

<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2020/1154/F</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>24th March 2022</b>
<b>For Decision or  For Information</b>	<b>For Decision</b>

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Senior Planning Officer

<b>Budgetary Considerations</b>	
Cost of Proposal	Nil
Included in Current Year Estimates	<b>N/A</b>
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
	Screening Completed:	N/A	Date:

Section 75 Screening			
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

**No:** LA01/2020/1154/F

**Ward:** Ballymoney South

**App Type:** Full Planning

**Address:** Unit 2, 25 Ballymena Road, Ballymoney.

**Proposal:** Change of use from existing commercial use to bakery to supply members of the public.

**Con Area:** N/A

**Valid Date:** 06 Nov 2020

**Listed Building Grade:** N/A

**Agent:** Simpson Design 42 Semicock Road, Ballymoney. BT53 6PY

**Applicant:** Ms P Turtle, 52 Stuart Park, Ballymoney.

**Objections:** 0      **Petitions of Objection:** 0

**Support:** 0      **Petitions of Support:** 0

## EXECUTIVE SUMMARY

- Planning permission is sought for a change of use from existing commercial use to bakery to supply members of the public.
- The site is located within Ballymoney Town Settlement Development limit and is within an Existing Area of Economic Development as defined by the Northern Area Plan 2016.
- The application proposes a use which should be contemplated in the town centre first.
- The proposal does not comply with the town centre first approach and does not meet the sequential test. The principle of development is considered unacceptable having regard to the Strategic Planning Policy for Northern Ireland (SPPS) and Northern Area Plan.
- No third party representations have been received.
- No objections have been raised by consultees.

Drawings and additional information are available to view on the Planning Portal- <https://epicpublic.planningni.gov.uk/publicaccess/>

## 1.0 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.

## 2.0 SITE LOCATION & DESCRIPTION

2.1 The site comprises the north-western corner of an existing building currently incorporating a variety of uses, as well as part of the adjacent yard area which is mainly used for vehicular access and parking. The existing building forms part of a larger complex of attached buildings and comprises:

- a modest, single storey, flat roofed, red brick building across the central part of the site frontage.
- Additional larger scale development to either side including a car parts supplies to the rear and a tyre sales business to the eastern extent of the overall built form.

2.2 The proposal comprises part of the single storey building which is divided into a number of units currently used for a kitchen design and fitting business and a hairdressers. This building appears to have included a number of uses over the years although planning history is limited. Access to the site exists to either end of the existing plot although the current proposal indicates use of the western access point.

2.3 The site is located within Ballymoney Town Settlement Development limit and is within an Existing Area of Economic Development as defined by the Northern Area Plan 2016. The site is partially affected by an area of pluvial ponding. The character of the area is defined by commercial and industrial development located on the southern side of Ballymena Road comprising some large scale industrial buildings with the northern side defined mainly by residential properties.

### **3.0 RELEVANT HISTORY**

D/1991/0215 - Store extension to clothing factory. Permission Granted 09.10.1991.

D/1995/0117 - Rear extension to factory. Permission Granted 21.07.1995.

D/2007/0235/O - Site for 6 no. B1 Business Units (1,000 sq. metres in total) and associated parking. Permission Granted 21.11.2008.

D/2010/0124/F - Retention of change of use (units 3 & 9) from light industrial to motor factor sales and engineering supplies. Permission Granted 20.08.2010.

### **4.0 THE APPLICATION**

- 4.1 The application is described as a change of use from existing commercial use to bakery to supply members of the public.

#### **Habitat Regulations Assessment**

- 4.2 The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

## **5.0 PUBLICITY & CONSULTATIONS**

**External:** N/A

**Internal:**

DFI Roads – No objection

NIEA – No objection

DFI Rivers - No objection

Environmental Health Department – No objection

NI Water – No objection

## **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

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.

## **7.0 RELEVANT POLICIES & GUIDANCE**

Regional development Strategy 2035.  
The Northern Area Plan 2016.  
Strategic Planning Policy Statement (SPPS) 2015.  
A Planning Strategy for Rural Northern Ireland.  
Planning Policy Statement 3: Access, Movement and Parking.  
Revised Planning Policy Statement 15: Planning and Flood Risk

## **8.0 CONSIDERATIONS & ASSESSMENT**

- 8.1 The application proposes a change of use from existing commercial use to bakery to supply members of the public.
- 8.2 The main planning considerations for this application relate to: the Town Centre first approach, the Retention of zoned land and economic development uses, Design, Amenity, Access / Parking, Drainage and Contamination.

