Derry City and Strabane District Council Planning Committee Report

COMMITTEE DATE: 23rd March 2016
APPLICATION No: J/2013/0011/O
APPLICATION TYPE: Outline-community/residential
PROPOSAL: A Care in the Community Facility incorporating; 1) A respite care facility with 9 number 2 bed dwellings and 5 No. 1 bed dwellings (2 of which will be for wardens); 2) Hobby/Craft workshop building and associated allotments (man shed concept); 3) associated access and parking arrangements. (amended description of proposal)
LOCATION: 90m north west of 5-7 Parkview Road, Castlederg
APPLICANT: Derg Valley Care
AGENT: Allan Curran Architects, 55 Tempo Road, Enniskillen, BT74 6HR
ADVERTISEMENT: Initial advertisement-29/01/13, re-advertisement-2/10/13, re-advertisement 9/4/14
STATUTORY EXPIRY: Initial expiry date-21/02/13, 2nd expiry date 24/10/13, 3rd expiry date 01/05/14
RECOMMENDATION: Approve
REASON FOR PRESENTATION TO COMMITTEE: More than 5 objections have been received

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

1. Description of Proposed Development- Outline planning application for a Care in the Community Facility incorporating; 1) A respite care facility with 9 number 2 bed dwellings and 5 No. 1 bed dwellings (2 of which will be for wardens); 2) Hobby/Craft workshop building and associated allotments (man shed concept); 3) associated access and parking arrangements. (amended description of proposal)
2. **EIA Determination** - As the development is within Category 10 (b) of Schedule 2 of the Planning (Environment Impact Assessment) Regulations (NI) 2015 the Council is obliged under Regulation 10 (1) of these regulations to make a determination as to whether the application is for EIA development.

The Council has determined as such that the planning application does not require to be accompanied by an Environmental Statement.

3. **Site and Surrounding Area**

The site is located within the town centre limits of Castlederg as defined in the Strabane Area Plan 1986-2001. The site is located on brown land zoned for housing. Paragraph 62.4 of SAP states the following, 'The 2.4 hectares of land identified to the west of Main Street could provide new opportunities for town centre housing provided that development levels are raised to alleviate flooding risk'.

The site is relatively flat, is grassed over and has tree lined boundaries to the SW, S and parts of the SE. The NW boundary is defined by green security fencing and separates development to the north. The remaining boundaries are not defined and are open to public views. There is a burnt patch in the centre of this site where bon fires seem to have been lit in the past.

There is a residential care home and supervised residential development located to the north of the site. To the SW is Derg Castle and Derg River. There are a mix of businesses and land uses located to the east of the site. Further to the east is Caslederg Main Street with associated businesses and above the shop living.
4. Site Constraints

ARCHAEOLOGICAL SITE AND MONUMENT-Castlederg Castle-NIEA consulted

FLOOD ZONE-Rivers Agency consulted
### 5. Neighbour Notification Report

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6. Relevant Site History

J/1996/0409-Housing with integrated care provision-land to rear of 63-81 Main St Castlederg.

J/1998/0033-5 no additional bedrooms to care scheme

7. Policy Framework

Regional Development Strategy for Northern Ireland 2035
Strabane Area Plan 1986-2001
'Strategic Planning Policy Statement for Northern Ireland' - Planning for Sustainable Development
(SPPS),
Planning Policy Statement 2: Natural Heritage
Planning Policy Statement 3: Access, Movement and Parking
Planning Policy Statement 6: Planning, Archaeology the Built Heritage
Planning Policy Statement 7: Quality Residential Environments
Planning Policy Statement 15: Planning and Flood Risk
DCAN 9: Residential and nursing homes
DCAN 15: Vehicular access standards

8. Consultee Responses

Transport Northern Ireland-

In order for the applicant to create a safe access onto Parkview Road which meets the standards set out in PPS3 and DCAN15 the following must be applied

C01 - A plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

NIEA-

Archaeology & Built Heritage
Historic Environment Division: Historic Monuments Unit (HMU) had previously requested additional information in the form of an archaeological evaluation of the development site, as per Policy BH 3 of PPS 6. The results of the archaeological evaluation have now been submitted to HMU. Due to the results of the archaeological evaluation HMU advise that no further archaeological works are required and the request for additional information has now been satisfied.

