

Planning Committee Report LA01/2018/1114/F	23 rd January 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	Shane Mathers
Cost: (If applicable)	N/a

No:	LA01/2018/1114/F	Ward:	Portrush and Dunluce
App Type:	Full		
Address:	Lands Adjacent to 10 Sunnyvale Avenue, Portrush		
Proposal:	Section 54 application to make variations to the conditions previously attached to Planning approval ref no LA01/2016/1570/F, namely Condition 2 (electric closing and coded control of vehicular gates) and Condition 4 (electric closing gate)		
Con Area:	N/A	Valid Date:	12.09.2018
Listed Building Grade:	N/A		
Agent:	Bell Architects Ltd, 65 Main Street, Ballymoney, BT53 6AN		
Applicant:	Cloughorr Developments, Golf Links Holiday Homes, Bushmills Road, Portrush, BT56 8JQ		
Objections:	2	Petitions of Objection:	0
Support:	0	Petitions of Support:	0

Drawings and additional information are available to view on request at 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 This site is located to the south of Bushmills Road, Portrush and adjacent to 10 Sunnyvale Avenue. The site can be accessed via both Sunnyvale Avenue or via the Golf Links holiday homes park. On site are 3 stone pillars, double and single gates and a stone wall which sit to the end of Sunnyvale Avenue and provide access into the Golf Links Holiday homes park. The gates/pillars and wall were approved under planning application reference LA01/2016/1570/F. Sunnyvale Avenue is a narrow road/laneway that serves approximately 4 properties with the gates into the holiday homes located to the end of this avenue.
- 2.2 The character of the area is residential with large detached two storey dwellings set on generous plots facing onto Randal Park and single storey dwellings fronting onto Sunnyvale Avenue. The Portrush Golf Club is located to the North of the site with the Golf Links holiday homes park located to the south.
- 2.3 The site is located within the development limit of Portrush as per The Northern Area Plan 2016.

3 RELEVANT HISTORY

Relevant planning history on the site includes the following;

- C/2011/0116/F – Permission Granted (03.08.2011) for Proposed extension to existing holiday homes park to provide 57 No. units and storage compound at Golf Links holiday homes park, Bushmills Road, Portrush.
- LA01/2016/1570/F - Permission Granted (02.03.2018) for Retrospective Application for 3 No. Stone pillars, double and single gates and stone wall to replace previous metal railings and gates at Lands adjacent to 10 Sunnyvale Avenue, Portrush, BT56 8JH.

4 THE APPLICATION

4.1 This is a Section 54 application to make variations to the conditions previously attached to planning approval reference LA01/2016/1570/F, namely Condition 2 (electric closing and coded control of vehicular gates) and Condition 4 (electric closing gate).

4.2 Condition 2 of LA01/2016/1570/F states:

“The approved vehicular access shall be used for emergency access and maintenance purposes related to the function of the Holiday Homes Park only and for no other purpose. This shall solely be controlled by means of a coded keypad with electric operated self closing gates and shall be operational within 3 months from the date of this decision.

Reason: In the interest of residential amenity and safety”

4.3 The proposed variation of condition 2 is as follows;

“The approved vehicular access shall be used for emergency access and maintenance purposes related to the function of the Holiday Homes Park only and for no other purpose. This shall be permanently locked, and only when access is required will it be temporarily opened and then re-locked immediately after use”

4.4 Condition 4 of LA01/2016/1570/F states:

“The approved pedestrian access shall solely be controlled by means of a coded keypad with electric operated self closing gate and shall be operational within 3 months from the date of this decision.

Reason: In the interest of residential amenity and safety.”

4.5 The proposed variation of condition 4 is as follows;

“The approved pedestrian access shall solely be controlled by means of a coded lock and will operate with a self-closing and locking mechanism”

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: 6 neighbours were notified on the application. 2 no. objections were received on this application from no. 10 Sunnyvale Avenue Portrush.

The following issues were raised in a letter of objection dated stamped received 09.11.18;

- Condition 2 – Vehicle Access – The controls have not been fitted and therefore the success or otherwise does not appear to be tested.
- Condition 4 – Pedestrian Access – Whilst a keypad has been fitted it appears users are writing the code on the pillar. The gate is not self-closing and regularly left ajar and unlocked. The access/controls should be able to cope with foreseeable environmental conditions and not so simple as to be prone to premature failure.

