

Derry City and Strabane District Council Planning Committee Report

COMMITTEE DATE:	8th September 2021
APPLICATION No:	LA11/2019/0627/F
APPLICATION TYPE:	Full Permission
PROPOSAL:	Proposed 2 storey extension to facilitate manager's apartment to existing commercial business
LOCATION:	1 Woodvale Road, Eglinton, BT47 3AH
APPLICANT:	Rosemary Wright
AGENT:	Shane Birney Architects
ADVERTISEMENT:	13 th August 2019
STATUTORY EXPIRY:	28 th August 2019
RECOMMENDATION:	Refuse

REASON FOR PRESENTATION TO COMMITTEE: Refusal

The application was deferred at Planning Committee on 3rd February 2021 to enable the submission of further information (flood risk assessment) within an agreed time period of 6 months and return the case to the September 2021 committee meeting. To date no flood risk information has been submitted.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk

1. Description of Proposed Development

The application is for a two storey manager's apartment at the existing Ashburn Image Beauty Salon/Hairdressers. The site is within the settlement limits of the village of Eglinton and is within an area of Townscape Character as defined in the Derry Area Plan 2011.

2. EIA determination

An EIA determination was not required to be carried out as the application site is less than the 0.5 ha under Category 2 10(b) of the Planning Environmental Impact Assessment) regulations (NI) 2017. The site is 0.112 hectares.

3. SES HRA Assessment

Derry City and Strabane District Council is the competent authority responsible for authorising the development and any assessment of it required by the Conservation (Natural Habitats, etc)

Regulations (Northern Ireland) 1995 (as amended). Insufficient information has been submitted by the applicant to allow DCSDC to meet its assessment requirements as per Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended).

4. Site location and description

The site is on the Woodvale Road in the village of Eglinton and is bounded on one side by Main Street Eglinton. The existing business is an existing beauty salon/hairdressers that has been operating on the site since 1999. The existing building is a single storey structure and is situated at the edge of the Area of Townscape Character. The site has a low stone wall surrounding it with mature trees along the boundary with Woodvale Road. This premises are at the end of the commercial run of businesses along Main Street and from this site on, the village is mainly residential in character. The Muff River is located in close vicinity on the site and can be seen on the location plan highlighted in blue.



