

<b>Planning Committee Report LA01/2016/1146/F</b>	<b>26<sup>th</sup> April 2017</b>
<b>PLANNING COMMITTEE</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	Protecting and Enhancing our Environment and Assets
<b>Outcome</b>	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
<b>Lead Officer</b>	Principal Planning Officer
<b>Cost: (If applicable)</b>	N/a

**Lands between rear of 11-39 Main  
Street and Sheils Court and rear  
of 16-26 Charlotte Street  
Ballymoney**

**LA01/2016/1146/F**

**Full Planning**

**26<sup>th</sup> April 2017**

<b><u>App No:</u></b>	<b>LA01/2016/1146/F</b>	<b><u>Ward:</u></b>	<b>Ballymoney North</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Lands between rear of 11-39 Main Street and Sheils Court and rear of 16-26 Charlotte Street Ballymoney</b>		
<b><u>Proposal:</u></b>	<b>New retail unit with car parking, service yard, access road, site access, boundary treatments and associated site works</b>		
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Valid Date:</u></b>	<b>21.09.2016</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>Target Date:</u></b>	
<b><u>Applicant:</u></b>	<b>Station Road RSR Ltd, Unit 1, Tamar Commercial Centre, Chater Street, Belfast BT4 1BL</b>		
<b><u>Agent:</u></b>	<b>Inaltus Limited</b>		
<b><u>Objections:</u></b>	<b>6</b>	<b><u>Petitions of Objection:</u></b>	<b>0</b>
<b><u>Support:</u></b>	<b>1</b>	<b><u>Petitions of Support:</u></b>	<b>0</b>

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://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 **APPROVE** planning permission subject to the conditions set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The site is located within the designated settlement limits and Town centre boundary as set out in NAP. It is located to the back of the properties of Main Street and Charlotte Street. The previous building on site has been demolished. To the west is Shiels Court, sheltered housing provision through the provision of two storey accommodation and 2 storey terrace units to the south east. The access is from the existing car park off Castle Street adjacent to a large Tesco's store. The buildings to the

north and east are primarily two and three storey and part of the conservation area of Ballymoney Town Centre.

- 2.2 The site is within the Town Centre boundary of Ballymoney as designated in the Northern Area Plan 2016.
- 2.3 The site is also located on a housing zoning, which had a committed planning application at the preparation of the plan, Zoning, BYH 13. The site is located with an Area of Archaeological Potential as defined in NAP.

### **3 RELEVANT HISTORY**

D/2008/0239/F Proposed housing development consisting of 55 No. 2-bed apartments and 1 no duplex, associated car-parking, refuse storage and landscaping. Lands between rear of 23-27 Main Street and Shiels Court, and rears of 16-24 Charlotte Street, Ballymoney. Permission Granted 12.04.2010

### **4 THE APPLICATION**

- 4.1 Planning Permission is sought for a new retail unit with car parking, service yard, access road, site access, boundary treatments and associated site works.
- 4.2 The application will sell both convenience and comparison goods. The Agent advised that the end user has not yet been confirmed but that they anticipate that it will be occupied by a discounted retailer.

### **5.0 PUBLICITY & CONSULTATIONS**

#### **5.1 External**

Neighbours: There are **(6) six** objectors and **(1) one** supporter.

The matters raised in the letters of **objection** are summarised below:

- Contrary to the local development plan unless material considerations indicate otherwise'
- Council must have regard to the Local Development Plan

- Proposal fails to comply with NAP and its approval would undermine the purpose and effect of a recently adopted local plan. SPPS requires as a minimum a 5 year supply of land for housing.
- Agent does not provide case for stepping aside from the zoning
- Principle is unacceptable and the Agent has not provided any information that would weigh against non-compliance with NAP and the requirement of the SPPS to ensure a minimum of 5 years supply of land for housing
- The site is not suitable for retail purposes in that it will threaten the continued existence of retail on the main town core streets.
- The site is not zoned for retail uses.
- Planning have not sought clarification on the type of retail proposed.
- There is a suitable retail park at Ballybrakes for this type of large shed.
- Housing on the site is extremely viable and would be beneficial to maintaining activity with the town centre.
- The Council approach and stance at the recent Riverside appeal would be a material consideration.
- Prejudice the site in advance of the emerging LDP.
- That the case officer report takes no account of depressed build rates and that the HGI straddles the new plan.

The matter raised in the letter of **support** is summarised below:

- Welcomes the development and have no objection.

