

Planning Committee Report – Agenda Item 5.22 LA01/2017/1219/DC – 154 & 156 Lower Main Street, Portrush	28th February 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	Principal Planning Officer
Cost: (If applicable)	N/a

**154 & 156 Lower Main Street
Portrush**

LA01/2017/1219/DC

28th February 2018

<u>No:</u>	LA01/2017/1219/DC	<u>Ward:</u>	CAUSEWAY
<u>App Type:</u>	Discharge of Condition		
<u>Address:</u>	154 & 156 Lower Main Street, Portrush		
<u>Proposal:</u>	Discharge of Archaeological Planning Condition 05 of Application Approval C/2012/0244/F		
<u>Con Area:</u>	No	<u>Valid Date:</u>	12.09.2017
<u>Listed Building Grade:</u>	N/a		
Agent:	Farrimond MacManus Ltd		
Applicant:	Mark J C Little, 10 Ballywillan Park, Portrush, BT56 8GH		
Objections:	N/A	Petitions of Objection:	N/A
Support:	N/A	Petitions of Support:	N/A

Drawings and additional information are available to view by inspection at the Planning Department.

1 RECOMMENDATION

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** to discharge the condition subject to the explanation set out in section 9.

2 SITE LOCATION & DESCRIPTION

The site is located to the rear of Ramore Street, Portrush opposite the rear of Waterworld. The site formerly was occupied by a lavatory building.

3 RELEVANT HISTORY

C/2012/0244/F – 154 & 156 Lower Main Street, Portrush - 5 No apartments together with in-curtilage parking – Approved 19.09.12

4 THE APPLICATION

The application is for the discharge of a condition 05 previously applied to approval C/2012/0244/F.

“No site works of any nature or development shall take place until a programme of archaeological work, has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of the development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.”

“Reason: To ensure that archaeological remains within the application site are properly identified and protected or appropriately recorded.”

5 PUBLICITY & CONSULTATIONS

5.1 External

N/A – Discharge of condition requests are not planning applications therefore do not require advertisement or neighbour notification.

5.2 Internal

Historical Environment Division – Archaeology: Content with mitigation strategy

6 MATERIAL CONSIDERATIONS

As this is not a planning application the only material consideration is whether or not the condition has been fully complied with and therefore if it can be discharged as requested.

7.0 RELEVANT POLICIES & GUIDANCE

No policies and guidance are relevant in this case.

8.0 CONSIDERATIONS & ASSESSMENT

- 8.1 The applicant applied to have condition 05 of approval C/2012/0244/F discharged.
- 8.2 For the condition to be discharged the applicant must demonstrate that they have fully complied with all parts of the condition. In this case they are required to:
- Submit and have agreed by the Department a programme of archaeological work
 - Implement a programme of archaeological work in accordance with the agreed programme
 - Carry out both of the above actions before any site works or development take place.
- 8.3 In the context of this application, officials consulted with HED Archaeology on a submitted programme of archaeological works. HED Archaeology responded on 31/10/17 to state that they were content with the proposed mitigation strategy. However, this has not yet been implemented and more importantly this was not done before work commenced on site. The applicant confirmed in writing that some works have been commenced on site already at a unspecified date. The works are relatively minor however the condition is clear that no site works or development of any nature shall take place until the programme of archaeological works has been carried out.
- 8.4 As the applicant has not met the fundamental part of the condition to carry out these actions before starting work on site, the condition can not be discharged.
- 8.5 A further issue has arisen as a consequence of the condition not being complied with fully. Failure to comply with pre-commencement conditions such as this mean that a development has not lawfully commenced. If a development is not commenced within 5 years of approval it is considered to have lapsed and any development then requires planning permission. In this case the planning permission was granted on 19th September 2012 and lapsed on 18th September 2017 if no material start was made on site.
- 8.6 The Council considers that no lawful material start was made as pre-commencement condition 05 has not been complied with. This means that permission C/2012/0244/F has lapsed and planning permission is now required to develop the site.

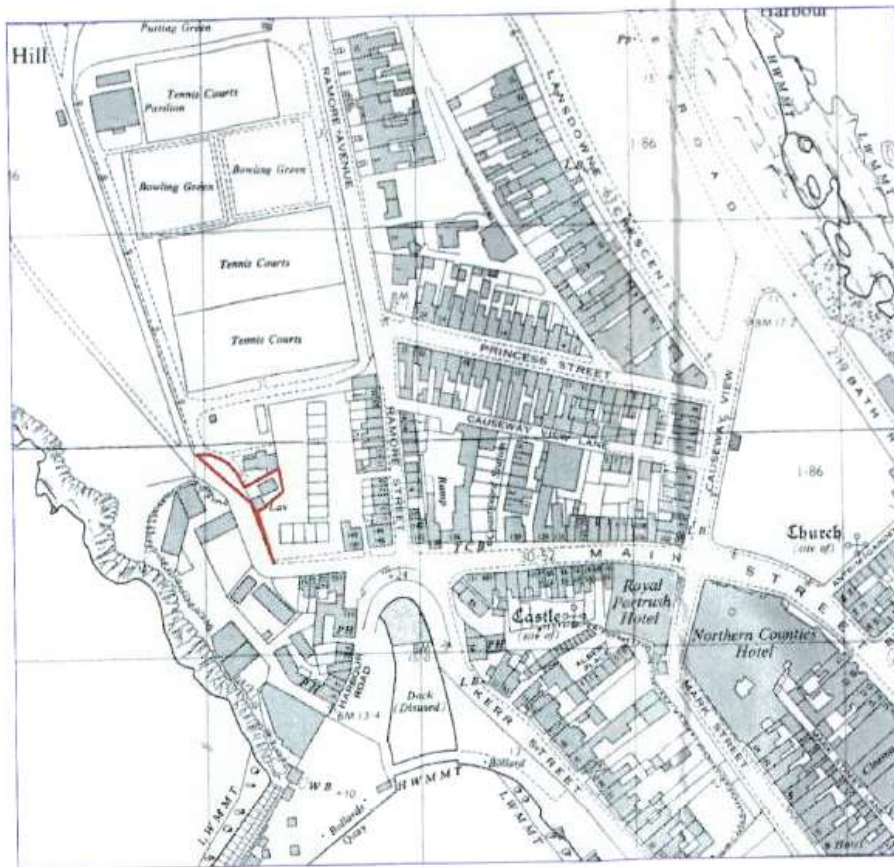
8.7 It should be noted that as the Department has accepted that the programme of archaeological works is acceptable the applicant can proceed to licensing to implement them. This work would be valid in any future planning application for the site.

9.0 CONCLUSION

The condition cannot be discharged as the applicant has not complied with the condition by submitting and carrying out the archaeological programme before carrying out site works. The planning permission is time expired and no lawful commencement has occurred on site. Refusal is recommended.

10.0 Refusal Reason

The Council, having considered the information provided, is not satisfied that condition 5 of C/2012/0244/F may be discharged because works commenced prior to the Council being satisfied that its requirements have been met which is contrary to its phrasing and consequently the planning application C/2012/0244/F has now expired on 18th September 2017.



LOCATION PLAN
1/2500