
Appeal Reference:	2022/A0215
Appeal by:	Dermott McSherry
Appeal against:	The refusal of full planning permission
Proposed Development:	Residential development comprising 33 no. units (19 no. Category 1, 3 Wheelchair Units and 11 no. General Needs), access, parking, landscaping and associated siteworks
Location:	Lands at 285-291 Shore Road, Newtownabbey, BT37 9RW
Planning Authority:	Antrim and Newtownabbey Borough Council
Application Reference:	LA03/2021/0745/F
Procedure:	Written representations and Commissioner's site visit on 12 th September 2024
Decision by:	Commissioner Kevin Gillespie, dated 12 th November 2024

Decision

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

Reasons

2. The main issues in this appeal are:
 - whether the proposal respects the site and surrounding context;
 - whether the proposal would unacceptably affect residential amenity; and
 - whether adequate provision has been made for parking.
3. 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 (LDP), 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.
4. In May 2017, the Court of Appeal declared the adoption of the 2014 version of the Belfast Metropolitan Area Plan 2014 (BMAP) unlawful. Therefore, the Belfast Urban Area Plan 2001 operates as the LDP for the area in which the appeal site lies. The draft version of BMAP 2014 (dBMAP) remains a material consideration. In both BUAP and dBMAP the appeal site is within the development limit of Newtownabbey. There are no other provisions within either that are material to the determination of the appeal.

5. The Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development (SPPS) sets out the transitional arrangements that will operate until a Plan Strategy (PS) for a Council area is adopted. No PS has yet been adopted for this council area. Accordingly, during the transitional period, the SPPS retains certain PPSs, and it sets out the arrangements to be followed in the event of a conflict between the SPPS and a retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements, must be resolved in favour of the provisions of the SPPS.
6. The appeal proposal falls to be considered under Planning Policy Statement 7 – Quality Residential Environments (PPS 7), the second Addendum to PPS 7 – Safeguarding the Character of Established Residential Areas (APPS 7) and Planning Policy Statement 3 – Access, Movement and Parking (PPS 3). There is no conflict or change in policy direction between the provisions of the SPPS and those aforementioned PPSs in respect of the appeal development. Accordingly, the PPSs provide the policy context for determining the appeal proposal. Guidance contained in Creating Places – Achieving Quality in Residential Environments (CP) and Development Control Advice Note 8: Housing in Existing Urban Areas is also of relevance.
7. The appeal site, which is broadly rectangular and measures some 0.46 hectares in area, is currently used by Abbey Caravans and Leisure for the display and sale of touring caravans and motorhomes. It comprises a two storey, 'L' shaped, flat-roofed building which is positioned in the south-east corner of the site, a stoned area positioned to the north and west of the building whereupon the caravans and motorhomes are displayed and an 15No. bay parking area which is positioned to the north-west of the building. The appeal site is accessed via a single entrance directly from Shore Road. The northern and eastern boundaries of the site are bounded by a combination of palisade fencing and mature vegetation, the southern boundary is bounded by mature hedging and trees and the western boundary, adjacent to Shore Road, is bounded by a mesh-style security fence. The Shore Road itself functions as an arterial route and part of the key transport corridor between Belfast and Carrickfergus.
8. To the north of the site is a petrol filling station and to the rear is the Belfast to Larne railway line. Beyond this to the east lies Whitehouse Park a residential area comprising two storey detached and semi-detached dwellings. On the southern side is a two storey detached dwelling (No. 283 Shore Road) which is currently unoccupied as the Rectory associated with the Grade B1 listed St. Johns Church (Ref: HB21/07/007) which lies further to the south.
9. The appeal proposal seeks full planning permission for a residential development comprising a total of 33 No. units comprising 19No. Category 1, 3No. Wheelchair Units and 11No. General Needs. All units are intended to be occupied by persons over the age of 55 years old. The courtyard layout comprises 4No. buildings identified as Blocks 'A', 'B', 'C' and 'D' as per the appeal drawings. Blocks 'C' and 'D' are two storey in height (7m to ridge) and have frontage onto the Shore Road from which they are set-back by some 6.2 metres, whereas Blocks 'A' and 'B' are three storey in height (10m to ridge) and are positioned to the rear of the site some 14 metres from the railway line.

