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| Planning Committee Report LA01/2017/1244/F | 19th December 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>No:</u> LA01/2017/1244/F | <u>Ward:</u> Waterside |
| <u>App Type:</u> Full | |
| <u>Address:</u> The Old Courthouse, Castlerock Road, Coleraine | |
| <u>Proposal:</u> Proposed extension to the rear of the existing licensed premises to provide kitchen and toilet accommodation at ground floor level and a roof terrace over at first floor level. Plus the provision of an open beer garden and children's play area under at lower ground floor level. Included also internal alterations to accommodate the new extension and the change of use from a first floor apartment and lower ground floor plant room and store too licensed floor area. | |
| <u>Con Area:</u> N/A | <u>Valid Date:</u> 21.09.2017 |
| <u>Listed Building Grade:</u> B1 | |
| <u>Agent:</u> AQB Architectural Workshop Ltd | |
| <u>Applicant:</u> W & R Holdings | |
| <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 at the Old Courthouse, Castlerock Road, Coleraine. On the site is a two-storey building which is at a split level and has a lower ground floor level to the rear of the building. The building has been finished with ashlar sandstone and is being used as a public house/restaurant. The building has a neo-Classical style fronted by a large tetra-style portico, built in 1852 and extended in 1908. The site is located at the junction of Captain Street Lower and Castlerock Road in Coleraine town centre. The majority of the external architectural detailing is intact and the Victorian character is largely preserved. Prominently sited, this is a landmark building in the town, of significant local interest and makes an important contribution to the character of Coleraine town centre. Its interest is enhanced by the addition of the Bridewell in 1859 including the curved boundary wall which still exists. Surrounding the site are residential and commercial uses. Directly at the rear of the site is an existing apartment building.
- 2.2 The area is of a mixed use and is characterised by public houses, retail units, residential dwellings, apartment buildings, medical facilities, schools and government buildings. The site is located within the defined development limit of Coleraine and falls within the town centre area of Coleraine as defined under the Northern Area Plan 2016. The existing building on site is a grade B1 listed building and the site is identified as white land under the NAP 2016. The site is located within the Coleraine Area of Townscape Character and is within an area of archaeological potential.

3 RELEVANT HISTORY

C/1993/0045- Old Courthouse Castlerock Road Coleraine- Change of use from vacant courthouse to restaurant/wine bar & alterations/renovations to same (Listed Building)- Approval granted: 26.11.1993.

C/1999/0297- The Old Courthouse Castlerock Road Coleraine- Change of use of part of first floor into manager's accommodation and internal alterations to form public house- Approval granted: 14.10.1999.

C/2006/0898/F- The Old Courthouse, Castlerock Road, Coleraine- Erection of 2No. 4m x 4m jumbrellas with fixed bases, 2No. brass/copper pendant lanterns on chains suspended in portico, additional railings to match existing in portico- Permission refused: 22.10.2007.

4 THE APPLICATION

- 4.1 This proposal is for an extension to the rear of the existing licensed premises to provide kitchen and toilet accommodation at ground floor level and a roof terrace over at first floor level. Plus the provision of an open beer garden and children's play area under at lower ground floor level. Included also internal alterations to accommodate the new extension and the change of use from a first floor apartment and lower ground floor plant room and store to licensed floor area.
- 4.2 External finishes will consist of: K-Rend wall render colour white; grey concrete coping; iron balustrade; reconstituted stone coping; reconstituted stone encasement to steel; Tobermore concrete slabs; landing balustrade and landing supports in wrought iron; square concrete encased columns and all proposed external finishes will match the existing sandstone of the existing building.

5 PUBLICITY & CONSULTATIONS

5.1 External

1 letter of objection has been received from apartment 8, 1-3 Captain Street Lower which raised the following points of concern:

- 1) Noise
- 2) Residential amenity
- 3) Opening hours
- 4) Anti-social behaviour (Intoxicated people)
- 5) Staff emptying bottle bins at unsocial hours

5.2 Internal

DFI Roads-offered no objections to the revised development submitted on 23/4/18 subject to conditions and informatives.

NI Water- offered no objections subject to informatives.

HED-Historic Environment Division- Protecting Historic Buildings and Monuments was consulted in relation to the scheme and offered no objections to the proposal subject to conditions and informatives. HED made these comments in reference to the revised scheme submitted on 23/4/18.

