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| Planning Committee Report LA01/2016/1138/F | 27th June 2018 |
| PLANNING COMMITTEE | |

| Linkage to Council Strategy (2015-19) | |
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| Strategic Theme | Protecting and Enhancing our Environment and Assets |
| Outcome | Pro-active decision making which protects the natural features, characteristics and integrity of the Borough |
| Lead Officer | Development Management & Enforcement Manager |
| Cost: (If applicable) | N/a |

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| <u>App No:</u> | LA01/2016/1138/F | <u>Ward:</u> | Portstewart |
| <u>App Type:</u> | Full Planning | | |
| <u>Address:</u> | 10, 12, 14 & 16 Upper Heathmount, Portstewart | | |
| <u>Proposal:</u> | Demolition of existing townhouses and erection of residential building consisting of 1 No. townhouse and 11 No. apartments, car parking, bin store and reuse of existing access from Garden Avenue. | | |
| <u>Con Area:</u> | N/A | <u>Valid Date:</u> | 20 September 2016 |
| <u>Listed Building Grade:</u> | N/A | <u>Target Date:</u> | 04.01.2017 |
| Applicant: | W & A Hayes, 146 Pomeroy Road, Dungannon, BT20 2TY. | | |
| Agent: | McAdam Stewart Architects, Banbridge Enterprise Centre Scarva Road, Banbridge, BT32 3QD | | |
| Objections: | 16 | Petitions of Objection: | 0 |
| Support: | 0 | Petitions of Support: | 0 |

Drawings and additional information are available to view on the Planning Portal- www.planningni.gov.uk

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** planning permission subject to the reason set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 Roadside site located on the eastern side of Upper Heathmount. The site comprises an uninhabited two / two-and-a-half storey terrace, finished in dry dash and slate pitched roof. The buildings and windows display vertical emphasis. Chimneys are expressed on the ridge. Site levels rise from east to west. A footpath is located along the Heathmount frontage. Buildings / stone walls are located at the north and south boundaries. The rear boundary is undefined on the ground. There are no significant natural features on site.
- 2.2 A two storey terrace finished in dry dash, roughcast render, slate roofs with chimneys on the ridge is located to the south of the site. A public footpath runs along the western boundary of the site at Upper Heathmount. A listed church (Dr Adam Clarke Memorial Methodist Church) is located on the western side of Upper Heathmount. An apartment block is located at 1 Heathmount, on the western side of Upper Heathmount. Apartment blocks are located either side of the proposed access onto Garden Avenue. The front door of the apartments at 11 Garden Avenue is directly adjacent to the right of way which the proposal uses as a vehicular access. Critical views are from Upper Heathmount and Church Street. The eastern side of Upper Heathmount is characterised by a terrace of pitched roof dwellings. Dwellings to the north and south are characterised by vertical windows on the front elevations, with chimneys expressed on the ridge.
- 2.3 The site is within the settlement limits of Portstewart and within an Area of Archaeological Potential as designated in the Northern Area Plan 2016.

3 RELEVANT HISTORY

C/2005/0313/F – 11 No. apartments at 10, 12, 14 Upper Heathmount, Portstewart – Refused 29.01.2006.

C/2006/0190/O – 5 No. townhouses at 10, 12 and 14 Upper Heathmount, Portstewart – Refused 13.09.2007.

C/2008/0353/F – 5 No. townhouses at 10, 12, 14 and 16 Upper Heathmount, Portstewart – Approved 15.05.2009

C/2014/0182/F – change of house type to C/2008/0353/F for 5 No. townhouses at 10, 12, 14 and 16 Upper Heathmount, Portstewart – Approved 02.09.2014

4 THE APPLICATION

- 4.1 Demolition of existing townhouses and erection of residential building consisting of 1 No. townhouse and 11 No. apartments, car parking, bin store and reuse of existing vehicular access from Garden Avenue. 6 No. 2 bedroom and 4 No. 3 bedroom apartments are proposed. There are 11 No. in-curtilage communal car spaces at the rear of the apartment block together with 4 No. existing on-street parking spaces at Upper Heathmount. Ground floor finished floor levels fall from 19.92 in the north to 19.37 in the south. The level of the car park at the rear, steps up to 22.47 at car parking space 8. Rear amenity space has been provided for the proposed townhouse. Terraces and a communal roof garden are provided at third floor level. The third floor apartments are set back off the side boundaries. Bins stores are located adjacent to the north and south boundaries. The applicant intends to use mains sewerage.