10. A landscaped and paved courtyard/open space area measuring some 34m x 21m is located in the centre of the appeal development around which is positioned a 1.2 metre wide footway which provides pedestrian access to each of the residential blocks. It connects to a 2 metre wide pedestrian footpath which runs along the appeal site frontage adjacent to Shore Road.
11. Block 'A' is 'L' shaped in its form and comprises Unit Nos.1 – 15 and is sited to the north-east of the courtyard. Block 'B' is rectangular in form, comprises Unit Nos. 16-21 and is sited to the south-east of the courtyard. Block 'C' fronting the Shore Road is 'L' shaped in its form, comprises Unit Nos. 22 – 29 and is sited to the south-west of the courtyard and Block 'D' also fronting Shore Road is rectangular in form, comprises Unit Nos. 30 – 33 and is sited to the north-west of the courtyard. Each residential unit would contain a kitchen, living and dining area, 1No. or 2No. bedrooms and a separate bathroom.
12. A single vehicular access/egress, positioned at the north-western corner of the appeal site, leads onto a 6 metre wide shared surface which serves a total of 32 No. car parking spaces (incorporating 3 No. disabled parking spaces) positioned along the northern and eastern boundaries of the site.
13. The layout incorporates 3No. bin stores sited along the northern, eastern and southern boundaries of the appeal site, 2No. drying areas sited along the southern boundary and positioned adjacent to Blocks 'B' and 'C' and a cycle store sited at the south-east corner of the appeal site. The proposed boundary treatment comprises a 2.1 metre high timber acoustic fence with associated perimeter planting along the northern boundary, a 2.4 metre high timber acoustic fence with associated perimeter screen planting along the eastern boundary, a 2.1 metre high timber acoustic fence with the existing boundary planting being supplemented with new trees and hedges along the southern boundary and a 1.1 metre high railing with cover planting to the rear, and positioned in front of Blocks 'C' and 'D' adjacent the Shore Road boundary.

Quality Residential Design Matters

14. Policy QD 1 of PPS 7 'Quality in New Residential Development' 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'. It goes on to state that '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'. Paragraph 4.27 of the SPPS also refers to the need for good design and states 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. Although not expressly stated, both the Council and third parties concerns relate to criteria (a), (g) and (h) of Policy QD 1.
15. I note there was no disagreement between the parties that APPS 7 and Policy LC 1 therein, which requires that the pattern of development is in keeping with the overall character and environmental quality of the established residential area, does not apply to the particular circumstances of this appeal development. As detailed previously, the Shore Road runs from Belfast to Carrickfergus past the appeal site. Given that I consider that this part of the Shore Road operates as part

of the key transport corridor in the local traffic network, I consider that the exception within Annex E of APPS 7 is therefore met. Accordingly, I agree that the provisions of Policy LC 1 of APPS 7 do not apply in this case. As such, the relevant policy test for the appeal proposal is Policy QD 1 of PPS 7 which states that in established residential areas, proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.

