

Planning Committee Report LA01/2016/1138/F	19th December 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>App No:</u>	LA01/2016/1138/F	<u>Ward:</u>	Portstewart
<u>App Type:</u>	Full Planning		
<u>Address:</u>	10, 12, 14 & 16 Upper Heathmount, Portstewart		
<u>Proposal:</u>	Demolition of existing townhouses and erection of residential building consisting of 11 No. 1 and 2 bed apartments with associated car parking, bin store and reuse of existing access from Garden Avenue		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	20 September 2016
<u>Listed Building Grade:</u>	N/A	<u>Target Date:</u>	04.01.2017
Applicant:	W & A Hayes, 146 Pomeroy Road, Dungannon, BT20 2TY.		
Agent:	McAdam Stewart Architects, Banbridge Enterprise Centre Scarva Road, Banbridge, BT32 3QD		
Objections:	17	Petitions of Objection:	0
Support:	0	Petitions of Support:	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** planning permission subject to the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 Roadside site located on the eastern side of Upper Heathmount. The site comprises an uninhabited two / two-and-a-half storey terrace, finished in dry dash and slate pitched roof. The buildings and windows display vertical emphasis. Chimneys are expressed on the ridge. Site levels rise from east to west. Buildings / stone walls are located at the north and south boundaries. The rear boundary is undefined on the ground. There are no significant natural features on site.
- 2.2 Two storey terraces finished in dry dash, roughcast render, slate roofs with chimneys on the ridge are located to the north and south of the application site. A public footpath runs along the western frontage of the application site at Upper Heathmount. A listed church (Dr Adam Clarke Memorial Methodist Church) is located on the western side of Upper Heathmount. An apartment block is located at 1 Heathmount, on the western side of Upper Heathmount. Apartment blocks are located either side of the proposed access onto Garden Avenue. The front door of the apartments at 11 Garden Avenue is directly adjacent to the right of way which the proposal seeks to use as a vehicular access. Critical views are from Upper Heathmount and Church Street. The eastern side of Upper Heathmount is characterised by a terrace of pitched roof family dwellings of traditional design, with vertical windows on the front elevations and chimneys expressed on the ridge.
- 2.3 The site is within the settlement limits of Portstewart and within an Area of Archaeological Potential as designated in the Northern Area Plan 2016.

3 RELEVANT HISTORY

C/2005/0313/F – 11 No. apartments at 10, 12, 14 Upper Heathmount, Portstewart – Refused 29.01.2006.

C/2006/0190/O – 5 No. townhouses at 10, 12 and 14 Upper Heathmount, Portstewart – Refused 13.09.2007.

C/2008/0353/F – 5 No. townhouses at 10, 12, 14 and 16 Upper Heathmount, Portstewart – Approved 15.05.2009

C/2014/0182/F – change of house type to C/2008/0353/F for 5 No. townhouses at 10, 12, 14 and 16 Upper Heathmount, Portstewart – Approved 02.09.2014

4 THE APPLICATION

- 4.1 Demolition of existing townhouses and erection of residential building consisting of 11 No. 1 and 2 bed apartments with associated car parking, bin store and reuse of existing access from Garden Avenue. 6 No. 2 bedroom and 5 No. 1 bedroom apartments are proposed. There are 11 No. in-curtilage communal car spaces at the rear of the apartment block, together with 4 No. existing on-street parking spaces at Upper Heathmount. Ground floor finished floor levels fall from 19.92 in the north to 19.37 in the south. The level of the car park at the rear, steps up to 22.47 at car parking space 8. With regard to amenity space provision, allocated private amenity space is provided to the rear of the ground floor apartments; shared external space is also provided at the rear of the ground floor apartments; there are front balconies on two of the four first floor apartments; and there are balconies on all three of the second floor apartments. Bins stores are located adjacent to the north and south boundaries. The applicant intends to use mains sewerage.

