



**Causeway
Coast & Glens
Borough Council**

Statement of Case

Appeal under the Planning Act (Northern Ireland) 2011

Application reference: C/2013/0443/F

Proposal: Proposed extension to Unit 17 and variation of **condition 7** in planning approval **C/2005/1299/F** (under Article 28 of the Planning (NI) Order 1991), to permit the sale of convenience and comparison goods in Unit 17.

Location: Unit 17 Riverside Regional Centre Castleroe Road Coleraine

Submission Deadline: 15th December 2016

Appeal Reference: 2014/A0266

Appellant: Kelvin Properties Ltd

Date of Hearing: 25th January 2017

**PLANNING APPEALS
COMMISSION
14 DEC 2016**

File No:

Executive Summary

1394
1928

0465sqm.

The applicant applied under C/2013/0443/F to increase the size of Unit 17 from 929sqm to 1,394 sqm gross floorspace and also to vary the condition 7 of the previous application C/2005/1299/F to allow the sale of convenience and comparison goods.

With the publication of the Strategic Planning Policy Statement (SPPS) in September 2015, the reason for refusal has been amended within the context of this appeal. The reason for refusal now reads:

"The proposal is contrary to Paragraphs 6.280 and 6.281 of the SPPS in that alternatively sequentially preferable sites exist within the proposal's whole catchment." — *Dismiss*

The Development Plan for this proposal is the Northern Area Plan 2016. It should be noted that this plan has not been prepared having regard for the strategic objectives and policies set out in the SPPS. The planning policy context for this proposal is the SPPS and falls to be considered under the Town Centres and Retailing objectives and policies.

The SPPS introduces a sequential approach to retailing and in paragraph 6.280 states that where it is established that an alternative sequentially preferable site exists within a proposal's whole catchment that an application which proposes development on a less sequentially preferable site should be refused. The Council contend that there are 5 other sequentially preferable sites within the proposal's catchment; 2 sites within Coleraine Town Centre and 3 within Ballymoney Town Centre. These sites are:

- Site 1 - Hanover Place, Coleraine,
- Site 2 - Queen St, Coleraine
- Site 3 - Corner of Market St/Cameron Place, Ballymoney
- Site 4 - Church St, Ballymoney
- Site 5 – BYT 02, Linenhall Street (Development Opportunity Site), Ballymoney

Accordingly, as there are suitably preferable sites within the proposal's catchment, the Council contend this application is contrary to the SPPS and Northern Area Plan and that this appeal be dismissed.

APPROVAL AGAINST PLAN.

PREJUDICE TO NAP 2016. and future LDP.

1.0 Description of Proposal

1.1 The applicant applied under C/2013/0443/F to increase the size of Unit 17 from 929sqm to 1,394 sqm gross floorspace and also to vary the condition 7 of the previous application C/2005/1299/F to allow the sale of convenience and comparison goods.

1.2 The applicant applied to vary condition 7 of planning approval C/2005/1299/F to permit the sale of convenience and comparison goods. However, having researched this matter post decision on request of the Commission, a later planning permission, C/2007/0587/F, has been implemented with regard to Unit 17 and supersedes the C/2005/1299/F permission. Therefore the description should be reworded to accurately reflect the most recent and relevant permission, to vary condition 5 of planning approval C/2007/0587/F. As both conditions relate to the restriction of goods to be sold and relate to the same site (Unit 17), no prejudice is likely to arise from this change. Correspondence with the Commission on this matter can be found in Appendix 1.

Prejudice?

2.0 Reason for Refusal

2.1 The application was refused by the then Department of Environment on 28th January 2015. At this time the relevant planning policy was PPS 5: Retailing and Town Centres and the refusal reason states that the proposal is contrary to PPS5 as other alternative sites within Coleraine Town Centre are available. However, on the 28th September 2015, the Department of Environment published the Strategic Planning Policy Statement for Northern Ireland (SPPS) which instructs on Paragraph 1.16 of the Introduction that PPS 5 is cancelled by the introduction of the new policy. The PAC has been in correspondence with the Appellant and the Council on this matter, and the Council's position is set out in Appendix 2. For clarity the refusal reason should therefore read:

"The proposal is contrary to Paragraphs 6.280 and 6.281 of the SPPS in that alternatively sequentially preferable sites exist within the proposal's whole catchment."

3.0 Consideration

3.1 Development Plan Context.

3.1.1 The Northern Area Plan (2016) is the relevant and statutory Plan in the consideration of this appeal. The Plan sets out the town centre limits and defines local centres within a number of settlements. The site is part of Riverside Retail Park and is not designated as town centre under the adopted plan. Reference to the status of the Riverside Centre is set out on page 34 of Volume One and page 52 of Volume Two.