As the proposed development is located less than 100m north-east of Castlederg Castle, a monument protected under the provisions of Policy BH 1 of PPS 6, HMU require that the design and massing of the proposal should be sympathetic to the historic setting of the monument. Consequently, HMU require to be consulted at Reserved Matters to ensure the design and massing of the proposal is acceptable under Policy BH 1 of PPS 6.

Drainage & Water

Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal subject to conditions relating to pollution prevention and protection of groundwater.

Natural Heritage & Conservation Areas

NIEA Natural Environment Division has considered this proposal with regard to Designated Sites and other Natural Heritage Considerations and has the following comments to make.

Designated Sites

Considerations
The application site is in close proximity to River Foyle and Tributaries SAC/ASSI which is of international and national importance and is protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002.

NED CDP has considered the impacts of the proposal on the River Foyle and Tributaries SAC/ASSI. NED CDP has concerns that the proposal may have an adverse impact on the N2K and ASSI site. However it advises that mitigation measures relating to the contamination, implementation of a construction management plan and restriction on piling during construction.

Other Natural Heritage Interests

Natural Environment Division has considered the impacts of the proposal on the site and, on the basis of the information provided, is content with the proposal.

River Agency
The site is affected by 2 watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973, and known to Rivers Agency as the Churchtown Stream and Derg River.

Rivers Agency have indicated that the site does not lie within the 1 in 100 year fluvial floodplain. Rivers Agency would have no specific reason to object to the proposed development from a drainage or flood risk perspective.

The developer is advised that for design purposes all finished floor levels (including gardens, driveways and paths) should be placed at a minimum of 600mm above the 100 year flood level.

**Northern Ireland Water**

No objections subject to normal informatives.

**Environmental Health**

EHD raised some concerns in relation to noise and requested a noise impact assessment in relation to the impact of the existing land uses in the town centre on this proposal. The application is within the town centre and zoned for development. Given the location of the proposal it is expected that there will be a degree of noise, however I do not think there is a necessity for the submission of a noise assessment.

EHD have assessed the contamination issues and the potential for impact on human health. They are content that these matters can be dealt with by condition.

**Shared Environmental Services**

This planning application was assessed 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 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.

The appropriate assessment concluded that the proposal is acceptable subject to compliance with conditions relating to compliance with construction method statement, piling and contamination.

9. Representations Consideration
12 letters of objection have been received in relation to the proposed;

The objections raise the following concerns;

- **Impact of development on traffic and parking, increase both and would be unacceptable in relation to PPS3**
  Transport NI have been consulted on the application and have no objections to outline approval of the site. Furthermore the site is zoned for development, within Castlederg town centre and the indicative block plan would suggest that parking will largely be confined to the site itself.

- **The proposal would have an unacceptable impact on the Castle located to the SW of the site, and is contrary to PPS6**
  The applicant has submitted a detailed pre-development archaeological evaluation of the site. NIEA are the competent body in relation to heritage issues and have viewed the report and have advised that they have no objections to the proposal. They will be consulted at reserved matters stage in the relation to the design of the proposal and will advise on the appropriateness of the detailed plans.

- **The proposal would if permitted have a detrimental impact on trading and commerce in the town centre and would be contrary to PPS5**
  PPS5 has now been superseded by SPPS. The objection would appear to centre on the impact on the retail performance of the town centre. The proposal is for sheltered residential accommodation and I find it difficult to see how this would have any impact on trading and commerce. The site is zoned for housing and this proposal is in compliance with this plan provision.