5.0 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: There are 16 No. objections to the proposal from 7 No. separate addresses. The reasons for objecting are summarised below:

- Inadequate car parking / traffic levels and impact on public safety at the right of way onto Garden Avenue, in particular the safety of those at 11 Garden Avenue
- The car parking survey was done in October. If the survey was done in the busy summer months when tourists visit Portstewart, the results would be very different. Public parking is under pressure and this part of Portstewart is particularly busy, especially in July and August. As such, adequate off-street car parking is essential to the proposal
- The proposal is contrary to Policy QD1 criterion a of PPS7 by reason of unacceptable scale, height and massing given the surrounding context. Efforts should be made to maintain heights appropriate to the context of the immediate environment. The previous approvals on the application site were much more in keeping with the character of the area. The proposal will result in an unacceptable impact on the character of the area
- The applicant has made a false claim of ownership
- The site is not located within an Area of Opportunity for Apartments in Portstewart, which contains apartment development to specific areas
- Apartments offer no housing opportunities to local families
- Apartment developments result in crowded streets during the summer months and empty no-go areas during the winter evenings
- Unacceptable impact of existing chimney smoke on the proposed amenity areas
- Non-compliance with section 4.12 of the SPPS regarding health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing
- Overshadowing and degradation of amenity space and setting of the adjacent properties to the south and other surrounding properties
- The proposal is contrary to paragraph 4.38 of the SPPS and Policy QD1 criterion h of PPS7 by reason of significant overlooking from the glazed area on the top floor balcony / bedrooms looking into the front patio doors, garden and driveway of the adjacent property to the south and into other properties further to the south of the application site
- The scheme is not valid because an objector will not agree to building along a shared party wall

- An objector in an adjacent property will not permit access over their lands for construction
- The existing properties contain significant amounts of asbestos. This raises health and safety concerns regarding demolition.
- Nearby self-catering cottages could not be used during demolition and construction due to visual impact, and disruption with site traffic, scaffolding, noise, dust and vibration
- Impact of the basement area on the stability of adjacent property
- Blocking of a right of way at the rear of the property during construction and post construction / retention of the right of way for other affected properties
- No details of how the development might affect the gate, pillars, driveway and other boundary features at 8 Upper Heathmount have been provided
- Damage to a right of way
- No communication was given to the owner of 2 Enfield Gardens regarding the proposal
- The proposal is contrary to the SPPS and Policy BH11(a) of PPS6 in relation to impact on a nearby listed building
- The proposal is contrary to paragraphs A28, A29 and A30 of Annex A of PPS7

5.2 Internal

Transport NI: Has no objection to the proposal and to the submitted Traffic Statement and Parking Survey Report.

NIEA: Has no objection to the proposal.

NI Water: Has no objection to the proposal.

Environmental Health: The balconies in the proposed apartments would be encroaching on an existing source of smoke from existing domestic chimney stacks.

Rivers Agency: Has no objection in relation to the Drainage Assessment.

DFC Historic Environment Division: Advise, following consideration of the submitted contextual information and massing diagrams, that the proposal in its current form has an adverse impact on the listed Grade B2 Methodist church as assessed under the policy requirements of Strategic Planning

Policy Statement (Para 6.12, & 6.13) and BH11 (Development affecting the Setting of a Listed Building) of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

6.0 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is:
- Northern Area Plan 2016 (NAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as both a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7.0 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 6: Planning Archaeology and the Built Heritage

Planning Policy Statement 7: Quality Residential Environments

PPS 7 Addendum: Safeguarding the Character of Established Residential Areas

Planning Policy Statement 12: Housing in Settlements
DCAN 8 - Housing in Existing Urban Areas

Planning Policy Statement 15: Planning and Flood Risk

DCAN 15 - Vehicular Access Standards

Parking Standards

Creating Places

8.0 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to: the design and layout and impact of the development on the character of the area and impact on the residential amenity of surrounding properties.

Planning Policy

- 8.2 In the Northern Area Plan 2016, the site is not zoned for any specific use and is considered to be a whiteland site within the settlement development limit of Portstewart.
- 8.3 The principle of the type and scale of development proposed must be considered having regard to the SPPS and PPS policy documents specified above.