### **Town Centre First Approach**

- 8.3 The principle of development must be considered having regard to the Northern Area Plan, the SPPS and PPS policy and guidance documents above. Paragraph 3.8 of the SPPS asserts a presumption in favour of development which accords with an up-to-date development plan unless the proposed development will cause demonstrable harm to interest of acknowledged importance.
- 8.4 The application relates to a change of use to bakery to supply members of the public with a telephone and pick up service provided. Clarity was sought regarding the exact nature of the proposed use and the agent has confirmed that the proposal relates to on-site food preparation of baked goods (bread, biscuits, cakes, pastries and pies with sales/ retail to the public. No food consumption is proposed on-site and no external alterations are proposed with the exception of a 1.8m timber bin enclosure. The proposal will incorporate the use of commercial food mixers and ovens and utilises existing parking facilities on site.

- 8.5 While the application incorporates the preparation of food, the predominant use is one of retail (the sale of baked goods) with no consumption on site, and therefore falls under Class A1, Part A of The Planning (Use Classes) Order (Northern Ireland) 2015.
- 8.6 The Regional Development Strategy 2035 (RDS) recognises the importance of accessible, vibrant city and town centres which offer people more choice for shopping, social activity and recreation. As such, the SPPS promotes a ‘town centre first’ approach for the location of future retailing and other main town centre uses.
- 8.7 The regional strategic objectives for town centres and retailing are to:
- Secure a town centres first approach for the location of future retailing and other main town uses.
  - Adopt a sequential approach to the identification of retail and main town centre uses in LDP’s and when decision taking.
  - Ensure LDP’s and decisions are informed by robust and up-to-date evidence in relation to need and capacity.
  - Protect and enhance diversity in the range of town centre uses appropriate to their role and function, such as leisure, cultural and community facilities.
- 8.8 Ballymoney is defined as a Local Hub within the RDS 2035. The NAP 2016 town centre boundary indicates the location where a town centre first approach should be directed / applied.
- 8.9 Ballymoney Town Centre has a high level of vacancies, recorded in the 2019 Survey as over 20% in a range of different sized units and locations. In addition to existing vacant units, planning permission has been granted for proposed centre development / investment including LA01/2018/0768/F for eight commercial units at Main Street which provided for Use classes A1, A2, B1 and B4.
- 8.10 The application site lies approximately 1km beyond the edge of Ballymoney Town Centre as identified in Map 2/01b of the Northern Area Plan 2016 and is not within an area identified as a local centre. The proposed use is retailing and as such is



considered a use which should be contemplated in the town centre first.

- 8.11 Paragraph 6.280 of the SPPS states that a sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date LDP. Paragraph 6.280 also states that where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused. In this instance the catchment of the proposal is likely to include, at a minimum, a substantial area of Ballymoney town.
- 8.12 Paragraph 6.281 of the SPPS outlines the sequential test for such uses in the following order of preference:  
Primary retail core;  
Town centres;  
Edge of centre; and  
Out of centre locations, only where sites are accessible by a choice of good public transport modes.
- 8.13 The application site represents an out of centre location which would result in negligible, if any, contribution to the town centre. Sequentially, under the SPPS, such a town centre use at an out of centre location is the least preferable option and would only be acceptable where;  
No preferable options exist / are identified (within the catchment area).  
The out of centre location is accessible by a choice of good public transport modes.
- 8.14 As noted above, preferable sites exist within Ballymoney Town Centre while good public transport modes to the subject site are limited. Additionally, the town centre is partially designated as a Conservation Area. The occupation of vacant premises within the town centre could directly assist in maintaining buildings that potentially contribute to the character of the Conservation Area or increase the attractiveness of the centre for other uses through increased footfall / activity.
- 8.15 Location of the proposed town centre use within a site / building identified as an existing economic development site could

potentially compromise future development / activity appropriate to this location while relocation within the town centre would support its vitality and viability in line with policy requirements. The proposal does not comply with the town centre first approach and does not meet the sequential test. As such, the proposal is considered unacceptable in principle.

### **Retention of Zoned Land and Economic Development Uses**

- 8.16 Policy PED7 of PPS4 relates to the retention of zoned land and economic development uses. This policy advises that any development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for other uses. The existing area of economic development site is not considered to have been substantially developed for alternative uses and therefore the loss of the building to other uses is unacceptable.

### **Design**

- 8.17 Policy DES2 Townscape of the Planning Strategy for Rural Northern Ireland requires development proposals in towns and villages to be sensitive to the character of the area surrounding the site. It also states that the main concern is to ensure that development proposals neither conflict with, nor detract from the character, amenity and design of an area. In terms of visual impact / design, external alterations to the existing built form is minimal with only the addition of a bin enclosure formed to the projecting wall south of the entrance.

