

Title of Report:	Planning Committee Report – LA01/2024/0005/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	28th August 2024
For Decision or For Information	For Decision – Referred Item by Ald M Fielding
To be discussed In Committee YES/NO	No

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	Development Management and Enforcement Manager

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

Legal Considerations	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

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> LA01/2024/0005/F	<u>Ward:</u> University
<u>App Type:</u> Full	
<u>Address:</u> Sweeneys Wine Bar/Cove Bistro, 6 Seaport Avenue, Bushmills	
<u>Proposal:</u> Removal of Condition 2 (shall be used as holiday accommodation & not as private residences and be permanently retained as such) - C/2013/0437/F	
<u>Con Area:</u> N/A	<u>Valid Date:</u> 02.01.2024
<u>Listed Building Grade:</u> N/A	
Agent: Donaldson Planning Ltd	
Applicant: Ross Sweeney	
Objections: 0	Petitions of Objection: 0
Support: 0	Petitions of Support: 0

Executive Summary

- This proposal is considered unacceptable at this location having regard to the Northern Area Plan 2016 and all other material considerations.
- The application site falls within the settlement limit of Portballintrae. The site is zoned for housing and is located within the Bay LLPA and Causeway Coast AONB.
- No letters of objection have been received in relation to this application.
- No objections have been raised by statutory consultees in relation to this proposal.
- The development for 6 holiday units has been commenced and is extant.
- The proposal seeks permission to remove condition 2 of application C/2013/0437/F. Condition 2 states the holiday accommodation cannot be used as private residences as there is insufficient amenity space.
- The principle of development and the design of the holiday units was considered in relation to the outlined designations (LLPA & AONB) under previously approved applications therefore this proposal will not have any impact on these designations.
- It is considered that this application comprising 6 units would not provide a quality residential development as the amenity space is below the minimum requirement for 4 of the units. These units would not have adequate amenity space for domestic needs.
- Approval of this application would set an undesirable precedent for new houses to have amenity spaces less than the minimum requirement.
- If this proposal were to be 6 dwellings for permanent use, then the parking requirement from "Parking Standards" is 9 spaces based on a 2 bedroom dwelling taking the use of the 3rd bedroom as a study. However, if it were to be used as 3 bedrooms then the parking requirement would be more. Enforcement of the 3rd room as a study/office is not possible therefore inadequate car parking is provided.
- The proposal does not comply with all relevant planning policies including the Northern Area Plan, SPPS, PPS 7 and PPS 3

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

1.0 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 subject to the reasons set out in section 10.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site is located at Sweeney's Wine Bar/Cove Bistro at No. 6 Seaport Avenue, Portballintrae. The site comprises a grassed area that is accessed from Bayview Road. The land within the site is raised compared to the plot of land that contains Sweeney's Wine Bar and car park. Foundations are present on the site in the south eastern corner. The site is defined by hedging along the western boundary, a retaining wall along the eastern boundary and a stepped wall with rocks on top along the southern boundary adjacent to the road.
- 2.2 The surrounding area is predominately characterised by residential use. Properties are generally two storey in height with pitched or hipped roofs with in-curtilage parking given plot size. Townhouses are evident opposite the site.

3.0 RELEVANT HISTORY

- 3.1 LA01/2023/0855/CLOPUD
Sweeneys wine bar/cove bistro, 6 Seaport Avenue,
Portballintrae
Commencement of construction of 6 no. holiday mews cottages
in accordance with planning permission
Permitted Development - 26/10/2023
- 3.2 C/2013/0437/F

6 no. holiday mews accommodation as previously approved
under Reserved Matters C/2006/0527/RM
Approval – 29/01/2014

- 3.3 C/2003/0556/O
6 no. holiday mews accommodation
Approval – 04/10/2003
- 3.4 C/1999/0952/O
6 no. holiday mews accommodation
Approval – 12/01/2000
- 3.5 C/1996/0499
Site for 6 no. holiday mews apartments
Approval – 16/10/1996
- 3.6 C/1992/0710
Site for 6 no. holiday mews apartments
Approval – 17/02/1993
- 3.7 C/1988/0264
Site for 6 holiday apartments
Approval – 28/09/1988

4.0 THE APPLICATION

- 4.1 Full planning permission is sought for Removal of Condition 2
(shall be used as holiday accommodation & not as private
residences and be permanently retained as such) -
C/2013/0437/F

5.0 PUBLICITY & CONSULTATIONS

5.1 External:

No letters of objection have been received in relation to this
application.