Figure 1 Location plan



Figure 2 Overhead view of site- shown in red



Figure 3 Existing view from edge of Woodvale Road and Main Street



Figure 4 Side elevationview of proposed extension



Figure 5 View from Woodvale road shielded by mature trees which will be retained



Figure 6 Front elevation view

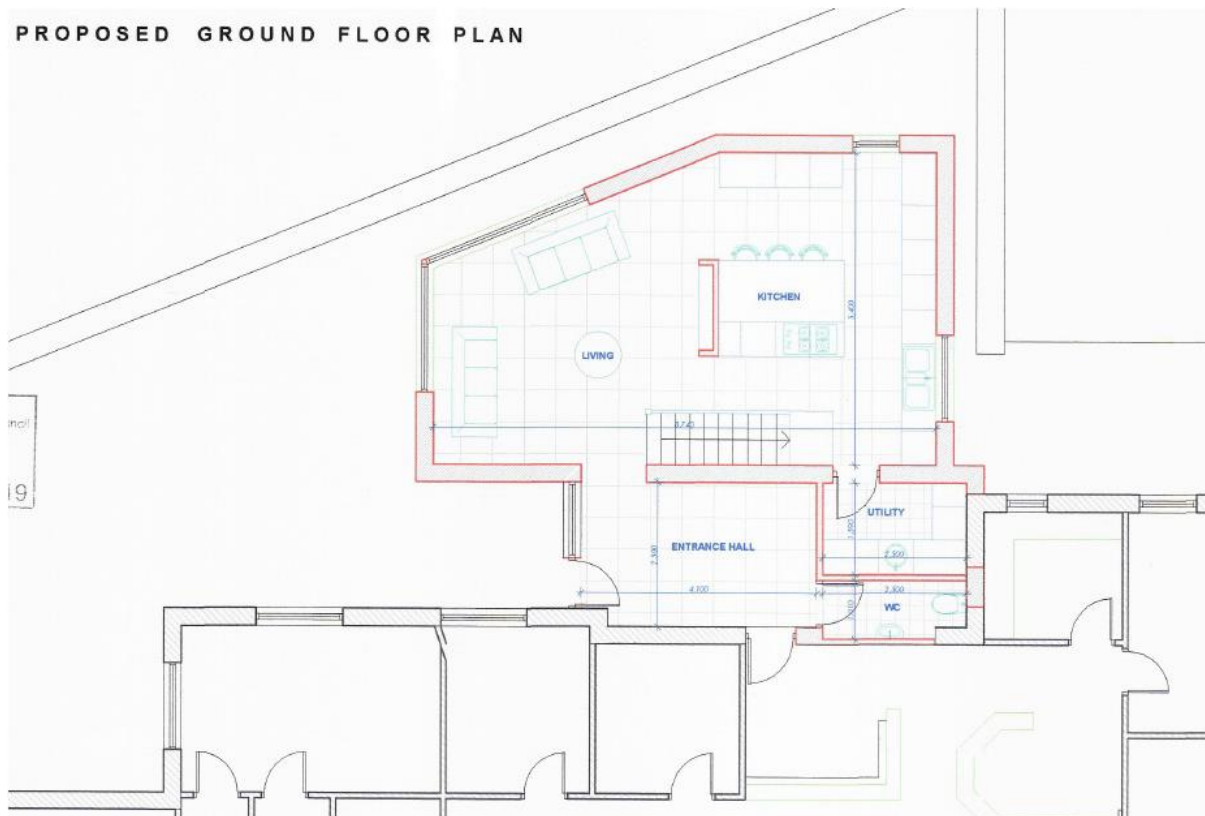


Figure 7 Proposed ground floor plan off existing business showing kitchen and living area and separate external access

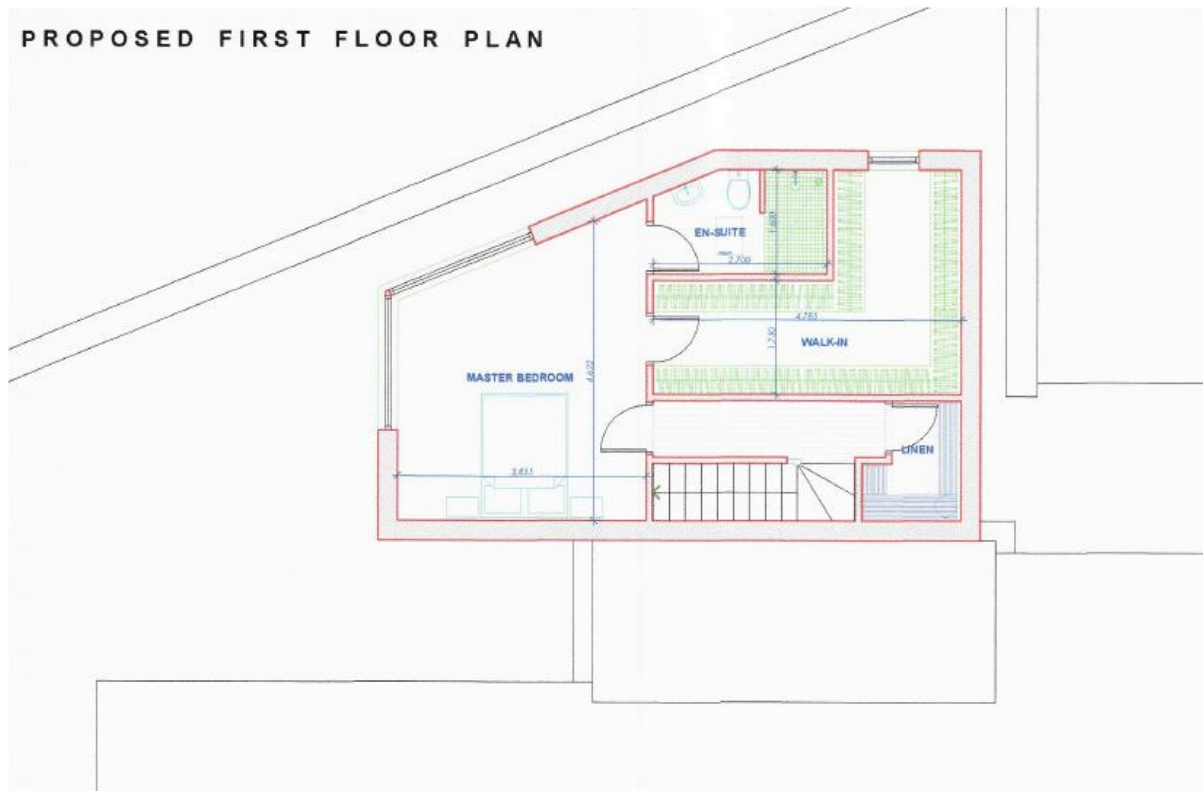


Figure 8 Proposed upper floor in apartment showing bedroom, en-suite and walk in wardrobe