16. Criterion (a) of Policy QD 1 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. In this case, the Council considers that the proposed development would be a dominant structure of inappropriate scale, mass and design.
17. Paragraph 4.6 of the Justification and Amplification (J&A) to Policy QD 1 of PPS 7 expects developers in preparing layouts to have greater regard to the site context, in particular the characteristics of landform and the townscape or landscape setting, and the need for these elements to be integrated into the overall design concept. From my site visit, I observed that this part of Shore Road is predominantly mixed use in character comprising commercial, ecclesiastical, professional services and residential uses. In respect of residential development, this part of Shore Road is characterised by detached and semi-detached/terraced two storey dwellings, all of which front onto Shore Road, and also by three storey apartment buildings which are set back but have their main outlook towards the road.
18. Paragraph 7.10 of Creating Places states that larger dwellings and blocks more than 2 storeys in height should be located to provide focal points in the layout to enhance the overall impression of quality. It goes on to state that the scale of these buildings will generally suit the scale of the spaces that have to be provided along local distributor roads and other important streets and avenues.
19. The crux of the Council's concerns in respect to scale and massing primarily relates to Blocks 'A' and 'B' positioned to the rear of the appeal site. The Council contend that given their scale and massing when combined with their extent, width and their width positioning towards the rear of the appeal site, these buildings would give rise to dominance. This would impact upon the rear garden spaces of those dwellings along Whitehouse Park, and in particular, Nos. 46 – 58 Whitehouse Park which sit at a lower level to the appeal site. From the evidence, I note that a number of third parties raised similar concerns in relation to the domineering impact that the appeal development, and these two buildings in particular, would present in respect of the rear outlook from these dwellings.
20. Blocks 'A' and 'B', which are proposed in closest proximity to the dwellings in Whitehouse Park, would both be constructed to a finished ridge height of some 10 metres above ground level (AGL) and would be positioned some 14 metres from the eastern (rear) boundary of the appeal site. Sited between the appeal site and the rear boundaries of Nos. 46 – 58 Whitehouse Park is the Belfast to Larne railway line and embankment which provides an additional buffer of some 11 metres. A separation distance of some 20 metres would exist between the aforementioned rear boundary of Nos. 46 – 58 Whitehouse Park and the rear

elevation of these dwellings. All in all therefore, a total building-to-building separation distance of some 45 metres would exist between Blocks 'A' and 'B' and Nos. 46 – 58 Whitehouse Park. I note that this measurement was not disputed by the Council or third parties.

21. At a distance of some 45 metres, and notwithstanding the level difference, given a combination of the extent of the separation, the intervening mature vegetation positioned along the railway line which would filter views of Blocks 'A' and 'B' and the scale, massing and design of both blocks which I consider to be acceptable, I am not persuaded that the appeal development would create an unacceptable dominant impact upon the rear outlook of Nos. 46 – 58 Whitehouse Park in particular. The third parties concern in this regard is not sustained.
22. Having regard to the appeal development in its overall form, that is, the four buildings and their respective scale and massing, when set against the prevailing forms of development evident in the immediate locality which includes, as detailed previously, commercial development and two and three storey residential development including a three storey apartment development currently under construction opposite the appeal site, I do not consider that either the individual elements or the proposal in its entirety would present itself as a dominant form of development with any adverse visual impact in this part of the streetscape. This is due to a combination of the degree of set-back from the road and the mature boundary treatment along the northern and southern boundaries of the site which would help to filter views of the development, and particularly those of lower floors of the buildings, when travelling along Shore Road.
23. Whilst I acknowledge that the upper floors of Blocks 'A' and 'B' would be visible above the mature boundary vegetation in both directions along Shore Road and in views along Whitehouse Park such that they would break the skyline, I do not consider that this would represent unacceptable dominance harmful to the visual amenity and character of the area. I do not consider that the combination of the proposal's overall height, width and depth would produce a three-dimensional building form that would appear bulky and out of character within the immediate locality. For these reasons, therefore, I consider that the proposal would not result in an incongruous form of development which would be overly dominant or fail to respect the existing context and character of the surrounding area. Accordingly, the Council's concern regarding the scale and massing of the proposed development is not sustained.
24. In respect of the matter of design, I note there is some disagreement between the parties regarding the particular design cues. For example, the appellant states that the design reflects the apartment development at Merville Garden Village. Whilst I accept the Council's position that the appeal development will not be read in the context of Merville Gardens, due in part to its distance away, that does not, in itself, prevent its detailed design providing inspiration for the appeal development.
25. Moreover, I also note the Council states that the proposal's overall design arrangement comprising four buildings set in a courtyard format defining a central area of open space would be uncharacteristic of the area. However, the proposal would comprise a number of design cues evident within the immediate locality, for example, the inclusion of two and three storey buildings, the brick finish, the use of flat roofs and apartment living in general, I am not persuaded that, in overall terms,

a courtyard feature would visually jar or appear incongruous in the streetscape. Furthermore, the actual courtyard feature would be screened from views from Shore Road.