- **The proposal is contrary to PPS15- Planning and flood risk, as the proposal is located within a flood plain**
  Rivers Agency are the competent body in relation to flooding. They have advised that the site is not within the 1 in 100 fluvial flooding area and they have indicated that they have no reason to object to the proposal. They have recommended finished floor levels above 600mm.

- **Concern over noise levels were raised**
  The nature of the proposal is a use a respite care facility with some ancillary recreational uses. None of the proposed uses would be considered as significant noise generating uses. Furthermore the site is within the town centre in a mixed use area and as such it is expected that there will be a degree of noise generated, however there is no evidence to suggest that any noise generated will be significant or have an adverse impact on the surrounding land uses.

- **Concern over increased pollution was raised**
  The applicant has submitted additional reports with the application which address the issue of pollution. NIEA have been consulted and are satisfied that the proposal can be developed subject to the conditions. Furthermore an appropriate assessment has been carried out under Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and it was concluded that the site could be development without adverse impact on the nearby designated sites if conditions are imposed.
10. 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 Strabane Area Plan, 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 and relevant planning history, as well as the representations received.

Regional Development Strategy-

RG7: Support urban and rural renaissance

The proposal will bring back into use an area that could be described as unutilised wasteland within the centre of the town. It will introduce a residential use, which in my opinion will be good for the town as it will promote a mix of uses and encourage end users to shop locally.

RG8: Manage housing growth to achieve sustainable patterns of residential development

The varied housing needs of the whole community need to be met. This includes the availability of affordable and special needs housing. Housing is a key driver of physical, economic and social change in both urban and rural areas.

The proposal is for respite ‘care in the community’ residential development. The proposal will offer a different type of residential development and will contribute to achieving a sustainable form of development.
**Strabane Area Plan 1986-2001**

The Strabane Area Plan set out a number of broad plan objectives and amongst those relevant to this proposal are the following;

- To improve the quality of the urban environment
- To promote vibrant town and village centres by increasing their attractiveness as places to live, work and invest

The site is currently unused land within the town centre of Castlederg. It would not appear to hold any significant amenity value and it would appear to have been used for bonfires etc. The development of the site will improve the quality of the immediate area and the quality of the urban environment in general.

The end use will introduce a residential element to the town centre and will create some employment as there will be an element of care. The proposal and use are in compliance with the objectives as set out.

Castlederg has been designated as a Local Town in the plan. The plan indicates that it will actively encourage any schemes put forward within the context of the Plan that will result in environmental improvements in both larger and smaller settlements.

The Plan identifies a town centre for Castlederg and the site lies within this area. Paragraph 62.4 states that 2.4 hectares of land identified to the west of the Main Street could provide new opportunities for town centre housing provided that development levels are raised to alleviate flooding risk. Therefore the plan establishes that the principle of development provided that flood issues are considered. The issue of flooding can be addressed through the imposition of the condition related to finished levels of the site.

**Planning Policy Statement 2: Natural Heritage**

NIEA and Shared Environmental Services have been consulted in relation to the application. A HRA assessment has been carried out and the proposal has been found to be acceptable provided mitigating conditions are attached to the approval.

NIEA have considered other natural interests and concluded that they have no objections to the proposal.

**Planning Policy Statement 3: Access, movement and parking**
Transport NI have been consulted. A Transport Assessment Form has been submitted and TNI have recommended approval subject to condition.

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

Historic Environment Division: Historic Monuments Unit (HMU) had previously requested additional information in the form of an archaeological evaluation of the development site, as per Policy BH 3 of PPS 6. The results of the archaeological evaluation have now been submitted to HMU. Due to the results of the archaeological evaluation HMU advise that no further archaeological works are required and the request for additional information has now been satisfied. As the proposed development is located less than 100m north-east of Castlederg Castle, a monument protected under the provisions of Policy BH 1 of PPS 6, HMU require that the design and massing of the proposal should be sympathetic to the historic setting of the monument. Consequently, HMU require to be consulted at Reserved Matters to ensure the design and massing of the proposal is acceptable under Policy BH 1 of PPS 6.