5. Site Constraints

The application site is within the settlement limits of the village of Eglinton.

The site is within the Eglinton Area of Townscape Character as defined by DAP 2011.

The site is subject to flooding in the Rivers Agency flood maps with previous extensive flooding of this property recorded.

In a consultation zone for Archaeological Monument

6. Neighbour Notification Report

Neighbour Address	Date Neighbour Notified
3 Woodvale Road, Eglinton, Londonderry, BT47 3AH	02/08/2019
6 Woodvale Road, Eglinton, Londonderry, BT47 3AH	02/08/2019
8 Woodvale Road, Eglinton, Londonderry, BT47 3AH	02/08/2019
10 Woodvale Road, Eglinton, Londonderry, BT47 3AH	02/08/2019
12 Woodvale Road, Eglinton, Londonderry, BT47 3AH	02/08/2019
14 Woodvale Road, Eglinton, Londonderry, BT47 3AH	02/08/2019
16 Woodvale Road, Eglinton, Londonderry, BT47 3AH	02/08/2019
56 Carmoney Road, Eglinton, Londonderry, BT47 3PH	02/08/2019
60 Carmoney Road, Eglinton, Londonderry, BT47 3PH	02/08/2019

7. Relevant Site History

A/1999/0301- Change of use from dwelling and garages to beauty salon

with single storey extension and alterations- approved 17/08/1999

8. Policy Framework

RDS 2035

Derry Area Plan - The site is located within the village of Eglinton.

- **Policy BE12 Areas of Townscape Character**

Strategic Planning Policy Statement for NI

- **Section 5.72-** Sustainable Development
- **Section 6.106-6.111** – Development in River (Fluvial) and coastal flood plains.
- **Section 6.9-** Archaeology
- **Section 6.175-6.178-** International Designations

Planning Policy Statement (PPS) 3 Access, movement and parking

- **Policy AMP 7** Car Parking and Servicing Arrangements

Planning Policy Statement (PPS) 2 Natural Heritage

- **Policy NH 1** European and Ramsar Site- International

Planning Policy Statement (PPS)6 (Addendum): Areas of Townscape Character –

- **Policy ATC 2-** New development in an area of Townscape Character

Planning Policy Statement (PPS)6 Planning Archaeology and the built heritage,

- **Policy BH2-** The protection of archaeological remains of local importance and their settings

Planning Policy Statement (PPS)15 Planning and Flood Risk-

- **Policy FD1-** Development in Fluvial (River) and Coastal Plains

9. Consultee Responses, Internal/External

Transport NI – asked for more detailed plans to determine floor plans to determine the parking requirement as well as completing parking number tables. Amended plans also requested showing existing car parking which have now been received.

Environmental Health - no objections to the proposal.

Rivers Agency –Rivers have stated that the site lies within the 1 in 100 year fluvial flood plain (see flood map) and the application is contrary to Policy FLD1- development in Fluvial (River) and Coastal Flood Plains, unless the applicant can demonstrate that the proposal constitutes an exception to the policy.

HED- No objections to the application.

Shared Environmental Services - SES advised that the planning application is being considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service (SES) on behalf of Derry City and Strabane District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. SES is unable to complete a HRA in the absence of information requested in the form of a flood risk assessment.

10. Representations

No representations have been received to the application.

11. Planning Assessment and Other Material Considerations

Section 6 (4) of The Planning Act (Northern Ireland) 2011 requires the Council to make planning decisions in accordance with the local development plan, unless material considerations indicate otherwise. This proposal has been assessed against the provisions of the Derry Area Plan 2011, as well as other material considerations including the Regional Development Strategy; the Strategic Planning Policy Statement for Northern Ireland; PPS2 Natural Heritage; PPS 3 Access Movement and Parking; PPS 6 Planning, Archaeology and the Built Heritage, PPS6 Addendum; PPS15 Planning and Flood Risk.