26. I note that the Council raised no objection to the proposed materials palette to be adopted within the scheme design and in the event of approval, the colour of the external clay facing brick finish can be secured by planning condition. This, combined with the inclusion of design elements such as the proportionate solid to void ratio, the rhythmic use of windows at various heights, bespoke banding detail and my previous conclusions detailed above, would together contribute to create an overall scheme design that I consider would respect the surrounding context.
27. The Council refers to the siting of buildings and parking close to or along site boundaries which is indicative of overdevelopment. The appeal site is positioned along a key transport corridor and the provisions of APPS 7 recognise the desirability of promoting increased density housing in such locations, having regard to a combination of the disposition of buildings and open space within the overall layout, the buildings' set-back from each of the curtilage boundaries and the general open aspect of the proposal, I am not persuaded that the appeal development represents overdevelopment of the site.
28. The Council also contends that the appeal development incorporates a 'prolific use' of fencing to three of the site boundaries which results in the appearance of an over-developed site and which presents a poor urban design solution. Given the proximity of the appeal development to the railway line and to the petrol filling station, and given that the intended occupants of the proposal is for over-55's, I consider that the erection of such acoustic fencing to these boundaries, represents a reasonable and appropriate treatment to minimise adverse noise levels for residents arising from passing trains or from the general noise and disturbance from vehicles using the petrol filling station particularly during the evening.
29. Moreover, given that the existing northern and eastern boundaries comprise of steel palisade fencing, I consider that their replacement with a timber acoustic fencing combined with the retention of the existing mature planting and additional planting as shown on Drawing Number 03/3 represents an improved design solution in visual terms than that which currently exists. The Council's concerns are not sustained.
30. The intention of PPS 7 and Creating Places is to create quality residential environments. As I do not consider that the appeal development would be a dominant structure of inappropriate scale, mass and design, the proposal therefore complies with criteria (a) and (g) of Policy QD 1 of PPS 7 and the related provisions of the SPPS. Accordingly, the Council's first reason for refusal is not sustained. The associated concerns of third parties are also not sustained.

Impacts upon Residential Amenity

31. Criterion (h) of Policy QD 1 of PPS 7 requires that the design and layout of the appeal proposal will not create conflict with adjacent land uses and that there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. The Council

has no objections in respect of the impact of the appeal development on existing properties in terms of loss of light, overshadowing, noise or other disturbance.

32. However, their concern is centred upon overlooking of nearby residential properties. I note that concerns regarding overlooking are also shared by a number of third parties within Whitehouse Park, and in particular, by those whose rear curtilage would back onto the appeal site were it not for the railway line.
33. In respect of amenity and separation distances, paragraph 7.16 of Creating Places advises that where the development abuts the private garden areas of existing properties, a separation distance greater than 20 metres will generally be appropriate to minimise overlooking, with a minimum of around 10 metres between the rear of new houses and the common boundary.
34. Paragraph 7.17 of Creating Places states that great care will be needed in designs where new residential schemes, such as apartments, include living rooms (as in this case) or balconies on upper floors as this can cause a significant loss of amenity to adjoining dwellings where they are close to the boundaries of existing properties. It states that on greenfield sites or lower density areas, good practice indicates that a separation distance of around 30 metres should be observed. Paragraph 7.18 goes on to state however that greater flexibility will generally be appropriate in assessing the separation distance for apartments in inner urban locations or other higher density locations.
35. Notwithstanding that the appeal site is located in both an inner urban and a higher density location where greater flexibility in separation distances is advocated by planning guidance, as detailed previously the building-to-building separation distance on the ground between the appeal development and the existing dwellings at Nos. 46 – 58 Whitehouse Park, that is, those dwellings whose rear outlook is orientated towards the railway line and appeal site, is some 45 metres.
36. Given that this separation distance significantly exceeds the 30 metre separation distance which Creating Places advocates combined with the fact that the mature vegetation which is positioned along the rear boundary between Nos. 46 – 58 Whitehouse Park and the railway line would assist to filter views between the appeal development and the rear aspect of these dwellings, I am not persuaded that the appeal development would therefore lead to unacceptable adverse levels of overlooking of Nos. 46 – 58 Whitehouse Park.
37. In its evidence, the Council also referred to the detrimental impact on the residential amenity of No. 283 Shore Road. It stated that as Block 'B' would only be positioned some 4 metres from the boundary with No. 283 Shore Road, it would therefore have extensive views of the rear amenity space of this property. In addition, the Council also stated that because the first-floor dining room of Unit 26 (Block C) would be positioned some 29 metres from No. 283 Shore Road, that on this basis the appeal should be dismissed.
38. On the ground, there is mature vegetation positioned along the southern boundary of the appeal site which would filter views between both Blocks 'B' and 'C' and No. 283 Shore Road. Moreover, given that any overlooking of the private amenity space of No. 283 from Block 'B' would only occur from the bathroom/wc and/or shower/wc windows of Units 18, 19, 20 and 21, which are non-habitable rooms

