



Title of Report:	Planning Committee Report – LA01/2021/1014/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	28th September 2022
For Decision or For Information	For Decision – Referred Application by Cllr A Callan

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

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

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	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:

<u>No:</u> LA01/2021/1014/F	<u>Ward:</u> Roeside
<u>App Type:</u> Full Planning	
<u>Address:</u> Flat No's 4A 4B 4C 4D 4E 4F 4G 4H 5A 5B 5C 5D, Millthorne Mews, Main Street, Limavady	
<u>Proposal:</u> Proposed change of use from 12 No. 3 bedroom student accommodation flats to 12 No. 2 bedroom flats	
<u>Con Area:</u> n/a	<u>Valid Date:</u> 23.08.2021
<u>Listed Building Grade:</u> n/a	
Agent: D Miller, The Lodge, 2 Main Street, Limavady, BT49 0EY	
Applicant: Patrick F Corr Ltd, 17 Catherine Street, Limavady, BT49 9DA	
Objections: 0	Petitions of Objection: 0
Support: 0	Petitions of Support: 0

Executive Summary

- The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations.
- The proposal fails to provide adequate private amenity space for 12 flats.
- The applicant has failed to demonstrate that there will be no adverse effect on the local character, environmental quality or residential amenity of the surrounding area.
- The proposal is contrary to the relevant planning policies including the Northern Area Plan, SPPS and PPS 7.
- The application is recommended for refusal.
- Reasons for Referral by elected member are attached as an annex to this report.

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

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 for the reasons set out in section 10.

2 Site Location and description

2.1 The site is an irregular shaped portion of land measuring approximately 0.087 hectares. The site currently contains a three-and-a-half storey building which is currently vacant and has previously been used as student accommodation. The topography of the site is fairly level.

2.2 The land immediately adjacent the site accommodates a terrace of one-and-a-half units approved as student accommodation (1 – 3 Lodge Court) to the west and a two storey block comprising 4 flats (11 – 14 Lodge Court) to the south. The application site and the adjacent units all access via the same access road. The north eastern boundary to the rear of the subject building is defined by a 2.4 metre metal fence. The south eastern boundary adjacent Limavady Courthouse is defined by a 4metre high wall with a 2.5m wire fence on top, then the boundary follows the gable wall of the adjacent apartment building (11-14 Lodge Court). The western boundary follows the front elevation of the second student terrace building (1-3 Lodge Court). The north western boundary follows the rear elevation of 5 Demesne Place and its outbuilding.

2.3 Currently bins are stored in an adhoc way south of 11-14 Lodge Court near Main Street. Access is via an existing access road to the south which accesses Main Street. The area in front of the subject building is used for parking and turning of vehicles. There are no watercourses in the vicinity of the site. The building as constructed in the 1990's, deviates slightly from the approved building, in that chimneys are missing, the ridge is 0.8 metres higher and the frontage is 1.1 metre longer. The design of windows and doors deviate from the approval by omitting 3 Juliette balconies, changing 3 doors to windows and increasing the size of 3 windows, all on the front elevation. The local

area is characterised by residential uses with mixed use developments of shops, the courthouse and food outlets nearby along Main Street.

2.4 The site is just outside the Town Centre designation. The entire site is within an area of archaeological potential zoning and is within the settlement limits of Limavady as shown in the Northern Area Plan 2016.

3 RELEVANT HISTORY

3.1 B/1995/0215/F - To rear of 2 & 4 Main St, Limavady - Erection of three storey block of flats and two storey semi-detached house for student accommodation (34 No. Bed spaces) - Permission Granted - 18.12.1995

B/1997/0220/F - Land to rear of Limavady Courthouse, Demesne Place, Limavady - Erection of three and a half storey building and one and a half storey building to provide student accommodation - Permission Granted - 24.10.1997

3.2 The original application was approved for 3 blocks totalling 14 flats. Only one block was constructed, Lodge Court (4 No. 2 bedroom student flats). The remainder of the site was sold and acquired by the current applicant. The 1997 approval for 2 buildings was consequently approved and constructed consisting of 12 No. 3 bedroom student flats and 3 No. Bedroom terraced student houses. The planning permissions were granted for student accommodation for students attending the nearby North West Regional College.