Planning Policy Statement 7: Quality Residential Environments

This planning policy set out policies for achieving quality in residential development. This proposal would appear to fall under Class C3: Residential institutions. Whilst PPS7 does not specifically refer to this use class I would be of the opinion that PPS7 would be relevant in terms of the proposal relating to a residential type development. There is Development Control Advice Note 9 for ‘Residential and Nursing Homes’ and this requests that the following issues are considered for such proposals; siting, locality, traffic, amenity, design and layout and landscaping.

QD1 of PPS 7 would also require you to consider similar issues relating site context, features of archaeological, built and natural heritage, provision of open space, adequate provision of facilities, provision of parking, design, layout and effect on amenity.

It is my professional opinion that the site is of an adequate size that would accommodate the proposal without compromising any of the above issues. There have been no objections from the consultees that deal with natural heritage, built heritage and traffic/road issues. The end is compatible with surrounding land uses and respect the local context. Issues such as design, layout and landscaping are reserved matters. Having considered the proposal in the context of the site and the surrounding I would of the opinion that the proposal would be in compliance with the objectives of PPS7 and DCAN 9.

Planning Policy Statement 15: Planning and Flood risk

The site does not lie within 1 in 100 year flood plain and therefore the ‘exception test’ under FLD 1 does not apply in this case. Nevertheless the applicant submitted a flood risk assessment and Rivers Agency has advised that the developer should be advised that for design purposes all finished floor levels (including gardens, driveways, and paths) should be placed at a minimum of 600mm above the 100 year flood level.

'Strategic Planning Policy Statement for Northern Ireland' - Planning for Sustainable Development (known as SPPS)
Appendix 6

The SPPS supersedes PPS 1 General Principles, however the guiding principle of what PPS 1 aimed to achieve in terms of public interest is supported through the SPPS; in particular, paragraph 2.3 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”.

Amenity

When considering the proposal I have considered the impact of the proposal on the surrounding land uses and buildings. The application is outline and the siting, design and external appearance of the building will be agreed at reserved matters stage.

Overall I would be of the opinion that the proposal will not cause any demonstrable harm to the neighbouring land uses and therefore is compliant with this aspect of the SPPS.

Archaeology and Built Heritage

NIEA have been consulted and have advised that the proposal will not have adverse impact on the acknowledged archaeological monuments in the area.

Therefore proposal is in compliance with this aspect of the SPPS.

Transportation

Transport NI have no objections and the proposal is in compliance with the transportation policies contained within the SPPS.
Supporting Sustainable Economic Growth

Paragraphs 4.18 to 4.22 of the SPPS set out the case that a modern, efficient and effective planning system is essential to supporting the Executive, and wider government policy. In its effort to promote long term economic growth in the interests of all of the people in this region.

This section asks planning authorities to take a positive approach to appropriate economic development proposals. It also asks the authorities to encourage proposal that make an important contribution to sustainable economic growth when making decisions.

The proposal will promote sustainable development in that the site is located within the town centre. The proposal will also promote a small amount of employment.

11. Conclusion and Recommendation

Having considered all material considerations, including the development plan, relevant planning policies, surrounding planning history, third party representations, consultations etc. I would recommend that the Planning Committee gives consideration to my professional report and recommendation to approve planning permission for the proposal subject to the conditions as outlined below.

Conditions

1) As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Department within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates;

   (i) The expiration of 5 years from the date of this permission; or

   (ii) The expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

   Reason: Time Limit

2) Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved
Appendix 6

matters”), shall be obtained from the Council, in writing, before any development is commenced.

Reason: To enable the Council to consider in detail the proposed development of the site.

3) In the detailed design at reserved matters stage all finished floor levels (including gardens, driveways and paths) shall be placed at a minimum of 600mm above the 100 year flood level unless otherwise agreed in writing with the Council.