## 5.2 Internal

**Planning, Development Plan Section:** No objection.

**Planning, Conservation Area Officer:** No objection.

**Transport NI:** Has no objection to the proposal.

**NIEA Land Soil and Air:** Has no objection to the proposal.

**NIEA Drainage and Water:** No objection to the proposal.

**NIEA Ned:** No objections to the proposal.

**NI Water:** Has no objection to the proposal.

**Environmental Health:** Has no objection to the proposal.

**Historic Environment Division:** Has no objection to the proposal.

**Historic Environment Division, HMU:** No objection

**Rivers Agency:** No objection to the proposal.

## **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 both 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 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 6: Planning, Archaeology and the Built Heritage

Planning Policy Statement 15: Planning and Flood Risk

Other material considerations:

Ballymoney Conservation Area Booklet

## **8.0 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to: compliance with the Northern Area Plan 2016; Town Centre First Approach; Ballymoney Town Centre; Design; Amenity; and, Objection points.

### **Planning Policy**

- 8.2 The application is within the town centre limits of Ballymoney Town centre, designated under the Northern Area Plan 2016 (NAP) designation BYT 01 Ballymoney Town Centre.
- 8.3 NAP states that all retail development will normally be required to locate within the Town centre.
- 8.4 The site is also located on a housing zoning, which had a committed planning application at the time of the preparation of the plan, Zoning, BYH 13. The zoning is taken account within the housing allocation in line with the Regional Development Strategy.
- 8.5 Policy SET 2 of NAP is also applicable.
- 8.6 The site is located with an Area of Archaeological Potential as defined in NAP.
- 8.7 The Strategic Planning Policy Statement for NI. Ireland is also material. It promotes the town centre as the appropriate first choice location of retailing.
- 8.8 Planning Policy Statement 3 is also applicable for the assessment of access and movement in relation to the site.

- 8.9 The site is partially located in the Ballymoney Conservation Area and reference should be made to the Conservation Area booklet.
- 8.10 PPS 2, and PPS 6 are also relevant due to the location within the Conservation Area and proximity to a number of listed buildings and the surrounding nature and wildlife.
- 8.11 The principle of the type and scale of development proposed must be considered having regard to the SPPS and PPS policy documents specified above.

### **Compliance with the Northern Area Plan**

- 8.12 The primary issue of the proposal is its compliance with the Northern Area Plan 2016. The plan led system advocates primacy of the plan and that regard has to be made to local development plan as set out in Section 45 (1) of the Planning Act (Northern Ireland) 2011, so far as material to the application, and to any other material considerations.
- 8.13 The site is located on Zoning BYH 13. A housing zoning in NAP reflecting a commitment at time of plan preparation. This was included within the housing figures for the plan in Allocation HOU 1: Housing Distribution. NAP advises that there is significant over provision of housing land.
- 8.14 The RDS allocation to the town from 2012 to 2025 is in the order of 688 units. In the comprehensive response from the Development Plan section, they have indicated that the loss of this site (56 units) would have little impact on the remaining overall capacity of the Ballymoney town of 1617 units.
- 8.15 Furthermore, the Planning Housing Monitor records show from the 1<sup>st</sup> June 1999 to 1<sup>st</sup> August 2010 the annual build rate in Ballymoney town was on average 100 units per year. This of course takes into account the peak and fall in the construction industry over a ten year period. The build rates further confirm the over provision of housing sites within Ballymoney and that the loss of this site would be inconsequential to the delivery of housing over the plan period.
- 8.16 Other material considerations relevant to this application are discussed in the report below.



## **Town Centre first approach**

- 8.17 The RDS states that the availability of commercial sites within town centres are important to the local economy and the highlights the role of Ballymoney as a local hub and its service provision for the wider area.
- 8.18 The aim of the SPPS is to support and sustain vibrant town centres through the promotion of established town centres as the appropriate first choice location of retailing, consistent with the RDS.
- 8.19 The application site is located within the town centre and is easily accessible. The location within the town centre meets with the planning policy outlined above through its location and providing choice within an existing centre.

## **Ballymoney Town Centre**

- 8.20 There is a high level of vacancy within the Ballymoney Town Centre. This has been highlighted through the Councils Planning Department 'Retail Town Centre Monitor', of a total of 268 units, 68 or 25% of units are vacant or derelict. Developing a vacant derelict site would improve the visual appearance, attract customers and ultimately further investors into the town.
- 8.21 The studies carried out in relation to the Department of Communities, Revitalise scheme in Ballymoney undertook a business survey. The majority of respondents (72%) had a negative image of the area presently, with 94 % indicating their turnover was average or below average. The main priority issues in the area to be addressed were also the amount of dereliction, vacant shops and building conditions.