Environmental Health-has been consulted in reference to the scheme and has recommendation that the proposed development should be refused planning permission due to the detrimental impact of residential amenity due to noise and odours from the first floor beer garden.

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 Regional Development Strategy 2035

The Strategic Planning Policy Statement for (NI) SPPS 2015

Planning Policy Statement 3 Access, Movement and Parking

Planning Policy Statement 6 (Addendum) Areas of Townscape Character

Planning Policy Statement 6 Planning, Archaeology and The Built Heritage

DCAN 4: Restaurants, Cafes and Fast Food Outlets

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The application site falls within the Coleraine Area of Townscape Character and the existing building on site is grade B1 listed.
- 8.2 The proposal must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above. The main considerations in the determination of this

application relate to use and amenity concerns; smells and fumes; design; built heritage matters and the principle of the development.

Principle of development

- 8.3 The concept of this development is considered unacceptable in that the principle of a beer garden/smoking area facing towards residential properties will have a detrimental impact on surrounding residents. This is an inappropriate location for this form of development and it will have a severe impact on the residential amenity of the adjacent neighbours in terms of noise, odours, nuisance and general disturbance.

The Strategic Planning Policy Statement for (NI) SPPS and DCAN 4: Restaurants, Cafes and Fast Food Outlets

- 8.4 Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The proposed scheme complies with the board aims of this revised policy.
- 8.5 There are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. For example, the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development.
- 8.6 Other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality.

Noise and amenity concerns

- 8.7 EHO has stated that given the position of the proposed beer garden in relation to the nearby residential properties and the under predictions

provided by the acoustic consultant, in conjunction with the fact that noise generated from talking and laughter can be particularly intrusive at even low levels, the Environmental Health Department are of the opinion that the proposed use will have an unacceptable detrimental impact on the internal noise levels at these dwellings. Also with the consumption of alcohol it is likely that patrons will at time be talking loudly, laughing, shouting or singing and furthermore as the premises currently holds an entertainment licence and has live entertainment patrons who enter the external area will tend to be louder as their threshold of hearing may be temporarily affected. Due to the nature of the noise it is not practical, or reasonable to expect that even the most diligent of management regimes could control noise from patrons to an acceptable level.

- 8.8 The proposed development does not comply with paragraphs 4.11-4.12 within the SPPS in terms of residential amenity. The main area of concern is that the first floor beer garden/smoking area proposed in the Captain Street elevation and the proposed balcony and stairwell access proposed in the rear elevation are unacceptable. They are proposed directly adjacent to an apartment block at 1-3 Captain Street Lower. From a location perspective, this is an unacceptable location, for this form of beer garden/smoking area and balcony area which could be used by staff members or patrons of the bar/restaurant.
- 8.9 In this particular location there are a number of residential properties, along Captain Street Lower, the properties are predominately characterised by apartments and residential dwellings. Therefore, noise associated with this proposed development will emanate from various sources, considering the scale of the beer garden/smoking area which is 71.04sq metres, approximately 20-40 people could stand within this area at any one time and therefore, the potential noise generation from this area in terms of the impact on surrounding residential dwellings is unacceptable. The proposed development will have a detrimental impact on residential properties at the adjacent apartment block at 1-3 Captain Street Lower, especially the upper floor apartments. The majority of the windows facing towards the proposed beer garden area are bedroom windows from the adjacent apartment block. Therefore, the potential impact to existing residents will be significant.
- 8.10 Noise will emanate from such sources as the coming and going of people from the restaurant of customers and staff, and would

represent a problem as there could be potentially up to 40 people who could use this beer garden at any one time. The proposed balcony in the rear elevation would also pose the same issues of noise disturbance to the adjacent apartment block. Customers and staff smoking on the beer garden area and on the proposed balcony area could have a detrimental impact on the residential amenity of the surrounding residents in terms of odours and impact the health and wellbeing of surrounding residents. The noise from equipment associated with the restaurant such as the cooking equipment and commercial kitchen already has an impact on residents. To exasperate noise generation to existing residents further would not be acceptable.