4 THE APPLICATION

4.1 This application seeks permission for the proposed change of use from 12 No. 3 bedroom student accommodation flats to 12 No. 2 bedroom flats. The proposal includes the reconfiguration of each flat within the building to remove one bedroom from each flat to provide 12 No. 2 bedroom general residential flats. The proposal includes 8 carparking spaces at the front of the subject building and 10 existing car parking spaces at the front of Lodge Court which are to be shared with the current occupiers of the existing buildings.

4.2 The proposal identifies an area of common amenity space to the front of the accommodation block which is also used for the parking and turning of cars. An area of 1.6 metres in front of the building is proposed to be paved and there are 2 small areas for planting of a tree and some

shrubs. The bin storage area is identified in blue lands to the west of the site beside the gable of the existing student terrace building. There are 2 garden benches proposed along the front elevation of the proposed flats.

4.3 There is 28 sq m (2m x 14m) of amenity space shown at the rear of the building with a high metal fence on the boundary, this area is identified as dense low level shrubbery, with a half metre paved area adjacent the rear of the flats. The remainder of the amenity provision is 25 sq m to the northern gable of the building, this area has a clothes drying line and bike stands. To the front of building is an area of 32 sq m with dimensions 1.6m by 20m that is paved and has 2 garden benches.

5 PUBLICITY & CONSULTATIONS

5.1 External

All neighbours identified for notification within the terms of the legislation where notified on 17th September 2021. The application was advertised on 8th September 2021.

5.2 Internal

Environmental Health: No objection to the proposal.

DFI Roads: No objection to the proposal.

NI Water - No objection to the proposal.

DFI Rivers - No objection to the proposal.

Historic Environment Division - Archaeology and Built Heritage (Listed Buildings) - No objection to the proposal.

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 development 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 RELEVANT POLICIES & GUIDANCE

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS) 2015

Planning Policy Statement 2 (PPS 2) Natural Heritage

Planning Policy Statement 3 (PPS 3) Access, Movement and Parking

Planning Policy Statement 6 (PPS 6) Planning, Archaeology and the Built Heritage

Planning Policy Statement 7 (PPS7) Quality Residential Environments

Addendum to Planning Policy Statement 7 Safeguarding the Character of Established Residential Areas

DCAN 8 Housing in Existing Urban Areas

Creating Places

8 CONSIDERATIONS & ASSESSMENT

8.1 The main consideration in the determination of this application relate to the principle of development, Access, Movement and Parking, Natural Heritage, Safeguarding residential and work environs, Supporting information and precedents, representations and Habitat Regulation Assessment.

Principle of Development

8.2 Planning Policy Statement 7, Quality Residential Environments, Policy QD1 Quality in New Residential Development is a material consideration and states the following criteria within QD1 must be met:

(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 building, structures and landscaped and hard surfaced areas;

8.3 The proposed development involves the provision of 12 apartments through the change of use of the existing student accommodation building that was approved under B/1997/0220/F. The development comprises 1 block of apartments with the area in front of the apartments, to the west, used as both parking / turning area and amenity space. Only internal alterations are proposed to the existing building therefore, the external elevations remain the same in terms of scale, massing and appearance. Each flat serves 3 person/2bedroom and has an average internal space of 53-55 square metres. The published space standards Addendum to PPS 7 and DSD's Housing Association Guide 2009:Design Standards) require 60-65 square metres however the space standards do not apply along arterial routes within cities and large towns, of which Limavady is a large town. On this basis, the internal living space while below the design standard, meets the exception in this specific case.

8.4 The building was previously built to provide student accommodation and as the proposal is for the change of use, no external changes are proposed, as such the proposed built form respects the surrounding context in terms of scale, proportions, massing and appearance. The existing building has been designed with appropriate scale and massing respecting the surrounding context and is considered appropriate to the character and topography of the site. However, the introduction of 12 flats for permanent occupancy would have an unacceptable impact on the character of the surrounding area because the amount of private amenity space proposed is inappropriate and unsatisfactory at this location. There is no provision within the site boundary for waste and recycling storage which is adequately screened from public view as the bin storage is located at the nearby student terrace row outside the site boundary. These issues will have an adverse effect on the surrounding context and are inappropriate to the character of the site in terms of layout and the landscaped / hard surfaced areas. The proposal is contrary to criteria 'a'.