A design and access/concept plan has been submitted with the application which demonstrates how the site will be developed.

The SPPS states that *“the planning system operates in the public interest of local communities.... It does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public interest in some cases... The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Paragraph 5.72 of the SPPS further emphasises this in that “sustainable development should be permitted, having regard to the local development plan and all other material*

considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases the planning authority has power to refuse planning permission”.

The potential impact of the proposal on the surrounding land uses and buildings has been considered.

This application has been submitted as a proposed residential unit for the owner of the business at 1 Woodvale Road. In August 2017 a major flooding event occurred and this property was one of many properties in Eglinton that was badly affected by the flooding. The agent has submitted photos of the inside of the property demonstrating the level of flooding that occurred in and around the property.



It has been put forward by the agent that the applicant now needs to live on the premises for insurance purposes so that if another flooding event occurs she is on site to protect her property. It is estimated that there is £750,000 of equipment within the property.

Derry Area Plan 2011

The site is located within the village of Eglinton and also with in an Area of Townscape Character. **Policy BE12** - the general height, scale and massing of buildings in the area shall be maintained and proposals which involve a significant loss of important trees, wooded areas, gardens or landscape features will be resisted; Materials should be of a high quality and reflect the fabric of the area. Initially when the application was received the design of the proposed apartment sat 2.5 metres above the roof level of the existing roof of the business and the structure came within 1 metre of the boundary of the trees. An office meeting was held in October 2019 and an amendment to the design was received. The new design meets Policy BE12 in terms of scale and massing and all trees on the boundary will now be retained.

Planning Policy Statement 2:Natural Heritage

Policy NH1 (European and Ramsar Sites – International states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/ or proposed plans or projects, is not likely to have a significant effect on a European Site (including SACs). Where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the Council shall make an appropriate assessment of the implications for the site in view of the site’s conservation objectives.

Insufficient information has been submitted by the applicant to allow Council to meet its duties as the competent authority for making assessment under the Habitat Regulations and subsequently PPS 2 and SPPS.

Planning Policy Statement 3 Access Movement and Parking

Policy AMP7- The proposal would require 1.5 parking spaces. DFI roads had asked for detailed floor plans, details of numbers attending the business and amended plans showing the existing parking at the site. These have now been received and show that sufficient parking can be provided within the existing site to accommodate the proposal. A condition could be attached to ensure the spaces are lined out in thermoplastic paint in accordance with DFI requirements.

Planning Policy Statement (PPS)6 Planning Archaeology and the built heritage

Policy BH2- The protection of archaeological remains of local importance and their settings. HED were consulted on the application and are content that there will be no impact on any archaeological sites in the vicinity. No mitigation is required

Planning Policy Statement (PPS)6 (Addendum): Areas of Townscape Character

Policy ATC 2- New development in an area of Townscape Character. This policy states that proposals will be allowed in an area of townscape character where the development maintains or enhances its overall character and respects the built form of the area. Proposals will also require that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development. The amended design submitted after the office meeting has addressed all these issues and meets policy ATC 2. A design and access statement was submitted as part of the application

Planning Policy Statement 15 Planning and Flood Risk

Policy FLD1- The Fluvial Hazard Map (NI) indicates that the site lies within the 1 in 100 year fluvial flood plain. FLD1 states that the development will not be permitted within the flood plain unless the applicant can demonstrate that the proposal constitutes an exception to the policy.

In this case the planning consultant Mr Matt Kennedy has put forward that he considers that the application is an exception to the policy he considers meets the definition of minor development as set out in the policy.

Minor Development is defined in the glossary of PPS15 as follows:

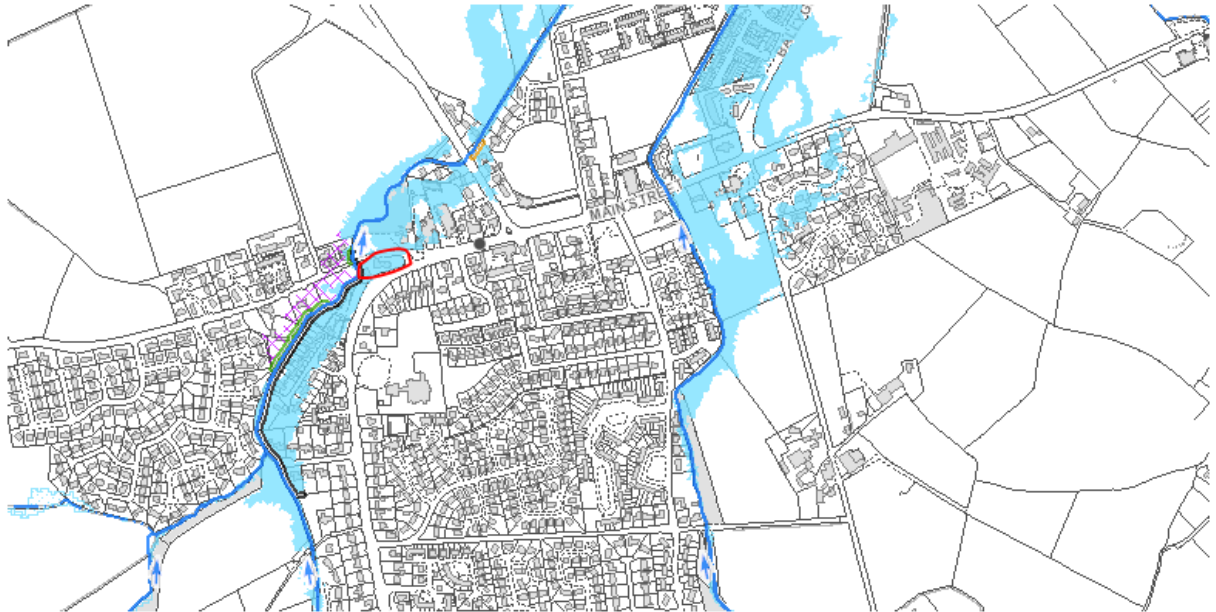
“-non residential extensions (Industrial/Commercial/Leisure etc) with a footprint less than 150 sq metres

- Alterations: development that does not increase the size of buildings, eg alterations to external finishes

- ‘Householder’ development: eg sheds, garages, games rooms etc within the curtilage of the existing dwelling in addition to extensions to the existing dwelling. This excludes any proposed development that would create a separate dwelling within the curtilage of the existing dwelling eg subdivision of a dwelling house into flats”

Officers consider the proposed development does meet any of the three types of minor development listed in PPS 15. All cases relating to Minor Development under FLD 1 are subject to

a satisfactory flood risk assessment. Despite the agents and planning consultant's stance on this issue no flood risk assessment has been submitted in support of this application. The planning consultant did offer to submit a drainage assessment, but this is not a requirements under FLD 1 and would be inadequate to fully determine the flood risk concerns at this site. In any case, nothing has been received to date to conclude this matter. As such Officers consider the proposed development is in an undefended flood plain and does not meet any of the exceptions to allow an approval.



Rivers flood map of the area showing site in red. Blue designates the 1 in 100-year fluvial flood plain.

Since the committee meeting on 3rd February 2021 an email was received from the agent stating that the applicant had purchased a house in Eglinton and would not now be building a managers dwelling. They advised that they would use it as an extension to the commercial premises. The agent was advised this necessitated the submission of a new planning application. No further correspondence has been received to date.

12. Conclusion and Recommendation

Having considered all material considerations, including the development plan, relevant planning policies, consultations the proposal clearly is contrary to PPS 15 FLD 1 as the proposal is not an acceptable exception under FLD 1 and there insufficient information to demonstrate that there will be no material increase from flooding at this site. Consequently in the absence of this information it has not been possible to conclude the proposal will not impact on the

integrity of the River Foyle SPA/RAMSAR site, as required by NH1 of PPS 2. Therefore it is refusal is recommended subject to the refusal reasons listed below.

13. Refusal Reasons

1. The proposal is contrary to Planning Policy Statement 15, Planning and Flood Risk, Policy FLD1, in that the proposed development is not considered an exception under FLD1 and it has not been demonstrated that the flood risk will not be increased due to the proposed development
2. The proposal is contrary to Planning Policy Statement 2: Natural Heritage, Policy NH 1, in that insufficient information has been submitted to assess the impact of the application on the River Foyle SPA/RAMSAR, and it has not been demonstrated the proposal will not have a significant impact on the integrity of the designated site.