## **Design**

- 8.22 The site is viewed from the pedestrian link at Castlecroft to the Main Street, the Castle Street car park or visiting Tescos or Sheils Court. The redevelopment of this site would be beneficial to the visual amenity of the Centre and reducing the level of vacancy and dereliction.

- 8.23 The building is a large modern building with the front elevation 8.4m in height, sloping to 7m to the rear, 23.8m gable depth and 60m frontage width. The materials proposed are aluminium cladding, glazing and brick detailing on the gable. The entrance is glazed entirely with a copper edged cladding projection.
- 8.24 The design is modern and reflective of typical new commercial units. Historic Buildings unit have no objection though have noted concern with the precedent of accepting such a building in the Conservation Area. The site is back land and enclosed on three sides and though the proposal is partially within the Conservation area, the Conservation Area Officer is content, in that, the building will not be visible from the historic core of the town centre.

### **Amenity**

- 8.25 A 2.4m acoustic fence is proposed on the western boundary to enclose the service yard. The separation of the 2 storey residential building is 9m from the building and 16.5m building to building. The setback, orientation and direction of the sun should ensure that the proposal should not adversely impact on the amenity of the residents to an unsatisfactory extent by way of overshadowing or loss of light.
- 8.26 The properties to the north and east are all terraced 2 and 3 storeys and will not be impacted adversely by the development by way of loss of light or amenity.
- 8.27 In relation to noise, Environmental Health have raised no concern subject to the fence being erected before the business becomes operational.
- 8.28 There will be an expected increase in traffic to the site which will have an impact on the residents of Sheils Court. This is considered limited due to the provision of the acoustic fence and the separation distance. It should also be noted that a letter of support was received from the owner of the accommodation, Choice Housing Association.

## **Rebuttals to the points of objection.**

*The site is not suitable for retail purposes in that it will threaten the continued existence of retail on the main town core streets.*

- 8.29 The site is within the Town Centre boundary for Ballymoney as defined in the Northern Area Plan 2016. NAP states that, the defined Ballymoney Town Centre is where all retail development will normally be required to locate. Furthermore, the SPPS states that town centres should be the appropriate first choice location of retailing. As the application site is within the town centre boundary, it meets with these requirements as a suitable site for retail development.
- 8.30 The SPPS advocates a ‘town centre first’ approach in order to support and sustain a vibrant town centre. To not approve further retail development within the town centre boundary would conflict with this regional policy. There is good pedestrian linkage from the site to Main Street through CastleCroft. It would be expected that additional retail within the town centre would attract further customers to the town centre and ultimately further inward investment.

*The site is not zoned for retail uses.*

- 8.31 As discussed above in the report the site is zoned for housing. The planning permission commitment on the site has expired. Section 45 of the Planning Act (NI) 2011 states that the Council in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations. In considering the application, Planning determined that, in this instance, notwithstanding the site’s identification as a committed housing site in the NAP, the use of the site for retail use was acceptable taking into consideration other material considerations as detailed above in the report.

*Planning have not sought clarification on the type of retail proposed.*

- 8.32 The site is within the town centre boundary where retailing should be located as per policy. Therefore, information regarding

the type of retailing is not necessary for the consideration of the application.

*There is a suitable retail park at Ballybrakes for this type of large shed.*

8.33 Ballybrakes industrial area is identified as an Existing Economic Development site. It is located over 500 metres by road from the nearest edge of the town centre boundary at Castle Street. Therefore, under the terms of the SPPS, this location lies beyond the edge of the town centre and is an out of centre location. As an Economic Development Site, it is not considered a suitable location for retail development when assessed under the NAP and SPPS and to contemplate retail development on it, rather than a town centre site would be contrary to planning policy. Such an approval would also have a significant impact on the town centre and be of detriment to its vitality and viability.

8.34 Furthermore, the loss of industrial land to retail would also be contrary to Planning Policy Statement 4 Policy PED 7, which seeks to ensure the retention of such land within urban locations.

*Housing on the site is extremely viable and would be beneficial to maintaining activity with the town centre.*

8.35 The housing application on the site expired 2015 and no further applications have been made for residential use on this site. 6 other sites were zoned for housing in the town centre with only one completed since the plan adoption, zoning BYH11. Therefore, there is still adequate provision for residential development within the town centre. As discussed in above, the SPPS and NAP primarily directs retail to town centres. This application is in keeping with this policy requirement.

*The Council approach and stance at the recent Riverside appeal would be a material consideration. If a recommendation to approve is made... inconsistent approach*

8.36 This application is not comparable to the Riverside appeal as this application is located with the town centre boundary of Ballymoney, whereas the Riverside, Coleraine application site was at an out of centre location where only bulky goods were

permitted. At the Riverside appeal, Planning argued there were suitable town centre sites where the application could locate, applying the SPPS 'town centre first' approach, which is the policy approach applied to this application.