### **Amenity**

- 8.18 The site is located within an existing economic development area and is unlikely to significantly impact on amenity. A number of residential premises exist within the locality but appear to be sufficiently separated from the proposal (approx. 50m). The agent has advised that suitable noise and odour mitigation measures will be introduced although no external ducting is indicated. Environmental Health (EHD) has not requested additional ducting measures and reference the fact

that there will be no external plant/equipment which may have the potential to generate adverse amenity as a result of noise and odour, although mitigation measures regarding control of noise etc have been proposed.

- 8.19 EHD has advised of the requirement for adequate refuse storage arrangements, appropriately constructed, sited and managed with provision for suitable collection. A bin enclosure is proposed to the immediate south of the entrance to the building. The adjacent wall appears to form part of a neighbouring unit incorporating a number of windows and while the impact is minimal in design terms, this may preclude the positioning of the bin enclosure as proposed. This would be a matter for the applicant to ensure the proposed refuse facilities can be satisfactorily provided and operated.

### **Access / Parking**

- 8.20 The site currently comprises a shared access point to the west of the site which serves the majority of existing commercial premises (a further access to the eastern extent of the overall site serves the tyre fitting business). Parking is provided within the existing facility and no alterations to the access or car parking arrangements are proposed. DFI Roads has been consulted and raise no objections to the access or parking arrangements.

### **Drainage / Flooding**

- 8.21 The site is affected by pluvial ponding / surface flooding but a drainage assessment is not required by policy. DFI Rivers recommend the applicant carry out sufficient assessment of drainage matters to satisfy themselves that no issues will arise. The existing premises is connected to public mains water supply and sewerage and capacity for the proposal exists.

### **Contamination**

- 8.22 Due to previous uses there is potential for contamination on site. NIEA has advised that as the application proposes a change of use with no substantial ground works it is considered to be of low risk to the water environment and raise no objection.