- 8.11 These sources of noise will be more noticeable in the late evening and night time period, when local residents have a legitimate expectation that surrounding background noise levels will remain low. In that regard a beer garden such as this proposal, will often generate frequent patrons talking loudly, shouting or the opening and closing of doors, which can be particularly annoying and unacceptable to residents at unsociable hours. The residents at the apartment block at 1-3 Captain Street Lower, may be prevented from opening their windows due to noise disturbance and potential anti-social behaviour.
- 8.12 Windows of the apartment block are less than 6-8m for the proposed location of the beer garden. It is considered that appropriate mitigation measures for noise prevention could not be accommodated for the residents in this instance. The scheme will have an unacceptable impact on the existing residents within the apartment block at 1-3 Captain Street Lower in terms of potential noise and odour disturbance. Environmental Health has requested that the proposed development is refused permission due to the beer garden/smoking area.

Smells and Fumes

- 8.13 The proposed beer garden/smoking area would generate smells and fumes as a result of this proposed development from patrons and staff members smoking. Although nuisance caused by unpleasant effects of smells and fumes from smoking areas can be reduced by modern extraction equipment, the close proximity of the apartment block means that the potential negative effect is unacceptable. The smoking

area and balcony area will result in residual odours to the adjacent apartment block and this will have a detrimental impact on residential amenity. Adjacent residents would again be prevented from opening their windows due to potential smells and fumes generated from the beer garden/smoking area. The development could generate odours and fumes from the proposed beer garden area which could be detrimental to surrounding residents.

Design

- 8.14 The design specification is acceptable at this location. The proposed materials are of a high quality and the scheme is acceptable as an extension to a listed building. HED as the competent authority endorse this position.

PPS 3, DCAN 15 - Vehicular Access Standards, Parking Standards

- 8.15 PPS 3 puts a strong emphasis on accessibility and road safety. DFI Roads has no objection to the scheme subject to conditions and informatives. The access arrangements and car parking provision has been previously approved. The proposed scheme complies with Planning Policy Statement 3.

Built Heritage matters

- 8.16 HED Historic Buildings considers the proposal satisfies SPSS 6.13/Change of Use Extension or Alteration of a Listed Building of the Strategic Planning Policy Statement for Northern Ireland (SPSS): Planning for Sustainable Development and Policy BH8/Extension or Alteration of a Listed Building of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.
- 8.17 Historic Environment Division: Historic Monuments (HED: HM) has reviewed the amended plans. HED: HM, has considered the impacts of the proposal and is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6. The attached condition would be appropriate in this case (L15 & L05A).

8.18 The application site is located within the Area of Archaeological Potential (AAP) for Castlerock Road as defined as in the Northern Area Plan 2016. This represents the historic core of the settlement with both the above- and below-ground archaeological evidence of its development. HED has confirmed that the proposed scheme complies with the policy criteria as outlined under Planning Policy Statement 6 and will not affect the existing listed building or any archaeological remains. The proposed development complies with Planning Policy Statement 6.

Policy ATC 2

New Development in an Area of Townscape Character

8.19 The site falls within the Coleraine Area of Townscape character and as such Planning Policy statement 6 (Addendum) Areas of Townscape Character, applies to this development. The policy states that any proposed development should maintain or enhance the overall character of the area and respect the built form of the area. The policy also states that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development.

8.20 The proposed development will not detract from the character of the protected area and provides an acceptable form of development.

Objection Consideration

8.21 All the concerns, which have been raised by the objector are credible. The planning officials acknowledge all the concerns, which the objector has raised in reference to the beer garden/smoking area and the balcony proposed in the rear elevation. The concerns highlighted have been given consideration above. The scheme will impact residential amenity in terms of noise and odours. The scheme is unacceptable at this location and will have a detrimental impact on the resident, which has objected to the development and other residents in the same block.

- 8.22 The opening hours of beer garden/smoking area is a concern and they are usually designed to stay open to a late time period at night and at unsocial hours. This is unacceptable in the current location.

Habitats Regulations Assessment

- 8.23 The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas 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, conservation objectives or status of any of these sites.

