

Planning Committee Report LA01/2018/1112/F	28 th November 2018
PLANNING COMMITTEE	

Linkage to Council Strategy (2015-19)	
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

<u>No:</u>	LA01/2018/1112/F	<u>Ward:</u>	Coleraine
<u>App Type:</u>	Full		
<u>Address:</u>	Lands to rear of 11 Randal Park, Portrush		
<u>Proposal:</u>	Erection of dwelling (change of house type previously approved under LA01/2016/1200/F)		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	12.09.2018
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Matrix Planning Consultancy, SABA Park, 14 Balloo Avenue, Bangor		
<u>Applicant:</u>	Nesbro Ltd, 182a Church Road, Hollywood, BT18 9RN		
<u>Objections:</u>	1	<u>Petitions of Objection:</u>	0
<u>Support:</u>	0	<u>Petitions of Support:</u>	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** full planning permission for the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located on lands to the rear of 11 Randal Park, Portrush. The site was previously the back garden of no. 11 Randal Park. However, this has since been fenced off and developed. The dwelling subject to this change of house application is currently under construction. The site is bounded to the North West by an existing hedge which makes up the boundary to no. 9 Randal Park. The southern boundary to no. 13 Randal Park is defined by a wall approximately 1.8m high. The site is accessed off Sunnyvale Avenue and backs onto no.11 Randal Park.
- 2.2 The character of the area is residential with large detached two storey dwellings set on generous plots. The Portrush Golf Club is located to the North of the site.
- 2.3 The site is within the development limit of Portrush and within a Local Landscape Policy Area - Designation PHL 04, as per The Northern Area Plan 2016.

3 RELEVANT HISTORY

Planning history on the site includes the following;

- C/2006/0874/O - Site for one dwelling at Land to the rear of 11 Randal Park, Portrush. Granted 14/02/2007.
- C/2008/0201/RM - Proposed dwelling and integral garage at Site to rear of 11 Randal Park, Portrush. Granted 15/05/2008.
- C/2014/0161/O - Site for one dwelling at land at Rear of 11 Randal Park, Portrush. Granted 08/07/2014.

- C/2014/0401/RM - Proposed dwelling and integral garage at Site to Rear of 11 Randal Park, Portrush. Granted 13/11/2014.
- LA01/2016/1200/F - Change of house type previously approved under C/2014/0401/RM at lands to the rear of 11 Randal Park, Portrush. Granted 14/09/2017.

4 THE APPLICATION

- 4.1 This is a full application for a new dwelling, for a change of house type to the house type approved under the previous application reference LA01/2016/1200/F.

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: There has been 1 no. objection received on this application from 13 Randal Park.

The following issues were raised in this objection;

- Dominance and overlooking, now closer to our boundary.
- On the previous application we withdrew our referral to planning committee on the basis that the bedroom window to the rear was removed as per the amended plans. This has not been carried out on site.
- The bedroom window results in overlooking, is intrusive and impacts our privacy.
- The window is not required as there is a window to the front elevation of the bedroom.
- The proposed trees to the boundary have not been planted.

5.2 Internal

- DAERA: No objection.
- DFI Roads: No objection.
- NI Water: No objection.
- Environmental Health: No objection.

6 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:
- The 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 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 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

The Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 7 (PPS 7) – Quality Residential Environments

Planning Policy Statement 3 (PPS 3) – Access, Movement and Parking

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to scale, massing and design; impact on the character of the area; impact on archaeological, built heritage, and landscape features; open space and integration; neighbourhood facilities; accessibility and parking; impact on residential amenity; impact on crime and personal safety.