*Undermine NAP*

- 8.37 As discussed above, the proposal is within the town centre. Removing the residential zoning on the site has been done taking into factor all other material considerations. It is not accepted that this alternative development on this town centre site will undermine the NAP as set out above.

*Prejudice the site in advance of the emerging LDP.*

- 8.38 The emerging LDP is at its very initial stages with the Preferred Options Paper due in the winter of 2017-18. It will be prepared in accordance with the SPPS, which clearly advocates retail development in town centres. It is unclear, therefore, how a town centre retail proposal would undermine the emerging LDP.

*That the case officer report takes no account of depressed build rates and that the HGI straddles the new plan. To suggest that there is an oversupply off the worst recession and lowest building rates in history is fanciful.*

- 8.39 The RDS housing allocation is 688 units for Ballymoney town from 2012 to 2025. The current capacity of the town is around 1617 – over twice the allocation. Setting aside the build rates for a moment, there is clearly an over provision in terms of housing in Ballymoney in the NAP. The loss of the 56 units, taking into all other material considerations, would have little impact on the remaining overall capacity.
- 8.40 The matter of the HGI allocation is fully considered in the report. There is no evidence to indicate future build rates in the town would be of such a significant level that this capacity would be quickly used up. For example, the capacity of 1617 units would require an annual build rate of 320 units for five years. This would be more than 3 times the average annual build rate of 100 units per year, recorded in the Housing Monitor for Ballymoney Town. This covers a ten year period from Jan 1999 to 2010

which includes the period for when construction was at a peak and when building rates were depressed.

## 9.0 **CONCLUSION**

- 9.1 This proposal is considered acceptable in this location having regard to the Northern Area Plan 2016, and other material considerations, including the SPPS. Following the assessment of all other material considerations relevant to this application it is acceptable in principle to step away from the land use zoning within NAP. The SPPS advocates a town centre first approach and this proposal supports this. The site is on an area suffering from dereliction and such a development would improve the visual amenity and perception of the town. Furthermore, the impact of a national retailer moving into the site in the town centre would be beneficial to the town centre, bringing additional customers to the town and as a result attracting further inward investment and helping to reduce travel demand. Approval is recommended.

## 10.0 Conditions.

1. As required by Section 61 the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. No development shall be commenced until the vehicular accesses, including visibility splays and any forward sight distance, footpaths, signage and road markings are provided in accordance with Drawing No. 08 and the Transport NI SD-2006-1 form all bearing the date stamp 3 February 2017, prior to the occupation of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

3. The gradient of the access shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road user.

4. If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction.



Reason: Protection of environmental receptors to ensure the site is suitable for use.

5. After completing any remediation works required under condition 4 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with the Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

6. The development hereby permitted shall not become operational until the proposed 2.4m acoustic fence has been erected along the boundary of the site as indicated on the stamped approved drawing number 03 dated 21st September 2016 and drawing No 04 date stamp received 24th March 2017.

Reason: In the interests of residential amenity.

7. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Planning Authority to observe the operations and to monitor the implementation of archaeological requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition or agreement, is completed in accordance with the approved programme.

8. 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 Planning Authority. The



programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of 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.

9. The combined noise level from construction activities within the permitted site shall not exceed the noise limits as stipulated within 'Table 1: Construction noise limits' at any residential property. Measurements between 07.00 and 23.00 hours shall be undertaken at the boundary of any residential property's curtilage nearest to the construction activity. Measurements between 23.00 and 07.00 hours shall be undertaken 1 metre from the façade of any residential dwelling. If access to any residential property is not forthcoming or measurement is not feasible, a measurement location and concomitant noise level shall be agreed with the Planning Authority in consultation with the Environmental Health Section.

Table 1: Construction noise limits

Day of week	Time	L <sub>Aeq,1hour</sub>	L <sub>Amax</sub>
Monday to Friday	07.00 – 18.00	65 dB Curtilage	-
	18.00 – 23.00	55 dB Curtilage	-
	23.00 – 07.00	45 dB Façade	60 dB
Saturday	07.00 – 13.00	65 dB Curtilage	-
	13.00 – 23.00	55 dB Curtilage	-
	23.00 – 07.00	45 dB Façade	60 dB
Sunday	07.00 – 23.00	45 dB Curtilage	-
	23.00 – 07.00	45 dB Façade	60 dB

REASON: To protect public health and residential amenity.

### Site Location Plan