8.5 (b) features of the archaeological and built heritage and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development; PPS 6 Policy BH2 entitled “The Protection of Archaeological Remains of Local Importance and their Settings” states development proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings will only be permitted where the Department considers the importance of the proposed development or other material considerations outweigh the value of the remains in question.

8.6 The site is within a consultation zone for archaeology. Historical Environment Division - Archaeology and Built Heritage were consulted. As the proposal is for the change of use of an existing building with no ground excavations proposed, HED Archaeology did not provide comment. HED – Built Heritage have not raised any concerns. The proposal does not adversely affect any archaeological sites or monuments or the setting of a listed building (BH 11). The proposal complies with criteria ‘b’ and Policies BH 2 and BH 11 of PPS 6.

8.7 (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 discreet 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;

8.8 Creating places guidance stipulates that private communal space for apartment development, should range from a minimum of 10 sq m per unit to around 30 sq m per unit. This development therefore requires a minimum of between 120 and 360 sq m of communal amenity space.

8.9 The proposal identifies an area of common amenity space to the front of the accommodation block which is also used for the parking and turning of cars. This area is to be finished in gravel, 8 parking spaces are to be finished in grasscrete. Provision has not been made on the plan for the car parking which also takes place in this area to serve the 3 student accommodation units which exist along the western boundary. Therefore, this area in practice will be more extensively used than demonstrated on the plan. 1.8 metres in front of the building is to be paved and 2 small areas provided for planting of a tree and shrubs. There is no hard or soft landscaping to differentiate or separate vehicle turning areas from any amenity area in the middle of the courtyard. Due to vehicular access, this area would not be a safe area for children to play or to be used for any other amenity use therefore it would not be an appropriate area for amenity space as set out by the applicant. Two

garden benches are proposed along the front elevation of the flats but this will introduce a communal use directly in front of the primary living space of the ground floor flats which would reduce privacy and reduce the residential quality of the environment to be enjoyed by the ground floor flats. Ground floor windows of flats should have defensible space adjacent windows, this has not been provided.

- 8.10 Taking into account the guidelines provided in creating places, the change of use to 12 flats requires between 120 and 360 sq metres of communal amenity space. The total area of amenity space provided is approximately 90 sq m to be shared between 12 flats. As a comparison Creating Places suggests a minimum of 70 sq m for a single dwelling unit. The amenity area is made up of the following areas. 28 sq m (2m x 14m) of amenity space is shown at the rear of the building, this area has restricted dimensions and is immediately adjacent the Demesne Place access road which is at a 1m higher ground level. The boundary with Demesne Place is defined by a high metal fence. The dimensions and proximity to the public road with no screening and having a high metal fence on the boundary effectively renders it impractical as an area of usable private amenity space and serves merely as a buffer between the ground floor apartments and the existing road. Following an office meeting this area has been amended to contain dense low level shrubbery, with a half metre path adjacent the rear of the flats. No defensible space is provided around the ground floor bedroom windows meaning if this is used to provide amenity space, the privacy would not be protected for the rear ground floor rooms from communal use.
- 8.11 An area of 25 sq m has been provided to the northern gable of the building, this triangular area has a clothes drying line and bike stands. This area measures no more than 6m in width, at the widest point and is surrounded on all three sides with built development. Due to the size and proximity of built development, this area while external does not offer any level of amenity benefit as it is fully enclosed and would be in shadow.
- 8.12 The 1.6m wide area in front of the building is now proposed to be paved, this area measures 32 sq m and serves as a pedestrian path around the front of the building.
- 8.13 A further area measuring 5 sq m is located adjacent 3 parking spaces. This area includes 4 trees and serves as visual relief but is not usable. There is no bin storage area within the red line of the application site. The bin store is located north of the existing student terrace building, 15 metres from the proposed flats. The arrangement with the bin store

being located outside the application site at the student terrace building is unsatisfactory. The amount of private amenity space proposed is inappropriate and unsatisfactory at this location. The previous development proposed and offered accommodation for a transient student population which by nature did not require the same level of car parking or amenity space. The change of use to permanent residential accommodation requires an increased level of amenity space provision in line with the standards provided in “Creating Places” to serve the permanent residential occupants.

8.14 At the office meeting on 13th April 2022 the amenity space was discussed in detail but the subsequent amendments with the introduction of 2 seats and planters have not addressed the failure to provide adequate and appropriate amenity space.