Scale, Massing, Design and Impact on the Character of the Area

- 8.2 Planning Policy Statement 7 (PPS 7) - Policy QD 1, notes that all proposals for residential development will be expected to conform to 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 and (g) the design of the development draws upon the best local traditions of form, materials and detailing.
- 8.3 The proposed change of house type involves the addition of a first floor balcony to the front elevation of the dwelling. The balcony will be accessed off a glass door from the hall on the first floor which replaces a previous approved window. The balcony will be approximately 4m by 3.6m with a glass balustrade. The balcony will not project beyond the front building line of the dwelling and is set in. The scale and massing of the balcony is proportionate and sympathetic to the character of the existing dwelling. The front of the dwelling is well screened with a boundary wall and existing vegetation. The proposed balcony will have no detrimental impact on the character of the area.
- 8.4 The application proposes extending the approved first floor rear bedroom/ensuite wall approximately 1.6m to the rear to meet the building line of the approved ground floor rear projection. This amendment will do away with the single storey rear flat roof projection and extend up at this building line to two storey. An additional window is proposed to the first floor bedroom to the rear projection. The proposed scale and massing of this amendment creates approximately an additional 14.5m² gross floor space.

- 8.5 The dwelling is of modern design and will be finished in smooth sand cement render and vertical cedar planking. Windows, doors and rainwater goods will be finished in black PVC. These materials are considered acceptable and the application meets criteria (a) and (g) of this policy.

Impact on Archaeological, Built Heritage, and Landscape Features

- 8.6 PPS 7 – Policy QD 1, notes that all proposals for residential development will be expected to conform to the following criteria: (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.
- 8.7 The site is located to the rear garden of the existing dwelling at 11 Randal Park and although will lead to the removal of some landscaped areas the majority of the existing vegetation will be retained. Further planting is proposed along the western boundary. The proposed design amendments will have no impact on archaeological or built heritage features. The application meets criteria (b) of this planning policy.

Open space and Integration

- 8.8 PPS 7 – Policy QD 1, notes that all proposals for residential development will be expected to conform to the following criteria: (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;
- 8.9 Creating Places outlines that no dwelling should have less than 40 square metres private amenity space. The change of house type proposed has the same level of amenity space than that previously approved. The dwelling will have sufficient amenity space above the standards set out in Creating Places. Boundary treatment is proposed along the western boundary to soften the visual impact of this proposal. The application meets criteria (c) of this planning policy.

Neighbourhood Facilities

- 8.10 PPS 7 – Policy QD 1, notes that all proposals for residential development will be expected to conform to the following criteria: (d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development.
- 8.11 Given the scale and nature of the development for a single residential dwelling, no neighbourhood facilities are required. This proposal will be located within the Settlement Development Limit for Portrush and the dwelling will make use of existing facilities located within Portrush.

Accessibility and Parking

- 8.12 PPS 7 - Policy QD 1, notes that all proposals for residential development will be expected to conform to the following criteria: (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 and (f) Adequate and appropriate provision is made for parking.
- 8.13 The dwelling proposed is located close to the main town centre of Portrush, will support walking and cycling and will be located near public transport links. This proposal will provide two car parking spaces. DFI Roads were consulted and raised no objection. The application meets criteria (e) and (f) of this policy.
- 8.14 PPS 3- Policy AMP 2 notes that Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where, such access will not prejudice road safety or significantly inconvenience the flow of traffic.
- 8.15 This proposal will not prejudice road safety. DFI Roads were consulted in relation to this application and raised no objections. The application meets Policy AMP 2 of PPS 3.