5.2 Internal:

Environmental Health – No objections

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 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)

PPS 3 - Access, Movement and Parking

PPS 7 – Quality Residential Environments

PPS 2 – Natural Heritage

Supplementary Planning Guidance

DCAN 8 – Housing in Existing Urban Areas

Creating Places

Development Control Advice Note 15 Vehicular Access Standards

8.0 CONSIDERATIONS & ASSESSMENT

- 8.1 The proposal is located within the development limit of Portballintrae. Policy SET 2 refers to development within Settlement limits and proposals should be sensitive to the size and character of the settlement. The site is zoned for housing and is located within The Bay Local Landscape Policy Area. This LLPA incorporates the Dunluce / Ballintrae SLNCI and is within the Causeway Coast AONB. Only if there is an exceptional requirement for modest scale infrastructure will further development be acceptable along this particularly attractive and sensitive coastline between the road and the sea.
- 8.2 The proposal must be considered having regard to the NAP 2016, SPPS, PPS policy documents and supplementary planning guidance specified above.
- 8.3 Planning application LA01/2023/0855/CLOPUD was determined as permitted development on 26th October 2023. Consequently, the application has been commenced and is extant.
- 8.4 The power to impose conditions is contained within Sections 45 and 52 of the 2011 Act. Section 54 of the 2011 Act applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. On receipt of such an application, the authority must consider only the question of the conditions subject to which planning permission should be granted. Conditions should only be imposed where they satisfy

all of the following tests. Conditions should be necessary relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

- 8.5 This proposal relates to the removal of one condition. The principle of development and the design of the holiday units was considered in relation to the outlined designations (LLPA & AONB) under previously approved applications. Therefore, this proposal will not have any impact on these designations.

Removal of Condition 2

- 8.6 Policy QD1 of PPS 7 promotes quality residential development in all types of settlements. DCAN 8 and Creating Places is additional guidance intended to supplement this policy in terms of improving the quality of new housing development. PPS 3 relates to access and parking requirements.
- 8.7 This application seeks removal of condition 2 of C/2013/0437/F under Section 54 of the Planning (NI) Act 2011.
- 8.8 Condition 2 of C/2013/0437/F states:

The units hereby approved shall be used for the purposes of holiday accommodation only and not as private residences and shall be permanently retained as such unless with prior written consent of the Department.

Reason: Insufficient amenity space has been provided to permit use as private residences.

Justification

- 8.9 The Agent provided a supporting statement which advises that the imposition of this condition is unnecessary and unreasonable for the following principal reasons.

1. No justification in the case officer report for why this condition was added especially when it states amenity is adequate.

2. There is a history of planning permissions for this development dating back to 1988. The permission granted in 2014 is the only permission which imposed a holiday occupancy condition. It was not imposed on either the 2003 or 2006 planning permissions, despite the fact that these both post-dated publication of PPS7 and Creating Places in 2000. There has been no material change in policy between the 2003 permission and the 2014 permission.

3. PPS 7 does not set out any specific guidance for amenity space. Criteria (c) of Policy QD1 states only that such space should be 'adequate'. The development is located in a seaside village, with extensive access to open spaces and the coastline, there is more than sufficient amenity space for relaxation, exercise and enjoyment of the local environment. This has been accepted by the Planning Authority in other developments within the settlement, including the development at Seaport Apartments, directly opposite the site.