with windows normally of obscured glazing, subject to such a condition, I am not persuaded that there would be any unacceptable adverse overlooking or loss of privacy of No. 283 to the detriment of its residential amenity from Block 'B'.

39. In respect of Block 'C', given that the mature vegetation along the southern boundary would filter views between it and No. 283 and given also that a separation distance of some 29 metres is marginally below the 30 metre separation distance which Creating Places advocates and my on-site observations, I do not consider that overlooking of the rear private amenity space by 1No. living/dining room at such a distance would lead to an unacceptable adverse level of overlooking of No. 283 from Block 'C'.
40. In their evidence, the third parties considered that the addition of 33No. units would have a negative impact on the 'quiet nature of the existing residential area'. Notwithstanding that I found the ambient noise levels within the immediate Shore Road and wider area to be low during my site visit, given the intended targeted age group of potential occupiers of the appeal development, that is, aged 55 years and above, I am not persuaded that the appeal development would lead to an unacceptable adverse increase in ambient noise significantly over and above that which currently exists, and particularly for residents within Whitehouse Park, to the detriment of their residential amenity. The third parties concerns in respect of noise are therefore not sustained.
41. The third parties also raised concerns regarding overshadowing and loss of light from the appeal development into the rear aspect of dwellings at Whitehouse Park in particular. No unacceptable loss of light or overshadowing of the dwellings themselves would occur from the appeal development given their disposition combined with the separation distance of some 48 metres between the proposed development and these properties. The third parties concerns in this regard are not sustained.
42. For the reasons detailed, I am satisfied that that the appeal development would not result in any unacceptable adverse overlooking of nearby residential properties. The Council's objection under criterion (h) of Policy QD 1 of PPS 7 is therefore not upheld. Accordingly, the Council's second reason for refusal is not sustained. The third parties objections are also not sustained.

Road Safety

43. Policy AMP 7 of PPS 3 states that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. This is also captured within criterion (f) of Policy QD1 of PPS 7; that adequate and appropriate provision is made for parking. There is no dispute between the parties in respect of the proposed servicing arrangements.
44. The Council considers that the appeal development has a shortfall of some 16No. parking spaces and that no justification has been provided by the appellant to justify this reduction from the guidance contained in Creating Places/Parking Standards. As a result, the Council contends that this would lead to road safety issues by reason of overspill and displacement car parking onto the public road.

45. The appellant submitted a Parking Survey Report (PS Report) at appeal stage which showed at Table 2 that the parking requirement for the appeal development is some 49No. spaces having regard to the provisions of Parking Standards and Creating Places. Given that the appeal drawings show the provision of 33No. spaces, the PS Report stated that this leaves a parking shortfall of 16No. spaces.
46. The PS Report detailed that for the electoral ward within which the appeal development is sited (Macedon H4 electoral ward), the 2021 Census results showed that 72% of existing residents in the area have no car or one car only such that there is very low parking demand in the area. In terms of future parking demand, the PS Report went on to state that the proposal is for a wholly social housing scheme with 57% of the proposed apartments being for 'category 1' (active elderly) occupants. The appellant contended that the proposed occupants of such a social housing scheme would generally have a lower level of car ownership and therefore reduced parking demand and for this reason, the appellant concludes that it is not envisaged that parking demand for the proposed scheme would require parking provision as per the published standards.
47. The PS Report, which stated that Shore Road has an urban clearway restriction along both sides of the road between the hours of 8am – 9.30am and 4.30pm – 6pm, went on to detail the results of a parking survey undertaken at Martin Park and Neill's Court, some 100 metres from the appeal site, during peak residential usage times, that is, pre 8am and post 6pm on Wednesday 2nd August 2023, Thursday 3rd August 2023, Tuesday 8th August 2023 and Wednesday 9th August 2023. The survey results showed that on Wednesday 2nd August 2023 there were 18No. spaces available during the am survey period, on Thursday 3rd August 2023 there were 14No. spaces available during the pm survey period, on Tuesday 8th August 2023 there were 18No. spaces available during the am survey period and on Wednesday 9th August 2023 there were 18No. spaces available during the pm survey period. The PS Report concludes by stating that the surrounding residential roads located off the Shore Road and which have no parking restrictions have sufficient spare capacity to accommodate overspill parking for the proposal, if necessary, such that there will be no impact upon the safe movement of traffic.
48. The Council argued that given the PS Report was not submitted during the application stage, its submission at appeal is contrary to Section 59 of the Planning Act 2011 and should not be considered. Section 59 of the Act states as follows:

'59—(1) In an appeal under section 58, a party to the proceedings is not to raise any matter which was not before the council or, as the case may be, the Department at the time the decision appealed against was made unless that party can demonstrate to the satisfaction of the planning appeals commission—

- (a) that the matter could not have been raised before that time, or*
- (b) that its not being raised before that time was a consequence of exceptional circumstances.*

(2) Nothing in subsection (1) affects any requirement or entitlement to have regard to—

- (a) *the provisions of the local development plan, or*
- (b) *any other material consideration'.*

49. Given that the Council was live to the issue of car parking at the application stage, parking is therefore not a new matter for consideration. As such, I find that the submission of the PS Report satisfies the provisions of the Act and is therefore admissible. Furthermore, as the Council and the third parties have had an opportunity to review the PS Report and submit comments in respect thereto, no prejudiced is therefore caused.
50. The content of the PS Report, together with the electoral ward 2021 Census information helps to illustrate existing parking availability and the age profile of the future residents could limit parking demand. This was not disputed by the Council. Given this evidential context and my own observations of parking capacity in the area generally, I am satisfied that the proposed in-curtilage parking ratio of 1 space per dwelling/unit is acceptable in this highly assessable area. The Council's concerns in this regard are not sustained.
51. As I have concluded that the appeal development would meet the provisions of the aforementioned guidance such that an adequate and appropriate provision of parking is achievable to comply with criterion (f) of Policy QD 1 of PPS 7 when read alongside Policy AMP 3 of PPS 3, the Council has therefore not sustained its third reason for refusal. In addition, I am also satisfied that a safe means of access/egress to serve the proposal can be secured by planning condition.

Other matters

52. The third parties raised other matters. In respect to the alleged potential strain on existing sewage infrastructure, I have been given no persuasive evidence that there is a capacity issue at the local wastewater treatment works. I was also given no persuasive evidence that the appeal development would generate any unacceptable level of light pollution that would have a significant adverse effect on residential amenity within the locality. Finally, given the separation distance to St. John's Church and the enclosure afforded to it by the existing mature landscaping along its Shore Road frontage, I am not persuaded that the appeal development would have a detrimental impact upon its character or setting. For these reasons, the third parties concerns are not sustained.
53. As the Council has not sustained its first, second and third reasons for refusal in so far as stated, the appeal succeeds, and full planning permission is granted subject to the following conditions.
54. Conditions requiring the provision of access visibility splays and the gradient of the access road would be necessary in the interests of road safety. Conditions are also required for the provision of landscaping and for continuing maintenance and replanting where necessary in the interest of visual amenity. A condition is also required for the retention of the existing natural screenings of the site in the interest of visual amenity and also to safeguard the amenities of neighbouring occupiers.
55. I note from the background papers that potential pollutant linkages at the site associated with potential made ground, the nearby petrol filling station and the

adjacent railway lands were identified. For this reason, conditions requiring the provision of a land contamination remediation strategy and implementation plan and a piling risk assessment are necessary to ensure that risks from land contamination are minimised and that the development can be carried out safely without unacceptable risk to people and other receptors. A condition requiring the provision of a final Construction Environmental Management Plan (CEMP) and a Construction Method Statement (CMS) is necessary to prevent detrimental environmental effects on the Inner Belfast Lough Area of Special Scientific Interest (ASSI), the Belfast Lough Ramsar site and Belfast Lough Special Protection Area (SPA) which are within proximity to the site.