8.15 Looking at the surrounding context, the site is adjacent to the town centre. In the wide context there is open space at the John Hunter Grounds, Demesne Place but this is for Rugby and Cricket use rather than multi-purpose open space that may suit permanent resident requirements. The proximity to John Hunter Grounds or Recreational grounds would not overcome the failure to provide a minimum standard of private open space as an integral part of the development. The proposal is contrary to criteria ‘c’.

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

The development is considered to be close to all amenities as it is located off Main Street close to the Town Centre. Main Street is serviced by public transport in the form of buses and it is in close proximity to shops, schools, restaurants and Churches that are nearby and therefore the proposal complies with criteria ‘d’ of this policy.

8.17 (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;

8.18 The applicant has submitted plans which show suitable access for pedestrians and cyclists to the site. Main Street is serviced by public transport in the form of buses. The proposal therefore promotes more sustainable modes of transport such as walking, cycling and the use of public transport. The proposal complies with criteria ‘e’ of this policy.

8.19 (f) adequate and appropriate provision is made for parking; PPS 3 Policy AMP 7 Car Parking and Servicing Arrangements applies and states development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. In assessing car parking provision the Department will require that a proportion of the spaces to be provided are reserved for people with disabilities in accordance with best practice. Where a reduced level of car parking provision is applied or accepted, this will not normally apply to the number of reserved spaces to be provided.

8.20 The applicant has submitted plans showing the car parking arrangements. The scheme identifies 18 car parking places, of which 8 are in front of the subject building and 10 in front of 11-14 Lodge Court. There is 4 other spaces outside the red line of the application site identified as dedicated parking for Lodge Court. DFI Roads have been consulted and are content. However, 1-3 Lodge Court and 11-14 Lodge Court would also require parking. No car parking has been provided on the plan for the 3 student terrace units. Creating places guidance on parking stipulates 1.5 parking places unassigned for each 2 bedroom unit. The proposal requires 18 spaces, 1-3 Lodge Court requires 4.5 spaces and 11-14 Lodge Court requires 6 spaces. Meaning there is a requirement of 29 spaces of which 22 are available.

8.21 There is a shortfall of 7 car parking spaces between the proposed development, 1-3 Lodge Court and 11-14 Lodge Court. The applicant acknowledges the shortfall in the supporting statement and points to how this development has been operational for students since 1997 and how there is availability of on-street parking within the town centre. This site is outside the town centre but is in immediate proximity to the town centre. Given the town centre is adjacent the site, the reasoning given by the applicant is sufficient to counter the requirements within Creating Places guidance for sufficient parking. The shortfall in parking can be made up by public street parking in the town centre. The applicant has demonstrated adequate and appropriate provision is made for parking.

8.22 DFI Roads have been consulted and they have confirmed that they have no objections. The proposal complies with criteria 'f' and Policy AMP 7 of PPS 3 – Access, Movement and Parking.

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

The design of the development in terms of form, materials and detailing would be considered acceptable because the proposal is utilising the existing building on site through internal alterations therefore there is no further visual impact upon the appearance of the surrounding area. The proposal complies with criteria 'g'.

8.24 (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; and

8.25 The proposal is changing the use of the existing vacant student accommodation into flats. The proposed use is residential which is compatible with the Court House and other residential uses within the surrounding area. As no external alterations are occurring to the existing building, the proposal will not result in additional overshadowing/ loss of light or overlooking to neighbouring properties. The proposal is acceptable in terms of design, scale and massing and as it is not changing from the original layout, the proposal does not harm neighbouring residential amenity. Noise is not perceived to be an issue and Environmental Health have been consulted and have no objections. The proposal complies with criteria 'h'.

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

The windows are positioned to the front, the rear and the side elevations and will look over the immediate area around the building which will deter crime and promote personal safety. The proposal complies with criteria 'i'.