5.0 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: There are 17 No. objections to the proposal from 8 No. separate addresses. The reasons for objecting are summarised below:

- Inadequate car parking / traffic levels and impact on public safety at the right of way onto Garden Avenue, in particular the safety of those at who have direct access from 11 Garden Avenue onto the vehicular access / right of way, in particular children
- The car parking survey was done in October. If the survey was done in the busy summer months when tourists visit Portstewart, the results would be very different. Public parking is under pressure and this part of Portstewart is particularly busy, especially in in July and August. As such, adequate off-street car parking is essential to the proposal
- The proposal is contrary to Policy QD1 criterion a of PPS7 by reason of unacceptable scale, height and massing given the surrounding context. Efforts should be made to maintain heights appropriate to the context of the immediate environment. The previous approvals on the application site were much more in keeping with the character of the area / the approved townhouse development with no increase in height was a much better option. The proposal will result in an unacceptable impact on the character of the area – apartments are out of character in this area which is defined by family dwellings
- The applicant has made a false claim of ownership at part of the rear car park (at carpark spaces 1-4)
- The site is not located within an Area of Opportunity for Apartments in Portstewart, which contains apartment development to specific areas
- Apartments offer no housing opportunities to local families
- Apartment developments result in crowded streets during the summer months and empty no-go areas during the winter evenings
- Unacceptable impact of existing chimney smoke on the proposed amenity areas
- Non-compliance with section 4.12 of the SPPS regarding health and well-being implications, include design considerations, impacts

relating to visual intrusion, general nuisance, loss of light and overshadowing

- Overshadowing and degradation of amenity space and setting of the adjacent properties to the south and other surrounding properties
- The proposal is contrary to paragraphs 4.12, 4.38 and 6.137 of the SPPS and Policy QD1 criteria a, b, c, e, g and h of PPS7, DCAN8 and Policy LC1 of APPS7 by reason of significant overlooking from the glazed area on the top floor balcony / bedrooms looking into the front patio doors, garden and driveway of the adjacent property to the south and into other properties further to the south of the application site
- The scheme is not valid because an objector will not agree to building along a shared party wall
- An objector in an adjacent property will not permit access over their lands for construction
- The existing properties contain significant amounts of asbestos. This raises health and safety concerns regarding demolition
- Nearby self-catering cottages could not be used during demolition and construction due to visual impact, and disruption with site traffic, scaffolding, noise, dust and vibration
- Impact of the basement area on the stability of adjacent property
- Blocking of a right of way at the rear of the property during construction and post construction / retention of the right of way for other affected properties
- No details of how the development might affect the gate, pillars, driveway and other boundary features at 8 Upper Heathmount have been provided
- Damage to a right of way
- No communication was given to the owner of 2 Enfield Gardens regarding the proposal
- The proposal is contrary to Policy BH11(a) of PPS6 in relation to impact on a nearby listed building
- The proposal is contrary to paragraphs A28, A29 and A30 of Annex A of PPS7
- The developer changed the description to townhouses 9in an earlier revision) because they realised that apartments were unacceptable on the site
- There is a 122% increase in traffic flow – the current 9 No. car parking spaces will increase to 20 No. car parking spaces

- A corner restriction is not possible at the intersection of the right of way and Garden Avenue. Even now, vehicles parked at the intersection are a problem
- At least 9 more bins will require space at Garden Avenue

5.2 Internal

Transport NI: Has no objection to the proposal and to the submitted Traffic Statement and Parking Survey Report.

NIEA: Has no objection to the proposal.

NI Water: Has no objection to the proposal.

Environmental Health: The balconies in the proposed apartments would be encroaching on an existing source of smoke from existing domestic chimney stacks.

Rivers Agency: Has no objection in relation to the Drainage Assessment.

DFC Historic Environment Division: Advise, following consideration of the submitted contextual information and massing diagrams, that the proposal may satisfy the policy requirements of the SPPS (para 6.12) and Policy BH11 (Development affecting the Setting of a Listed Building) of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage, subject to additional information being submitted for HED consideration.

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 (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.

7.0 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 6: Planning Archaeology and the Built Heritage

Planning Policy Statement 7: Quality Residential Environments

PPS 7 Addendum: Safeguarding the Character of Established Residential Areas

DCAN 8 - Housing in Existing Urban Areas

Planning Policy Statement 15: Planning and Flood Risk

DCAN 15 - Vehicular Access Standards

Parking Standards

Creating Places

8.0 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to: the design and layout; impact of the development on the character of the area; impact on nearby listed buildings; and impact on the residential amenity of surrounding properties.

Planning Policy

- 8.2 In the Northern Area Plan 2016, the site is not zoned for any specific use and is considered to be a whiteland site within the settlement development limit of Portstewart.
- 8.3 The principle of the type and scale of development proposed must be considered having regard to the SPPS and PPS policy documents specified above.

Design and Layout and Impact on Character of the Area and Impact on Residential Amenity

The proposal was amended from 12 No. apartments to 1 No. townhouse and 9 No. apartments on 23 March 2017. The proposal was further amended to 1 No. townhouse and 11 No. apartments on 07 November 2017. Following a recommendation to refuse, the application was removed from the Planning Committee schedule because revised plans were submitted prior to the Planning Committee meeting on 27 June 2018.