Impact on Residential Amenity

- 8.16 PPS 7 - Policy QD 1, notes that all proposals for residential development will be expected to conform to the following criteria: (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.
- 8.17 The proposed design amendments in this application consist of the addition of a first floor balcony to the front elevation, an extension at first floor level to the rear and the addition of a first floor window to the rear.
- 8.18 The proposed balcony to the front elevation will have no detrimental impact on surrounding residential properties. The balcony will not project beyond the front building line of the dwelling and is set in from the front of the dwelling. The scale and massing of the balcony is proportionate and sympathetic to the character of the existing dwelling. The front of the dwelling is well screened with a high boundary wall and vegetation. The proposed balcony will not result in any detrimental level of overlooking or loss of privacy to neighbouring residents.
- 8.19 The proposed increase in scale to the first floor bedroom/ensuite will bring the building line of the first floor approximately 1.6m closer to the properties to the rear, with an additional window proposed to the rear elevation at the first floor bedroom. The addition of this window to the rear elevation at first floor and the fact that the rear bedroom has been bought closer to the rear boundary will result in direct overlooking into the rear amenity/garden area of no.13 Randal park. The proposed first floor rear bedroom window will be intrusive to no.13, will result in loss of privacy and therefore fails to meet criteria (h) of PPS 7.
- 8.20 The planning history on site is a material consideration in the assessment of this application. The extant approval on site (Ref.LA01/2016/1200/F) offers a fall-back position.
- 8.21 The *Gambone v Secretary of State for Communities and Local Government (2014) EWHC 952 (Admin)* case makes clear that once the question of whether or not the fall-back matter is material to the decision has been concluded, which is accepted here, the question for the decision maker is what weight should be attached to it. Ian Dove QC (sitting as a High Court Judge), said that the weight which might

be attached to the fall-back position will vary materially from case to case and will be particularly fact sensitive. He continues that the scale of harm that would arise is one of the issues the decision make should bear in mind.

- 8.22 To consider what weight should be attached to the fall-back position the scale of harm and the facts of the case should be considered.
- 8.23 In the previous (extant) approval (Ref: LA01/2016/1200/F) the Council had raised concerns with overlooking from the first floor rear bedroom window and its potential impacts on the residential amenity of no.13 Randal Park. Subsequently, the agent/applicant amended the proposal removing this window to address the Council's concerns. Therefore the facts of the case is that in the previous application concerns were raised with this window and its removal from the scheme was significant in an approval being recommended on the previous application.
- 8.24 In proceeding to approve the planning application, the Council should have removed permitted development rights afforded under Part 1 Class A of the Schedule to The Planning (General Permitted Development) Order (Northern Ireland) 2015 regarding installation of a window at this location. It was an error by the Council in not conditioning the removal of Permitted Development rights for first floor windows in the extant approval (Ref: LA01/2016/1200/F). In not doing so, the fall-back position allows the developer to revert to the previous approval and then carry out an alteration post the building being substantially complete to install the window. This point has been raised by the Agent.
- 8.25 The scale of harm from the proposed window is significant. The proposed window will result in direct and intrusive overlooking to the private amenity area of no.13 Randal Park. The level of overlooking is considered unacceptable and fails criteria (h) of PPS 7. In terms of apportioning weight to relevant material considerations, greater weight is given to the harm that would be caused by reason of unacceptable overlooking relative to the fall-back position. Therefore the scale of harm decisively outweighs the fall-back position. Considering the fact that the window was removed from the previous approval makes apparent the harm that it would cause.
- 8.26 Conditioning the use of obscure glazing in the subject window would not adequately address the harm by reason of the strong perception

of overlooking that would remain given the specific location of the window.

Impact on crime and personal safety

- 8.27 PPS 7 - Policy QD 1, notes that all proposals for residential development will be expected to conform to the following criteria: (i) the development is designed to deter crime and promote personal safety.
- 8.28 The proposed dwelling will not lead to the creation of areas where anti-social behaviour may be encouraged. The amenity area of the dwelling will be private and enclosed and the proposal meets criteria (i) of this policy.

9 CONCLUSION

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations. The proposal would unduly affect the amenity of neighbouring residents at no. 13 Randal Park by reason of unacceptable overlooking. Refusal is recommended.

10 Reasons for Refusal

10.1 Reasons for Refusal:

1. The proposal is contrary to Planning Policy Statement 7 – Quality Residential Development, Policy QD 1, Criteria (h) in that, if permitted, it would result in an unacceptable adverse effect on neighbouring property no.13 Randal Park in terms of overlooking and loss of privacy from the proposed first floor rear bedroom window.

Site location Map

LA01/2010/0173

Site Location Plan Scale 1/1250
Applicant - Nesbro Ltd
Location - Lands to the rear of 11 Randal Park, Portrush, BT56 8JJ
Proposal - Change of house type previously approved under C/2014/0401