8.27 The proposal fails to comply with criteria 'a' and 'c' and is therefore contrary to policy QD1 of PPS 7.

8.28 Addendum to PPS 7: Safeguarding the Character of Established Residential Areas applies and Policy LC2 for the Conversion or Change of Use of Existing Buildings to Flats or Apartments is a material consideration and states planning permission will only be granted for the conversion or change of use of existing buildings to flats or apartments (including those for multiple occupancy) where all the criteria set out in Policy QD1 of PPS 7, and all the additional criteria set out below are met:

8.29 (a) there is no adverse effect on the local character, environmental quality or residential amenity of the surrounding area;

The amount of private amenity space proposed is inappropriate and unsatisfactory at this location. There is no provision within the site boundary for waste and recycling storage which is adequately screened from public view. These 2 issues will have an adverse effect on the local character, environmental quality or residential amenity of the surrounding area. This matter has been explored in detail at paragraphs 8.3 – 8.15. The proposal is contrary to criteria 'a'.

8.30 (b) the proposal maintains or enhances the form, character and architectural features, design and setting of the existing building;

The proposal makes no changes to the elevations of the existing building and will maintain its form, character and architectural features. The proposal complies with criteria 'b'.

8.31 (c) the original property is greater than 150 square metres gross internal floorspace;

The original internal gross floorspace is above 150 square metres. The proposal complies with criteria 'c'.

8.32 (d) all flats or apartments are self contained (ie having separate bathroom, w.c and kitchen available for use only by the occupiers); and

The 12 flats are all self contained with adequate internal facilities. The proposal complies with criteria 'd'.

8.33 (e) the development does not contain any flat or apartment which is wholly in the rear of the property and without access to the public street.

There are no flats wholly to the rear of the building without access to the public street. The proposal complies with criteria 'e'.

Access, Movement and Parking

8.34 Policy AMP 2 of PPS 3 Access, Movement and Parking applies and states planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and

b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

8.35 The applicant has submitted plans showing the access and car parking arrangements. DFI Roads have no objections. The proposal complies with Policy AMP 2 of PPS 3 – Access, Movement and Parking.

8.36 Policy AMP 3 of PPS 3 Access, Movement and Parking does not apply because the development site boundaries stop short of accessing directly to Main Street a protected route.

Natural Heritage

8.37 PPS 2 Policy NH2 – Species Protected by Law and Policy NH5 – Habitats, Species or Features of Natural Importance are applicable. No issues with protected species or habitats were identified in the 2006 and 2010 approvals. During the site inspection the case officer did not observe any signs that indicated that any protected species were on site.

8.38 There are no mature trees or hedgerow being removed. There is no watercourse in the vicinity of the site. On this basis the proposal complies with policy NH 2 and NH 5 in that it has been demonstrated that the proposal is not likely to harm any European protected species, Habitats, Species or Features of Natural Importance.

Safeguarding residential and work environs

8.39 Paragraph 4.12 of the SPPS relates to safeguarding residential and work environs. 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. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

8.40 The majority of the issues in paragraph 4.12 have been previously considered, the remaining issue to consider is the means of sewerage disposal. NI Water have stated in the consultation response dated 1st October 2021 that the WWTW has available capacity. On this basis the proposal would comply with this paragraph 4.12 of the SPPS.

Supporting information and precedents

- 8.41 At the office meeting on 13th April 2022 a supporting statement DOC 02 was submitted referring to Rock Mills, Strand Road, Derry LA11/2016/0603/F as precedent. This example is not comparable as several different areas of usable amenity space are provided for Rock Mills showing a mixture of soft and hard landscaped areas with varied finishes and mixtures of trees, hedges, shrubs, ornamental grass and climbing shrubs and seating areas.
- 8.42 Another example on Linenhall Street, Limavady was provided at the office meeting under reference B/2006/0347/F. This example at 5-7 Linenhall Street is a mixed development consisting of 2 shop units and 10 two bedroom apartments, this example is not comparable as it is within the town centre designation of Limavady backing onto a large public carpark whereas the proposal before committee is outside the town centre boundary.
- 8.43 Several references to case law were made such as James Stewart for judicial review 2003, EC Gransden & Co v Secretary of State 1986, Wycombe District Council v Secretary of State 1988, Lisburn Development Consortium application for judicial review 2000, Belfast Chamber of Trade and Commerce, Belfast City Council and North Down Borough Council for judicial review 2001, Northavon District Council v Secretary of State 1993. The case law were put forward as precedent for departures from policy and an unjustifiable reliance on policy. Firstly reference to such case law indirectly acknowledge that the proposed development fails to comply with policy. Secondly when material considerations outweigh certain aspects of policy it is up to the decision maker to reach a determination based on a balanced assessment of the information before them. In this case the proposal as set out does not merit a departure from policy in relation to the level of private amenity space provision. The change of use of a building originally constructed to accommodate a transient student population to a use to accommodate permanent residents, without adequate provision for amenity space would set a precedent that fails to provide a quality residential environment.
- 8.44 Appeal 2020/A0041 at 25 Princess Street, Portrush reinforces the Council view with regard to issues relating to a quality residential environment, respecting local character and protecting residential amenity. At paragraph 11, it is stated that the proposed communal amenity area would not provide a quality 'open' space and it would not adequately cater for the private amenity requirements of 5 flats. In the