(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;

The principal views of the proposal are from Upper Heathmount and Church Street, Portstewart.

This form of high density development is not suitable for the eastern side of Upper Heathmount. While an apartment block is located at 1 Heathmount, this is a different side of the street. The eastern side of Upper Heathmount, where the proposal is located, is characterised by family dwellings.

The proposal comprises a two-and-a-half storey building housing three levels of accommodation, with a pitched roof, measuring 10.9m at its highest point when viewed from the frontage. The proposal respects the surrounding context in terms of height scale and massing when assessed against the existing form of development on the application site and against previous approvals C/2008/0353/F and C/2014/0182/F.

However, by reason of the series of openings along the eaves line, the proposal represents an unacceptable intrusion into the established roofscape along the eastern side of Upper Heathmount. It is unclear whether lift shafts have been omitted from the proposal. The side elevations erroneously include references to the townhouse, which has now been omitted from the latest revision.

The proposal relates satisfactorily to the established building line along Upper Heathmount.

The proposed density is significantly higher than that found on the eastern side of Upper Heathmount – increasing from approximately 39-59 units per hectare to 113 units per hectare. As such, the proposal is contrary to Policy LC1 of the Addendum to PPS7: Safeguarding the Character of Established Residential Areas.

(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;

The application site is in close proximity to a Grade B2 listed building (Dr Adam Clarke Memorial Methodist Church). DFC HED advise that the proposal may satisfy the policy requirements of the SPPS (para 6.12) and Policy BH11 (development affecting the setting of a listed building) of PPS6: Planning, Archaeology and the Built Heritage, subject to additional information being submitted. HED consider that the irregular fenestration and the significant openings in the eaves-line to accommodate the balconies, equate to detailing that would not be sympathetic in the setting of a listed building. HED request the treatment of the front elevation to be reconsidered and to provide a more continuous eaves-line and roof form.

No issues are arising in relation to archaeology and landscape features.

(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;

No issues are arising in relation to public open space provision - Policy OS2 of PPS8 requires the provision of public amenity space for 25 units or more, well above the 11 No. units proposed here.

Only three of the apartments (9, 10 and 11) have internal storage space. Allocated private amenity space is provided to the rear of the ground floor apartments; shared external space is also provided at the rear of the ground floor apartments; there are front balconies on two of the four first floor apartments; and there are balconies on all three of the second floor apartments. The total private amenity space provision (104m²) when averaged out (9.45m² per apartment) is below the 10-30m² advocated by Creating Places Design Guide. The two areas of shared amenity space at ground floor level are not accessed by all apartments, but rather is shared only between a maximum of two apartments - only apartments 1 and 2 have access to the northernmost area of shared amenity space, while only apartments 3 and 4 have access to the southernmost area of shared amenity space). Apartments 5 and 8 have no allocated private amenity space and do not have access to any shared amenity space.

While adequate bin storage is shown by way of stores to the rear, paragraph 12.20 of Creating Places advises that refuse stores for apartments and maisonettes should be located to allow bins to be wheeled out to the kerb and the maximum carry distance will normally be around 25m. In this instance, residents will have to transport their bins a distance of approximately 40-60m from bin stores to the kerb at Garden Avenue. No bin collection management details have been submitted for the apartments.

(d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;

No issues arising in relation to local neighbourhood facilities - the proposal is not of such significant size as to require the provision of neighbourhood facilities.

(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;

The site is located close to Portstewart town centre and is within walking distance of the amenities offered by the town centre.

(f) adequate and appropriate provision is made for parking;

DFI Roads has no objection to the level and arrangement of parking provision, which comprises 11 No. in-curtilage spaces, together with 4 No. existing on-street parking spaces at Upper Heathmount. DFI Roads position was informed by a car parking survey.

(g) the design of the development draws upon the best local traditions of form, materials and detailing;

A Design and Access Statement was submitted on 20 September 2016.

The eastern side of Upper Heathmount has a distinctive, traditional townscape quality worthy of replication. The contemporary design is not in keeping with the general traditional design on the eastern side of Upper Heathmount. The irregular fenestration pattern on the frontage is not in keeping with the uniformity of the windows of adjacent properties on the eastern side of Upper Heathmount. The apertures on the front elevation are not characteristic of the apertures at adjacent properties on the eastern side of Upper Heathmount. The proposal will result in a disruption to the roofscape along the eastern side of Upper Heathmount. The overall design jars with

the established character to such an extent that it is unacceptable. Proposed surface finishes and finishes to the apartments have been omitted from the proposed elevations. Chimneys are expressed on the ridgeline, as per the character of the area. Space standards comply with Policy LC1 of APPS7.

