demolition consent within a Conservation Area
<b>Proposal:</b>	Removal of rear return and outbuildings
<b>Location:</b>	1 Dacre Terrace, Londonderry
<b>Planning Authority:</b>	Derry City & Strabane District Council
<b>Application Reference:</b>	LA11/2021/0074/DCA
<b>Procedure:</b>	Written representations with Commissioner's site visit on 10 March 2023
<b>Decision by:</b>	Commissioner Mandy Jones, dated 16 March 2023

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## Decision

1. The appeal is allowed, and demolition consent is granted, subject to the conditions below.
2. A Claim for Costs was made by Mr Breen against Derry City & Strabane District Council. This claim is the subject of a separate decision.
3. This appeal decision is linked to appeal decision 2022/A0005 against the refusal of full planning permission for the proposed change of use from office building into 11 bedroom HMO incorporating a 3 storey rear return.

## Preliminary Matter

4. Planning Officer's recommended approval of the application for consent for demolition within a conservation area along with the planning application on 2 occasions. However, the Local Planning Authority's corporate stance on both planning applications subject of these appeals are set out in the reasons for refusal on decision notices issued by Derry City and Strabane District Council on 1<sup>st</sup> March 2022.

## Reasons

5. The main issue in this appeal is whether the proposed part demolition of this building within the Conservation Area would be justified.
6. Section 45 (1) of the Planning Act (Northern Ireland) 2011 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.

The Derry Area Plan (DAP) 2011, is the local development plan for the area where the appeal site is located. The appeal site is located within the development limits of Derry City, it is also within the Commercial Core and is identified as an office development area in the DAP. It is also within the Historic City Conservation Area. Policy BE 4 of the DAP provides for demolition and part demolition of a non listed building in a conservation area. Regarding partial demolition the policy states that ‘ the Department will normally resist the removal of chimneys, skyline features, entrance steps and other parts of buildings and the streetscape which contribute to the character, interest and quality of Conservation Areas’. In cases of demolition within Conservation Areas, Policy BE 4 also requires that detailed plans for redevelopment are in place.

7. Overarching regional policy is provided by the Strategic Planning Policy Statement for Northern Ireland ( SPPS ). It sets out transitional arrangements which will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing Planning Policy Statements including PPS 6, Planning, Archaeology, and the Built Heritage. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any retained policy under the transitional arrangements must be resolved in favour of the provisions within the SPPS.
8. Within PPS 6, Planning, Archaeology, and the Built Heritage, Policy BH 14 Demolition in a Conservation Area states that the Council will normally only permit the demolition of an unlisted building in a Conservation Area where the building makes no material contribution to the Character or appearance of the area. Where Conservation Area consent for demotion is granted, this will normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building before its demolition.
9. There is a presumption in favour of retaining any building which makes a positive contribution to the character or appearance of the Conservation area. In cases where demolition may be appropriate, for example where it does not make any significant contribution to the conservation area full information and detailed plans are required regarding what is proposed for the site after demolition.
10. Paragraph 7.19 states that where consent is granted for demolition of a building in a conservation area conditions will normally be imposed requiring the redevelopment of the site to be based on previously agreed detailed proposals.
11. Both the SPPS and PPS 6, Policy BH 14, require that consent for demolition (including part demolition) of an unlisted building should only be considered 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 of Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage ( PPS 6 ) in respect to the appeal proposals. The policy provisions of PPS 6 remain applicable.
12. This demolition consent application along with an application for the proposed change of use from office building into 11 bedroom HMO incorporating a 3 storey rear return was presented to the Planning Committee on 5 January 2022 and 2 February 2022, with a recommendation to approve both. However, the Council’s

corporate view was to refuse consent as there was no approved redevelopment scheme for the site and no exceptional reason had been demonstrated which justifies the proposed part demolition of this building within the Conservation Area.

13. The appeal site is in a prominent position at Carlisle Circus, at the west bank end of the Craigavon Bridge. It is directly adjacent to Carlisle Road Presbyterian Church, which is a Grade 2 listed building.
14. No. 1 Dacre Terrace is a 3 ½ storey Georgian property, located at the end of a terrace of 4 similar properties. The terrace has a uniform front elevation with a consistent solid / void ratio across all individual frontages. Each property has a bay window with sliding sash windows above and a rendered finish. To the rear the property has a single storey return and outbuildings.
15. The immediate area is characterised by predominantly commercial / town centre uses along Carlisle Road with some residential development within the adjacent streets and mixed high density residential and commercial uses along Abercorn Road.
16. Proposals include the refurbishment of the existing Georgian building. Proposed demolition is to the rear of the site and includes the single storey rear return and outbuildings. Appeal 2022/A0005, proposed change of use from office building into 11 bedroom HMO incorporating a 3 storey rear return, show that a 3 storey rear return is to replace the existing rear return and outbuildings. Proposed ground floor plans include kitchen / dining area, lounge, and a bedroom. Proposed first floor plans include 4 ensuite bedrooms and a separate bathroom; proposed second floor plans include 4 ensuite bedrooms and a separate bathroom and the proposed third floor plan includes 2 ensuite bedrooms.
17. There were no arguments from the Council that the single storey rear return and outbuildings made a material contribution to the character or appearance of the conservation area. Rather, objections were focused on the fact that as the Council had refused the associated full application LA11/2020/0824/F for the proposed change of use from an office building into 11 bedroom HMO incorporating a 3 storey rear return there is no approved acceptable plans for the redevelopment of the rear of the site. As such demolition consent could not be granted.
18. I have concluded in appeal 2022/A0005, that the proposed redevelopment scheme is acceptable and full planning permission is granted subject to condition. As such, any objections to the part demolition of the single storey return and outbuildings are not sustained as there is an acceptable redevelopment scheme. Accordingly, this appeal is allowed and demolition consent is granted subject to the conditions set out below.

## **Conditions**

1. The works hereby permitted shall be begun before the expiration of 5 years beginning with the date on which this consent is granted.

2. This demolition consent is granted subject to the implementation of the replacement scheme allowed and granted full planning permission under appeal reference 2022/A0005.
3. The demolition hereby permitted shall be carried out in accordance with drawings nos 01, 02, 03 and 04 date stamped by the Council 6 January 2021.

This decision relates to the following drawings submitted to the Council:

<b>Pac Ref</b>	<b>Drawing</b>	<b>LPA Drawing No.</b>	<b>Date Received</b>
Pac 1	Location Plan @ scale 1:1250	01	6 January 2021
Pac 2	Existing Site Plan @ scale 1:200	02	6 January 2021
Pac 3	Existing Elevations @ scale 1:100 & 1:200	03	6 January 2021
Pac 4	Existing Plans @ scale 1:100	04	6 January 2021

**COMMISSIONER MANDY JONES**

### **List of Documents**

Planning Authority:  
( Derry City and Strabane District Council )

'C' Statement of Case  
'D' Rebuttal

Appellant:  
( agent : Lee Kennedy Planning )

'C1' Statement of Case  
'D1' Rebuttal