In response to an updated Planning Statement (Doc 01/A) received 05.12.18 the following concerns were raised in a letter of objection dated stamped received 18.12.18;

- Condition 4 – Pedestrian Access - The purpose intended by the condition is not capable of being satisfied given that the code for the locking mechanism is freely available to the general public. With regards to the “extreme marine environment” in the “planning statement” submitted by the developer it is essential that the controls are able to cope with the foreseeable environmental conditions and not so simple as to be prone to premature failure.

5.2 Internal

No consultation was required on this application.

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)

Development Management Practice Note 24 - Section 54 Applications

Planning Policy Statement 16 - Tourism

8 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to impact on residential amenity and safety.

- 8.2 Within the Planning Act (Northern Ireland) 2011, Section 54 applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. Section 54(3) advises an authority can grant planning permission with conditions differing from those to which a previous planning permission was granted.
- 8.3 Development Management Practice Note 24 – Section 54 Applications advises that when considering an application made under Section 54 it is only the question of the conditions applied under a planning permission which should be considered but does not allow for the amendment of a description. Conditions should only be imposed on a planning permission where they meet the six legal tests for conditions:- necessary; relevant to planning; relevant to the development to be permitted; enforceable; and precise. These are also outlined in Paragraph 5.65 of the SPPS.

Consideration

- 8.4 This application seeks to vary Condition 2 and Condition 4 of the original planning permission LA01/2016/1570/F as outlined in Paragraph 4 above.
- 8.5 A Planning Statement (Doc 01/A) submitted by the applicant advises that the primary purpose of the conditions is to provide reasonable control and delivery of the intended development. This document notes that Condition 2 and 4 on the existing approval are unnecessary, expensive and more complex to maintain with issues arising in relation to the pedestrian locking mechanism. The document further states that it is vital in the extreme marine environment of Portrush that the controls are simple and serviceable and able to be replaced when and if they fail.
- 8.6 The proposed variation to Condition 2 relates to the vehicular gates and proposes to remove the coded keypad and electric self-closing gates and replace with a permanently locked gate which will only be temporarily opened when access is required. The intended purpose of Condition 2 of LA01/2016/1570/F was to ensure that this vehicular access was used for the purposes of emergency and maintenance vehicles only and to ensure it would remain locked at all times and was inaccessible for others to use as an access. The proposed coded keypad and self-closing gates were necessary to enforce this condition and ensured the gates could not be used for access outside

of emergency and maintenance. The removal of the coded keypad and self-closing gates will not fulfil the intended purpose of the previous condition and could result in the gates being inadvertently left open which would have an adverse impact on residential amenity and safety. The proposed re-wording of the condition would prove difficult to monitor and would fail to meet the legal test of being enforceable as outlined in the SPPS.

- 8.7 The proposed variation to Condition 4 relates to the pedestrian access and proposes to remove the coded keypad and electric self-closing gates and replace with a coded lock which will operate with a self-closing and locking mechanism. The proposed variations to this condition are considered acceptable and will serve the required purpose of ensuring the pedestrian access remains as restricted access.

Other Matters

- 8.8 2 no. representations were received from a neighbouring property highlighting concerns relating to both the vehicular and pedestrian access and the usage in relation to the caravan park. These concerns are outlined in detail in Paragraph 5 of this report. The requirement for self-closing vehicular and pedestrian gates are conditioned under planning application LA01/2016/1570/F and are enforceable under this permission unless these conditions are altered under subsequent applications. The intended use of the pedestrian gates are for users of the holiday park and the self-closing mechanism would ensure that these are not left open at all times.

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 proposed variation to Condition 2 would prove difficult to monitor and enforce. It would not provide the same level of control and protection to residential amenity and safety as the current condition imposed on planning permission LA01/2016/1570/F. The proposed variation to Condition 4 is considered acceptable and would ensure restricted pedestrian access is maintained. Refusal is recommended.

10 Reasons for Refusal

10.1 Reasons for Refusal:

1. The proposal is contrary to Paragraphs 4.12 and 5.65 of the SPPS and PPS 16, Policy TSM 7 as it would result in an adverse impact on residential amenity and safety.

Site location Map