56. I consider that a planning condition to protect the stability of the railway embankment is necessary including the demolition of buildings being undertaken at the appeal site within 10 metres of the boundary of the railway line. Furthermore, given the location on a main transport corridor in a mixed-use area, I consider that appropriate glazing and ventilation to secure sound reduction from outside to inside each apartment is necessary to further minimise adverse noise levels for residents.

Conditions

1. The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 03/3 date stamp 4th July 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.
2. The gradient of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.
3. No development shall commence until a sample of the clay facing brick to be used in the construction of the external fabric of the buildings has been submitted and approved by the Council. Thereafter, the development shall be carried out in accordance with the approved external finishes.
4. A final Construction Environmental Management Plan (CEMP) and a Construction Method Statement (CMS), agreed with the appointed contractor, shall be submitted to and agreed by the Council at least eight weeks prior to any works commencing, including ground preparation or vegetation clearance. This shall identify all potential risks to the adjacent watercourses and designated sites and appropriate mitigation measures to be implemented during construction to eliminate these risks. The CEMP and CMS shall include the following:
 - a) Construction methodology and timings of works;
 - b) Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction

materials, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site. The approved CEMP and CMS shall be implemented in accordance with the approved details and the development shall be carried out in accordance with the mitigation measures, unless otherwise agreed in writing by the Council.

c) The CEMP will include the identification of any existing drainage network outlets from the site, and details on how they will be isolated.

5. Prior to the development commencing a detailed land contamination remediation strategy and implementation plan, shall be submitted to and agreed in writing with the Council.
6. Prior to occupation of any of the dwellings, the mitigation measures as presented within the land contamination remediation strategy and implementation plan as required by Condition 5 above, have been fully implemented and verified to the satisfaction of the Council.

There shall be no amendments or deviations from the remediation measures and the validation and verification details contained within the agreed detailed land contamination remediation strategy and implementation plan without the prior written approval of the Council.

Verification documentation shall be submitted in the form of a verification report, to the Council. The report shall describe all the remediation and monitoring works undertaken and shall demonstrate the effectiveness of the works in managing and remediating all the risks posed by contamination.

7. If, during the development works, a new source of contamination and risks are found which had not previously been 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 Model Procedures for the Management of Land Contamination (CLR11).

Should an unacceptable risk to human health be identified, a land contamination remediation strategy shall be submitted to be agreed with the Council before being implemented.

8. The external wall surrounding the glazing and ventilation systems to habitable rooms shall be capable of achieving a sound reduction from outside to inside of at least 52 R_w as detailed within Document Number 08/1, date stamped 14th October 2022 by the Council.
9. All habitable rooms to the northern, southern and western facades of Blocks C and D, shall be fitted with glazing including frames, capable of achieving a sound reduction from outside to inside, of at least 42dB R_w as detailed within Document Number 08/1, date stamped 14th October 2022 by the Council.
10. All habitable rooms to the eastern facade of Blocks C and D, shall be fitted

with glazing including frames, capable of achieving a sound reduction from outside to inside, of at least 31dB R_w as detailed within Document Number 08/1, date stamped 14th October 2022 by the Council.