PAC example an identified area of open space is surrounded by three storey development and would only briefly catch sunlight if the sun was directly overhead in summer. Similar to the current application, the proposal relies on an amenity area to the northern gable which will be in shadow the majority of the time and is enclosed by development on 3 sides. This would not create a quality residential environment.

8.45 Appeal 2010/A0052 at 62-64 Eglinton Street, Portrush also reinforces the Council view. Paragraph 4 of the subject appeal discounts certain areas of identified amenity space due to restricted dimensions and proximity to the public road effectively rendering it impractical as an area of useable private amenity space. This appeal is comparable to this current application in that the rear amenity space has restricted dimensions and is adjacent the public road at Demesne Place with no screening for privacy. The appeal 2010/A0052 concluded the amount of private amenity space proposed is inappropriate and unsatisfactory. The issues with private amenity space are comparable to the current application as the appeal 2010/A0052 clearly sets a precedent for refusing developments with insufficient private amenity space.

Representations

8.46 There has been no representations made on the file.

Habitat Regulations Assessment

8.47 Habitat Regulations Assessment Screening Checklist - Conservation (natural Habitats, etc) (Amendment) Regulations (Northern Ireland) 2015: 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). There is no watercourse in the vicinity of the site. The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

9 CONCLUSION

9.1 The proposal is considered unacceptable at this location having regard to the Northern Area Plan and other material considerations, the SPSS and Planning Policy Statements 2,3,6 and 7. Consultee responses have