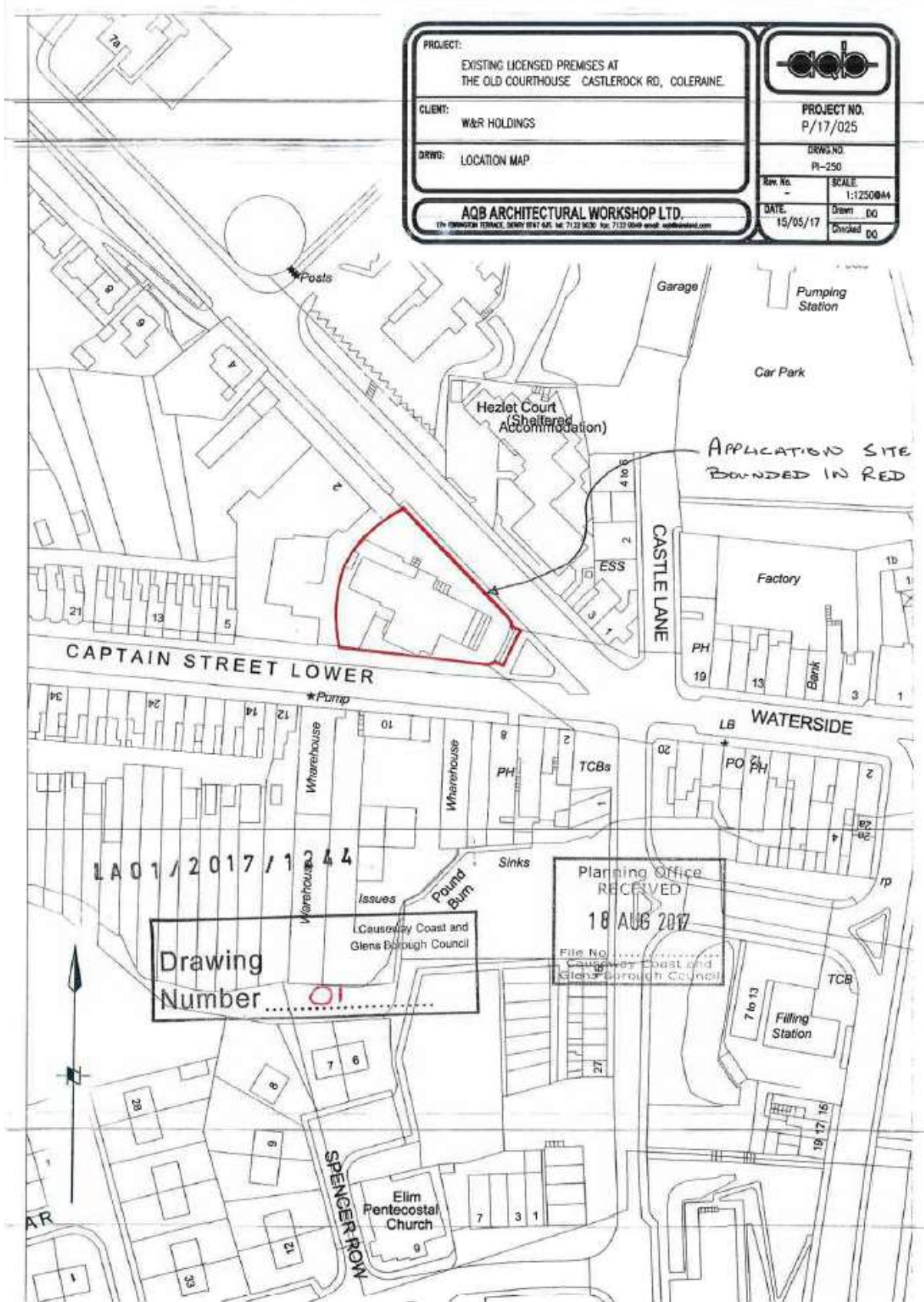
9 Conclusions

- 9.1 The proposed development is considered unacceptable in that the principle of a beer garden/smoking adjacent to residential properties will have a detrimental impact on surrounding residents. This is an inappropriate location for this form of development and it will have a severe impact on the residential amenity of the adjacent neighbours in terms of noise, odours, nuisance and general disturbance. The design of the scheme is considered acceptable and HED endorse this position. However, the principle of first floor beer garden/smoking area is unacceptable and a development of this nature which contravenes planning policy must be resisted. Refusal is recommended.

10 Reasons for Refusal

- 10.1 The proposal is contrary to paragraphs 4.11-4.12 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Development Control advice note 4 Restaurants, Cafes and Fast Food Outlets, in that the development would harm the residential amenity of the apartment block at Nos 1-3 Captain Street Lower, by reason of unacceptable noise, odours, nuisance and general disturbance.

Site Location Map



Site plan