3.1.2 Page 52 of Volume 2 states that "For many decades Coleraine has been the dominant retail centre in the north east of the Region. This was strengthened by the completion of the Diamond Centre, the town's first major indoor shopping mall, complemented by the

20 mins

3.3 Sequential Approach.

3.3.1 The SPPS requires applications for main town centre uses, such as this proposal to vary a condition to allow non-bulky convenience retailing to be located within the town centres. It goes on to state in paragraph 6.280 that where it is established that an alternative sequentially preferable site exists within a proposal's **whole catchment** (my emphasis) that an application which proposes development on a less sequentially preferable site should be refused. **The Northern Area Plan does not designate any primary retail cores.** Therefore the starting point must be town centres within the proposal's whole catchment. The agent has demonstrated in the Retail Impact Assessment (RIA) that the catchment for this proposal includes Ballymoney as set out in paragraphs 5.3 and 5.4 of the RIA and supported by the supporting map in Appendix 3 of the RIA (Appendix 3). Therefore in accordance with paragraph 6.280 the whole catchment must be considered. The applicant states that their Retail Impact Assessment confirms that a detailed selection process found that there are no suitable sites in Coleraine Town Centre. The applicant has stated that the sites previously suggested by the planning authority are not suitable due to their size limitations, physical requirements of the proposal and development constraints.

3.3.2 The applicant in this planning application is Kelvin Properties although they state the preferred retailer will be Home Bargains who wish to revise the current requirement of being limited to bulky goods only, to 58.5% convenience, 30% Bulky, and 11.5% Non-bulky. **This application seeks to amend the permission and extend the store to facilitate Home Bargains as an operator.** The applicant has outlined the many requirements of Home Bargains as an operator resulting in an argument that Unit 17 at Riverside is a suitable site.

3.3.3 The applicant argues that the following are requirements for Home Bargains:

- A store size of 15000sq ft.
- A minimum Hunch Height of 6 metres;
- A dedicated service yard that can accommodate 40ft service lorries; with a minimum of 2 bays
- Dedicated on- site parking
- Requirement for shoppers to easily use shopping trolleys

3.3.4 However, Home Bargains' own website states that its 2016 retail requirements (Appendix 4) includes, amongst others,

- an open A1 consent;
- ground floor slab 15,000 - 30,000 sq ft with direct rear servicing for 16.5m articulated vehicles;
- demised free car parking.

3.3.5 Although this highlights discrepancies between the applicant's requirements for Home Bargains, and what Home Bargains states on its own websites, these are only a list of

centre location, the infrequency of this, and that any other retailer would be subject to similar difficulties, this matter should not be determining.

3.3.8.3 The site was last occupied by JJB Sports and Kwik Fit and KFC are currently accessed and serviced on this site. The site provides car parking facilities with a direct access to the unit.

Queen Street, Coleraine

3.3.8.4 This site is located at Queen Street, Coleraine adjoining the Mall car park. The Agent OKT is currently advertising the unit to let. According to the letting Agent, the unit comprises 781 sqm. The letting Agent advises that the premises was bought and recently refurbished by the purchaser. The purchaser wishes to let the building but the Agent is yet to update the sales particulars to this effect. However, the Agent also advised that the building could be sold for redevelopment. Therefore while the current building is smaller than the requirement of the subject application, the site could be redeveloped in an appropriate manner to deliver a more sequentially preferable site. Reinforcing this position, the SPPS requires an assessment of alternative sites rather than buildings. The site is convenient to the Mall Car Park which would aid trolley users.

Market Street, Ballymoney

3.3.8.5 This site is located on the corner of Market Street/Cameron Place within Ballymoney Town Centre. The Agent OKT is currently advertising the unit for sale. According to the selling Agent, the overall building which comprises several units comprises a total of 1560 sqm. Discounting the office which is currently on a three year lease, this leaves 1469 sqm. This size meets the requirements of the current application. However, it is acknowledged that some works would need to be undertaken to amalgamate/ incorporate the units into one. If such work was not considered feasible, the entire site could be redeveloped, subject to negotiation with the existing leased office. Servicing is available from Market Street/Cameron Place. Part of this site was formerly used as kitchen sales and show room and could be easily adapted as a potential unit to accommodate the range of goods being offered for sale by the retailer. There is on street parking and 2 smaller car parks available on the opposite side of Market Street.

Church Street, Ballymoney

3.3.8.6 This site is located at 18-20 Church Street, Ballymoney. This site was previously occupied by Dunnes Stores who sold convenience and comparison goods for a number of years until closing in 2015. While it is understood that the building is not actively marketed for sale or to let, it is up to the developer to demonstrate why the site cannot be made available. The building has a footprint of 757 sqm and taken over two levels, this would meet the requirements of the current application. This site is capable of accommodating a large retailer selling convenience and comparison goods. Historically, the site has been adequately serviced. Car parking is available approximately 50-60 metres away with the access to the car park adjacent to no.31 Church Street. This is sufficient for trolley users and was satisfactory when Dunnes Stores sold convenience goods.

4.2 While it may be argued that these alternative sites fail to create a utopian ideal for the intended retailer, nonetheless, they could reasonably be made acceptable with the desired modifications.