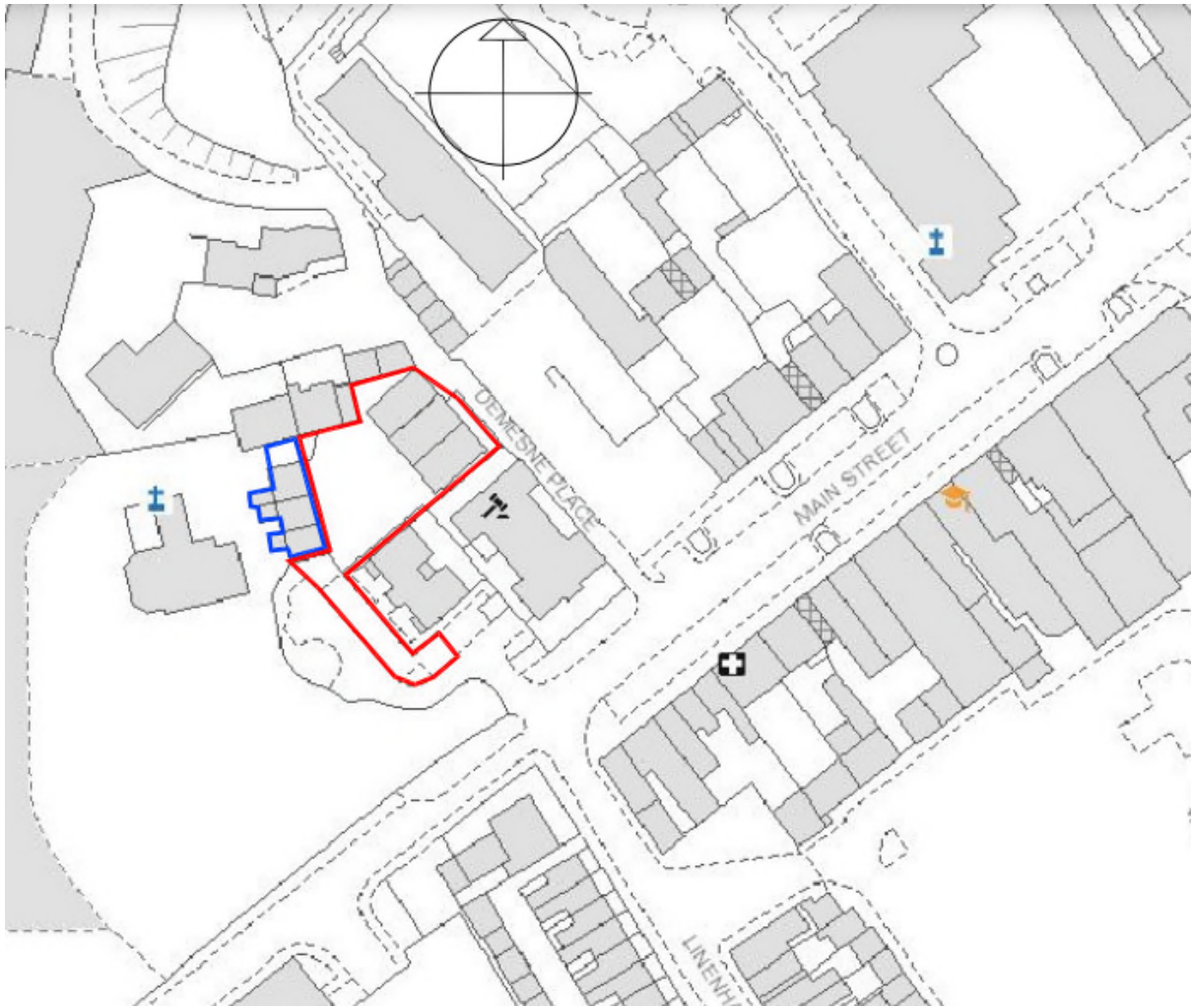
been considered. The development fails to provide adequate private amenity space. There is no hard or soft landscaping to differentiate or separate vehicle turning areas from the amenity area in the middle of the courtyard. This area would not be a safe area for children to play or to be used for any other amenity use therefore it would not be an appropriate area for use as amenity space as set out by the applicant. There is an under provision of communal amenity space to serve the permanent residents and no provision within the site boundary for waste and recycling storage which is adequately screened from public view. Such issues will have an adverse effect on the local character, environmental quality or residential amenity of the surrounding area.

9.2 As the proposal is contrary to the various planning policies it is considered unacceptable and refusal is recommended.

10 Refusal Reasons

1. The proposal is contrary to Policy QD 1 of Planning Policy Statement 7: Quality Residential Environments criteria 'A' and 'C' and Policy LC2 of the Addendum to PPS 7: Safeguarding the Character of Established Residential Areas criteria 'A' in that the applicant has failed to demonstrate that the development respects the surrounding context and is appropriate to the character of the site in terms of layout and landscaped / hard surfaced areas, with insufficient private amenity space and that it has not been demonstrated that there will be no adverse effect on the local character, environmental quality or residential amenity of the surrounding area.

Site Location Map



Block Plan



Appendix 1

Referral Request

From: CALLAN, Aaron
Sent: 22 June 2022 11:44
To: Planning <Planning@causewaycoastandglens.gov.uk>
Cc: Denise Dickson
Subject: LA01/2021/1014/F

Denise,

I propose the following application to be referred to the planning committee for the following reasons;

Planning Application LA01/2021/1014/F

Proposed change of use from 12 No 3-bedroom student accommodation flats to 12 No 2-bedroom flats at Millthorne Mews, Main Street, Limavady

Millthorne Mews is an existing residential development approved on 24/10/1997. There was no condition restricting occupancy to students. The development complies with Strategic Planning Policy Statement in that it results in the re-use of an existing building. Refusal has been recommended on the basis of one element of PPS7 and the addendum of PPS7.

PPS7 relates to new residential developments – this is not a new residential development. The refusal is based on one element and does not take into account that the development is existing. No consideration has been given to the Strategic Planning Policy Statement relating to the re-use of an existing building.

Case law has created precedent in that the decision maker is not obliged to adhere to each point of a planning policy and it is unreasonable if the decision maker's interpretation of policy results from a failure having regard to a material consideration. The refusal reasons recommended for this application rely on one point out of 9 and ignore the material consideration that the building currently exists.

Best

Aaron