11. All habitable rooms to Blocks A and B, shall be fitted with glazing including frames, capable of achieving a sound reduction from outside to inside, of at least 37dB R_w as detailed within Document Number 08/1, date stamped 14th October 2022 by the Council.
12. All habitable rooms to the northern, southern and western facades of Blocks C and D, shall be fitted with passive or mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction from outside to inside, of at least 45dB $D_{n,e,w}$, as detailed within Document Number 08/1, date stamped 14th October 2022 by the Council.
13. All habitable rooms to the eastern facades of Blocks C and D, shall be fitted with passive or mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction from outside to inside, of at least 34dB $D_{n,e,w}$, as detailed within Document Number 08/1, date stamped 14th October 2022 by the Council.
14. All habitable rooms to the facades of Blocks A and B, shall be fitted with passive or mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction from outside to inside, of at least 42dB $D_{n,e,w}$, as detailed within Document Number 08/1, date stamped 14th October 2022 by the Council.
15. The bathroom/wc and/or shower/wc windows of Units 18, 19, 20 and 21 within Block B shall be fitted with obscured glass and retained in that condition at all times.
16. Prior to occupation of the development, a 2.1m high acoustic barrier shall be installed along the northern and southern boundaries as outlined within Drawing No. 03/3, date stamped 4th July 2022. The barrier shall have a surface weight density of not less than 10kg/m², be of solid construction, (i.e. no holes or gaps present for sound to pass through) and so if it is a fence it shall be of the ship-lapped design and shall be retained for the lifetime of the development.
17. Prior to occupation of the development, a 2.4m high acoustic barrier shall be installed along the eastern boundary as outlined within Drawing No. 03/3, date stamped 4th July 2022 and within Section 9 of Document Number 08/1, date stamped 14th Oct 2022 by the Council. The barrier shall have a surface weight density of not less than 10kg/m², be of solid construction, (i.e. no holes or gaps present for sound to pass through) and so if it is a fence it shall be of the ship-lapped design and retained for the lifetime of the development.
18. The cumulative noise level from the operation of all new plant associated with the permitted development, shall not exceed the limits set out in Table 16 within Document Number 08/1, date stamped 14th October 2022 by the Council, including any character corrections required and when measured

in line with *BS4142:2014 + A1:2019*, at 1m from the façade of any nearby sensitive receptor.

Table 16 Plant noise limits at 1m from the nearest noise sensitive premises

Time of Day	Maximum sound pressure level at 1m from noise sensitive premises, LAeq,15min (dB)
Daytime (07:00-23:00)	49
Night-time (23:00-07:00)	29

The limits set out in Table 16 do not include any attention catching features. The penalty corrections for attention catching features may be significant, and will need to be considered as the building services design progresses.

19. Prior to the commencement of development a landscaping scheme shall be submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.
20. Prior to occupation of any of the units a landscape management and maintenance plan shall be submitted to and approved by the Council. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.
21. The existing natural screenings of the site, shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.
22. If within a period of 5 years any existing 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.
23. No development or piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Council. This Condition only applies if a piling foundation is being used at the site. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on *“Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention”*.
24. No development, including any acts of demolition of buildings, shall take

place within 10 metres of the NIR boundary until a demolition plan and activity schedule, which takes account of railway line clearance distances, excavation works, protection measures and the operation of large machinery in close proximity to the railway embankment has been agreed in writing with the Council.

This decision is based on the following drawing(s):

Drawing No.	Title	Scale	Received by the Council
01	Site Location Plan	1:1250	26 th July 2021
03/3	Site Layout Plan	1:250 & 1:500	4 th July 2022
04	Block 'A' Floor Plans	1:100 & 1:200	26 th July 2021
05/1	Block 'A' Elevations & Sections	1:100 & 1:200	17 th August 2022
06/1	Block 'B' Floor Plans & Elevations	1:100 & 1:200	17 th August 2022
07/1	Block 'C' Floor Plans	1:100	4 th July 2022
08/2	Block 'C' Elevations & Sections	1:100 & 1:200	17 th August 2022
09/2	Block 'D' Floor Plans & Elevations	1:100 & 1:200	17 th August 2022
10/2	Site Sections	1:200	17 th August 2022
12	Proposed Acoustic Fence	1:50	26 th July 2021
13	Boundary Details	1:20	26 th July 2021

COMMISSIONER KEVIN GILLESPIE

List of Documents

Planning Authority:-

**Antrim and Newtownabbey Borough
Council - Statement of Case**

**Antrim and Newtownabbey Borough
Council – Rebuttal Statement**

Appellant(s):-

Gravis Planning (Agent) - Statement of Case

Gravis Planning – Rebuttal Statement

Third Party:-

Mr Philip Brett MLA – Statement of Case