## **Representations**

8.23 None

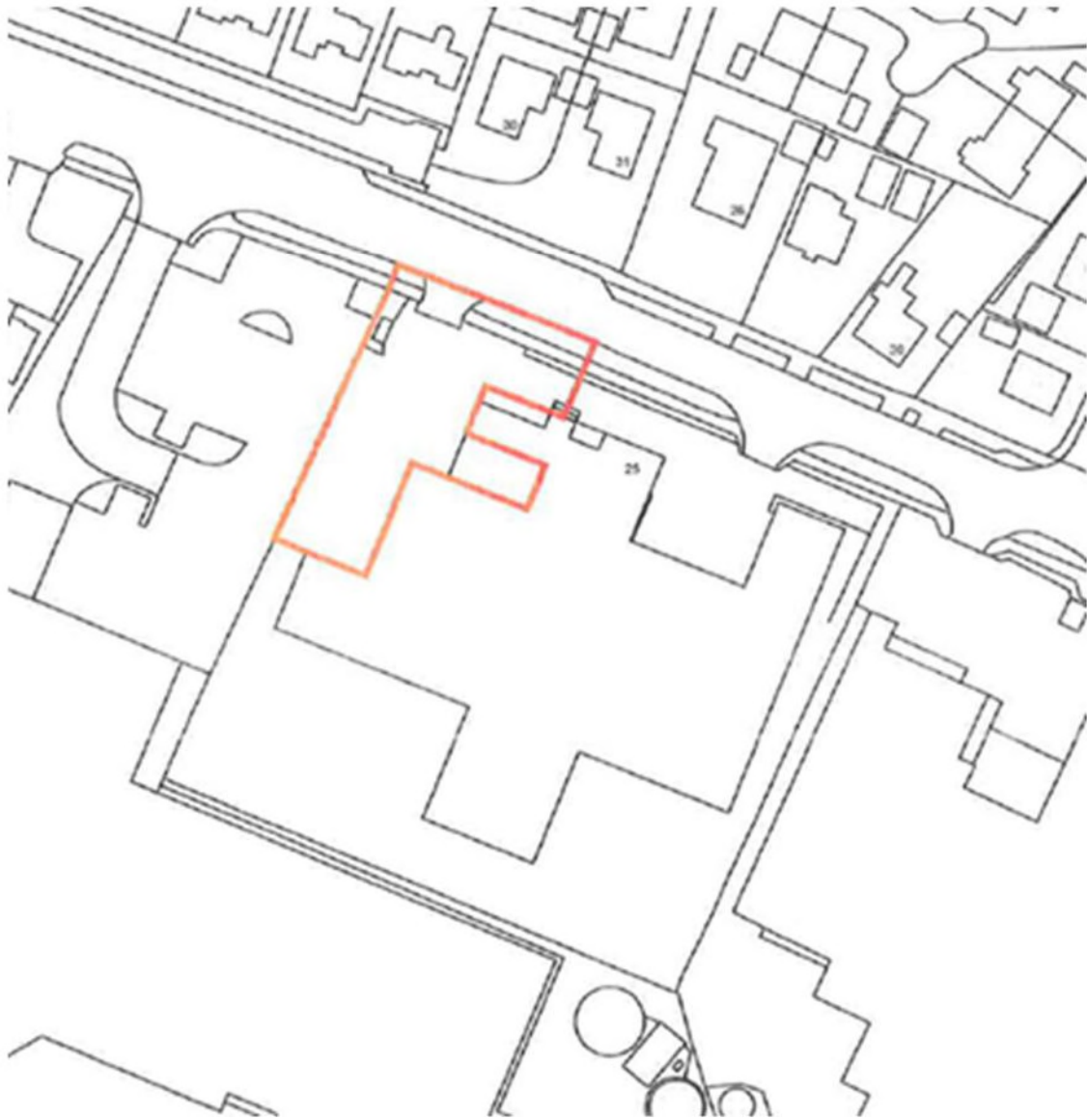
## **9.0 CONCLUSION**

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations. The proposal does not comply with the town centre first approach for a retail use and does not meet the sequential test. Refusal is recommended.

## **10.0 Refusal Reason**

1. The proposal is contrary to paragraphs 6.273, 6.279 and 6.280-6.281 of The Strategic Planning Policy Statement for Northern Ireland (SPPS) 2015, in that the proposal has not complied with the sequential test for a main town centre use in that alternative sequentially preferable sites exist within the proposal's whole catchment.

# Site Location Plan



# Addendum

## LA01/2020/1154/F

### 1.0 Previous Recommendation

- 1.1 Application LA01/2020/1154/F was presented to planning committee on 24.11.2021 with a recommendation to refuse on the basis that the proposal does not comply with the town centre first approach for a retail use and does not meet the sequential test.
- 1.2 Refusal was recommended for the following reason:

*“The proposal is contrary to paragraphs 6.273, 6.279 and 6.280-6.281 of The Strategic Planning Policy Statement for Northern Ireland (SPPS) 2015, in that the proposal has not complied with the sequential test for a main town centre use in that alternative sequentially preferable sites exist within the proposal’s whole catchment”.*
- 1.3 The application was deferred to facilitate submission of the necessary sequential test.

### 2.0 Update

- 2.1 On 17.01.2022 revised floor plans and P1 application form were received amending the proposal.
- 2.2 The original description proposed a *“Change of use from existing commercial unit to bakery to supply members of the public”*.
- 2.3 The revised description proposes a *“Change of use from existing commercial unit to bakery to supply shops (trade)”*.
- 2.4 The public counter relating to public sales / retail has been removed from the proposed floor layout.
- 2.5 Any relevant neighbouring addresses were re-notified on 24.01.2022 and the revised proposal was re-advertised on 02.02.2022.

- 2.6 The original application related to a change of use to a bakery to supply members of the public with a telephone and pick up service provided. The original proposal related to on-site food preparation of baked goods (bread, biscuits, cakes, pastries and pies) with sales/ retail to the public. While the application incorporated the preparation of food, the predominant use was considered one of retail (the sale of baked goods) with no consumption on site, falling under Class A1, Part A of The Planning (Use Classes) Order (Northern Ireland) 2015.
- 2.7 The revised proposal relates to on-site food manufacturing of baked goods to supply shops (trade) and no longer incorporates any retail element. The proposal is therefore considered to fall under Class B2: Light Industrial of The Planning (Use Classes) Order (Northern Ireland) 2015 - Use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
- 2.8 The agent has confirmed that no external plant / equipment with the potential to generate adverse amenity due to noise and odour is proposed and none are shown on the proposed elevational details.
- 2.8 The site is located within Ballymoney Town Settlement Development limit and is within an Existing Area of Economic Development as defined by the Northern Area Plan 2016. The area incorporates commercial and industrial development located on the southern side of Ballymena Road.
- 2.9 Policy PED 1 of PPS4 – Planning and Economic Development states that a development for Class B2 light industrial use ..... will be permitted in an area specifically allocated for such purposes in a development plan or in an existing industrial / employment area provided it is of a scale, nature and form appropriate to the location. The proposed use is considered appropriate to the location and compliant with policy subject to an appropriate condition preventing retail.

### **3.0 Recommendation**

- 3.1 That the Committee note the contents of this Addendum and agree with the recommendation to Approve the application subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The development hereby granted shall be used only for the purposes specified and for no other use (including retail) within The Planning (Use Classes) Order (Northern Ireland) 2015.

Reason: To support the vitality and viability of existing centres in accordance with the provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS).

3. Deliveries and collections by commercial vehicles shall not be permitted to / from the premises between 18:00 and 08:00 hours.

Reason: In the interest of residential amenity.