Design and Layout and Impact on Character of the Area and Impact on Residential Amenity

The proposal was amended from 12 No. apartments to 1 No. townhouse and 9 No. apartments on 23 March 2017. The proposal was further amended to 1 No. townhouse and 11 No. apartments on 07 November 2017.

(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;

The principal view of the proposal is from Upper Heathmount and Church Street.

Apartments are not suitable for the eastern side of Upper Heathmount. While an apartment block is located at 1 Heathmount, this is a different street. The eastern side of Upper Heathmount is characterised by family dwellings.

The proposal comprises a four storey building with a flat roof, measuring 11.85m at its highest point, when viewed from the frontage. The proposal does not respect the surrounding context in terms of height scale and massing – approvals C/2008/0353/F and C/2014/0182/F were two / two-and-a-half storey in height. The Planning Authority had no issue with the frontage of C/2006/0190/O, which measured 10.4-10.6m to top of ridge on pitched roof; the eaves height of 6.5m. A large front projection on approval C/2006/0190/O at a height of 12.8m was removed, following concerns from the Planning Authority. In the current scheme, the submitted context drawing shows the height of the proposal above the height of the existing buildings and above the height of approval C/2014/0182/F. The proposal represents an unacceptable intrusion into the established roofscape. The flat roof is out of keeping with the character of the eastern side of Upper Heathmount, which is characterised by pitched roof dwellings. The visual impact of the southern elevation is significant from the southern approach.

Other considerations relative to this part of the policy are that the proposal relates satisfactorily to the established building line and all units presents an attractive outlook.

The proposed density is significantly higher than that found on the eastern side of Upper Heathmount – increasing from approximately 39-59 units per hectare to 200 units per hectare. As such, the proposal is contrary to Policy LC1 of the Addendum to PPS7: Safeguarding the Character of Established Residential Areas.

(b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;

DFC HED advise that the proposal fails to satisfy under policy requirements of the SPPS and PPS6 as the building would have an adverse impact on the listed building (Dr Adam Clarke Memorial Methodist Church). HED considers that the unacceptable scale, massing, proportions and height will have an adverse impact on the setting of the listed church and that the proposal, in its current form, would if permitted create a competing focus with the church when travelling north-east from Church Street onto Upper Heathmount.

No issues are arising in relation to archaeology and landscape features.

(c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;

No issues are arising in relation to public open space provision - Policy OS2 of PPS8 requires the provision of public amenity space for 25 units or more.

All the apartments have internal storage space. The ground floor units have surface level private amenity space at the rear, while the upper level units have a combination of balconies, terraces and communal roof gardens.

However, there is inadequate private amenity space for the proposed townhouse in terms of both the level of amenity space (approximately 18sqm) and the fact that the dwellings rear amenity space is dominated by the apartment block and the rear flight of stairs.

While adequate bin storage is shown by way of stores to the rear, paragraph 12.20 of Creating Places advises that refuse stores for apartments and maisonettes should be located to allow bins to be wheeled out to the kerb and the maximum carry distance will normally be around 25m. In this instance, residents will have to take their bins in excess of 25m. No bin collection management details have been submitted for the apartments. Residents at the proposed townhouse will have to take the bin up steps from ground floor level to the rear carpark at first floor level.

(d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;

No issues arising in relation to local neighbourhood facilities - the proposal is not of such significant size as to require the provision of neighbourhood facilities.

(e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;

The site is located close to Portstewart town centre and is within walking distance of the amenities offered by the town centre.

(f) adequate and appropriate provision is made for parking;

DFI Roads has no objection to the level and arrangement of parking provision.

(g) the design of the development draws upon the best local traditions of form, materials and detailing;

A Design and Access Statement was submitted on 20 September 2016.

The eastern side of Upper Heathmount has a distinctive, traditional townscape quality worthy of replication. Proposed finishes include white render, natural stone cladding, pre-weathered zinc cladding, blue engineering brick infill; and weatherboarding. The contemporary design and palate of finishes is not in keeping with the general traditional design on the eastern side of Upper Heathmount. Flat roofs are not typical of the eastern side of Upper Heathmount. The proposed fenestration on the frontage is not in keeping with the vertical emphasis windows of adjacent properties. There are no chimneys on the proposal, as per the character of the area. The visual impact of the large expanse of the southern gable is unacceptable on approach from the south. The overall design jars with the established character to such an extent that it is unacceptable.