Reason: To alleviate any potential impact through flooding

4) At reserved matters stage, a detailed plan clearly delineating the finalised location of all allotment/garden and soft landscaped areas, and detailing the clean cover system design, depth, composition and material quantities for each area shall be submitted to the Council for approval and shall be implemented as agreed.

Reason: To protect human health receptors and to ensure the site is suitable for use.

5) Prior to occupation of the development or any phase of the development, the clean cover system agreed under Condition 4 to break the pollutant linkage between reduced quality made ground in shallow soils (<1mbgl) and future site users shall be laid in all allotment, garden, and soft landscaped areas within the development or phase thereof.

The capping system for the allotment/garden and soft landscaped areas shall meet the following minimum requirements.

a) allotment areas shall extend to a depth of 1.0m below finished ground level and shall comprise a geotextile membrane at the base, 0.2m of clean granular material (capillary break) and 0.8m of clean topsoil., or

extend to a depth of 1.0m in a raised bed and shall comprise a geotextile membrane at the base, 0.2m of clean granular material (capillary break) and 0.8m of clean topsoil.

b) garden areas shall extend to a depth of 1.0m below finished ground level and shall comprise 200mm of clean granular material (capillary break) and 800mm of clean topsoil.

c) soft landscaped areas shall extend to a depth of 0.6m below finished ground level and shall comprise 200mm of clean granular material (capillary break) and 400mm of clean topsoil.

Reason: To protect human health receptors and to ensure the site is suitable for use.

6) Any soil or material to be imported to the site for use in soft landscaped areas or as any part of capping/encapsulation system as required by Condition No 5 shall be tested for contamination and assessed for its suitability. This shall be agreed in writing with the Environmental Health Department prior to being imported onto the site.

Reason: To ensure that no contaminated soil/material is imported into the site and that the development shall be suitable for use.
7) Prior to occupation of the development or any phase of the development Gas Characterisation Situation 2 (CS2) Gas Protection Measures, as defined in Table 8.6 of CIRIA Guidance document C665 ‘Assessing risks posed by hazardous ground gas to buildings’ shall be incorporated into the design and build of all on-site buildings.

Reason: To protect human health receptors and to ensure the site is suitable for use.

8) The Council shall be given two weeks written notification prior to the commencement of remediation work onsite

Reason: To provide sufficient notice to the Council of planned remedial works.

9) In the event that during development contamination is found, that had not previously been identified or considered, it shall be reported immediately to the Council and works in the affected area(s) shall cease. The contamination shall be investigated in accordance with the Model Procedures for the Management of Contaminated Land (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Department in writing, and subsequently implemented and verified to its satisfaction.

Reason: To protect human health and environmental receptors and to ensure the site is suitable for use and to ensure the protection and integrity of the River Foyle and Tributaries SAC

10) Following completion of the remediation measures required by conditions 5 & 7 of this approval and any remediation measures agreed under Condition 9, a verification report shall be completed by a competent person(s) and submitted to the Council for approval together with a certificate signed and dated by the developer that the remediation works have been completed in strict accordance with the conditions and the documents to which they refer. The verification report shall describe all the agreed remediation works undertaken and seek to prove that the remedial objectives have been met. This report must be agreed with the Council prior to the occupation of the development.

Reason: To protect human health and environmental receptors and to ensure the site is suitable for use and to ensure the protection and integrity of the River Foyle and Tributaries SAC

13) A final Construction Environmental Management Plan (CEMP) shall be submitted by the appointed contractor prior to works commencing. This should contain all mitigation and pollution control measures as detailed in the outline CEMP dated June 2015. This should include to include pollution prevention measures to protect groundwater and other waterways for the construction, deconstruction and operational phases of the application. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Council.

Reason: To protect the integrity of the River Foyle and Tributaries SAC
14) Any piling works should take place during daylight hours, avoiding the hours after dusk.

Reason: To protect the features of the River Foyle and Tributaries SAC

15) A plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.