(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;

A Residential Impact Report was submitted on 22 January 2018 in response to submitted objections and Environmental Health Section consultation response dated 15 May 2017.

Environmental Health Section was consulted on the Residential Impact Report and advise that proposed balconies would be encroaching onto an existing source of smoke from domestic chimney stacks and future occupants may suffer loss of amenity from such.

Most units present an attractive outlook, with the exception of apartment 11 which is wholly located at the rear. The outlook from this apartment is solely towards the rear of other properties. The outlook from this apartment is unacceptable.

There will be no overlooking from the rear amenity space into adjacent existing properties. Land levels at the rear private amenity areas are 19.32 in the south and 19.77 in the north. These levels are lower than the finished ground floor levels of the proposed building. High walls enclose the proposed private amenity space.

The proposal does not dominate adjacent properties to the north and south and will not result in loss of light and overshadowing to the rear of existing adjacent properties.

No bin collection management details have been submitted for the apartments. The visual impact of uncollected bins is unsightly, can block movement along footpaths, can block visibility splays and create conflict with adjacent land uses.

(i) the development is designed to deter crime and promote personal safety.

No issues arising in relation to crime and personal safety.

8.4 Other Issues:

Other matters raised by objectors which are not previously covered are considered in the following section:

- Officials asked DFI Roads to consider submitted objections by way of re-consultations on 17 October 2016, 21 April 2017, 21 July 2017, 07 December 2017 and 24 July 2018.
- With regard to ownership, planning permission does not confer title. The case officer advised the applicant's planning agent that an objection was submitted claiming that the applicant did not own all the lands within the identified site curtilage. The agent advised the case officer (by email dated 20 October 2016) that the applicant owns and controls all the land within the curtilage of the site and as such section 27 of the P1 application form is correct. The Planning Authority does not become embroiled in disputes over title to land. The Planning Authority has no jurisdiction in such disputes, which are ultimately matters to be resolved through the courts. The key issue in this instance is prejudice. The Planning Authority is satisfied that no prejudice has been caused, as the objectors are aware of the application / proposal.
- There is no Area of Opportunity for Apartments in the Northern Area Plan 2016. An Area of Opportunity for Apartments was included in the previous draft plan, but was not carried through into the final published plan.
- The onus is on the developer to ensure compliance with Health and Safety legislation regarding the removal and disposal of any asbestos found at the application site.
- Any disruption to nearby businesses as a result of demolition/construction is a matter to be resolved between the interested parties.
- Issues regarding blocking or damage to a private right of way are civil matters, to be resolved between the interested parties.

- The stability of adjacent land during and post construction is a matter for the interested parties.
- The owners/occupiers of 2 Enfield Street Portstewart were not required to be notified regarding the proposal, as per legislative requirements.
- Paragraphs A28, A29 and A30 of the PPS7 Addendum: Residential Extensions and Alterations are not relevant to the new-build residential proposal.

9.0 CONCLUSION

9.1 This proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016, and other material considerations, including the SPPS. The principle of this high density development is not acceptable in this area characterised by much lower density family dwellings. The building design is incongruous and fails to respect the character of the area. The proposal will damage local character. Given its configuration, the proposal will fail to deliver a quality residential environment for one of the apartments in terms of poor outlook and overall exhibits an unacceptable level of private amenity provision. The proposal will also have an adverse impact on the setting of a nearby listed church. Refusal is recommended.

10 REFUSAL REASON:

- 10.1 The proposal is contrary to paragraphs 4.12 and 6.137 of the Strategic Planning Policy Statement for Northern Ireland, Policy QD1 of Planning Policy Statement 7 (Quality Residential Environments) and Development Control Advice Note 8 (Housing in Existing Urban Areas) in that the development as proposed fails to provide a quality residential environment by being contrary to criteria a, b, c, g and h of Policy QD1 and Policy LC1 of the Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas.
- 10.2 The proposal fails to satisfy paragraphs 6.12 & 6.13 of the Strategic Planning Policy Statement and Policy BH11 (Development Affecting the Setting of a Listed Building) of Planning Policy Statement 6: Planning, Archaeology and the Built