(h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;

A Residential Impact Report was submitted on 22 January 2018 in response to submitted objections and Environmental Health Section consultation response dated 15 May 2017. Environmental Health Section was consulted on the Residential Impact Report and advise that proposed balconies would be encroaching onto an existing source of smoke from domestic chimney stacks and future occupants may suffer loss of amenity from such.

1.8m high opaque glazed screens are located around the rear of the third floor terrace and around the rear of the third floor communal roof garden. As such, the third floor terrace and communal garden will not cause overlooking into adjacent gardens. However, the rear bedroom windows impact upon the privacy at the rear of 8 Upper Heathmount.

The bulk of the proposed building dominates adjacent properties to the north and south. The proposal will result in loss of light and overshadowing to the rear of 18 Upper Heathmount, given

the path of the sun. The proposal will result in loss of light and overshadowing to the proposed townhouse.

(i) the development is designed to deter crime and promote personal safety.

No issues arising in relation to crime and personal safety.

8.4 Other Issues:

Other matters raised by objectors which are not previously covered are considered in the following section:

- The Planning Authority asked DFI Roads to consider submitted objections by way of re-consultations on 17 October 2016, 21 April 2017, 21 July 2017 and 07 December 2017.
- With regard to ownership, planning permission does not confer title. The case officer advised the applicant's planning agent that an objection was submitted claiming that the applicant did not own all the lands within the identified site curtilage. The agent advised the case officer (by email dated 20 October 2016) that the applicant owns and controls all the land within the curtilage of the site and as such section 27 of the P1 application form is correct. The Planning Authority does not become embroiled in disputes over title to land. The Planning Authority has no jurisdiction in such disputes, which are ultimately matters to be resolved through the courts. The key issue in this instance is prejudice. The Planning Authority is satisfied that no prejudice has been caused, as the objectors are aware of the application / proposal.
- There is no Area of Opportunity for Apartments in the Northern Area Plan 2016. An Area of Opportunity for Apartments was included in the previous draft plan, but was not carried through into the final published plan.
- The onus is on the developer to ensure compliance with Health and Safety legislation regarding the removal and disposal of any asbestos found at the application site.

- Any disruption to nearby businesses as a result of demolition/construction is a matter to be resolved between the interested parties.
- Issues regarding blocking or damage to a private right of way are civil matters, to be resolved between the interested parties.
- The stability of adjacent land during and post construction is a matter for the interested parties.
- The owners/occupiers of 2 Enfield Street Portstewart were not required to be notified regarding the proposal, as per the advice in the publication Development Management Practice Note 14.
- Paragraphs A28, A29 and A30 of the PPS7 Addendum: Residential Extensions and Alterations are not relevant to the new-build proposal.

9.0 CONCLUSION

- 9.1 This proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016, and other material considerations, including the SPPS. The principle of apartment development is not acceptable in this area characterised by family dwellings. The building appears as much larger, bulkier building given the increased height and massing. The building is incongruous and fails to respect the character of the area. The proposal has an adverse effect on neighbouring properties by reason of overlooking and dominance. The proposal will damage both local character and residential amenity. The proposal will also have an adverse impact on the nearby listed church. Refusal is recommended.

10 REFUSAL REASON:

- 10.1 The proposal is contrary to paragraphs 4.12 and 6.137 of the Strategic Planning Policy Statement for Northern Ireland, Policy QD1 of Planning Policy Statement 7 (Quality Residential Environments) and Development Control Advice Note 8 (Housing in Existing Urban Areas) in that the development as proposed fails to provide a quality residential environment by being contrary to criteria a, b, c, e, g and h of Policy QD1 and Policy LC1 of the

Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas.

- 10.2** The proposal fails to satisfy paragraphs 6.12 & 6.13 of the Strategic Planning Policy Statement and Policy BH11 (Development Affecting the Setting of a Listed Building) of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage, by reason of unacceptable scale, massing, proportions and height and adverse impact on the listed Methodist church.

PLANNING DRAWING

| REV. | DATE | BY | DESCRIPTION |
|------|----------|-----|-------------|
| 1 | 10/10/15 | ... | ... |

NOTES:

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