4. 'Creating Places' provides general guidance in relation to amenity space provision. In the 'introduction' however it emphasises the need for flexibility in application.

5. Paragraph 5.20 of 'Creating Places' recognises that on small urban infill sites (such as this) private communal open space will be acceptable, and this should range from about 10m² to 30m² per unit. It should also be noted that the provision should have regard to the context of the development and the overall concept. The approved development is for small unit infill type housing. Each of the units in this case has only 2 beds (plus a small study) and they are not suitable for, nor intended for, larger family occupancy. They easily exceed the 'Creating Places' guidance for such units, with the amenity spaces ranging from about 18m² (units 2, 3 and 4) to some 100m² (unit 6).

6. The Commissioner's decision in 1998/A298 provides a useful analysis of the planning considerations pertaining to amenity space. The Commissioner notes in particular that developers and purchasers of properties will be well aware of local requirements.

8.10 The Agent concludes the imposition of condition 2 was unreasonable and unnecessary. The condition was not

considered to be necessary on earlier planning permissions; there is no justification for it within the Case Officer Report; and the development in any case complies with policy and guidance set out in both PPS 7 and Creating Places.

- 8.11 Paragraph 4.31 of PPS 7 “Quality Residential Environments” states the following:

Developers should therefore make adequate provision for private open space in the form of gardens, patios, balconies or terraces, depending on the characteristics of the development proposed and the surrounding context. All houses will need to provide some in-curtilage open space. The provision of adequate private garden space is particularly important for new family dwellings – generally dwellings with 3 or more bedrooms. For apartment developments private open space may be provided in the form of communal gardens where appropriate management arrangements are agreed.

- 8.12 Creating Places paragraph 5.19 states the following:

On green-field sites and in lower density developments all houses should have an area of private open space behind the building line. The overall design concept for the development will determine the setting for houses, including the level of private back garden provision. To promote choice for residents a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70 sq m per house or greater. Garden sizes larger than the average will generally suit dwellings designed for use by families, while smaller areas will be more appropriate for houses with 1 or 2 bedrooms or houses located opposite or adjacent to public or communal open space. For any individual house however an area less than around 40 sq m will generally be unacceptable.

- 8.13 Creating Places paragraph 5.20 states the following:

In the case of apartment or flat developments, or 1 and 2 bedroomed houses on small urban infill sites, private communal open space will be acceptable in the form of landscaped areas, courtyards or roof gardens. These should range from a minimum

of 10 sq m per unit to around 30 sq m per unit. The appropriate level of provision should be determined by having regard to the particular context of the development and the overall design concept. Generally, developments in inner urban locations and other high-density areas will tend towards the lower figure. Apartment developments on green-field sites and within lower density areas should normally seek to provide the higher figure, although this may be reduced where some private open space is provided in the form of patios or balconies.

- 8.14 The location of the site is within Portballintrae settlement. The approved site layout shows 6 units of accommodation two storey in height. There is a car parking area to the front as well as a bin storage area. Access is gained from Seaport Avenue. These units of accommodation have a living and kitchen area on the first floor and a bathroom, 1 bedroom with ensuite and 2 additional bedrooms at ground floor level. The plans note that bedroom 3 could also be used as a study. Each unit has amenity space to the rear which can also be accessed via a pathway leading down into the car park of Sweeny's Wine Bar (currently vacant premises).
- 8.15 The Agent advised the holiday accommodation condition was only used on application C/2013/0437/F. This is incorrect as the same condition was also applied on the decision notices for C/1996/0499/O and C/1992/0710/O. This scheme was originally designed for holiday accommodation as is evident in the descriptions for all the planning histories. Given the intention was always for holiday accommodation, the scheme was designed with that in mind for example, communal parking, communal bin storage and communal amenity space. The condition was placed on the decision notices of certain applications to prevent this scheme being used as permanent dwellings due to insufficient amenity space for domestic purposes.
- 8.16 The Agent provided a plan showing how private amenity space would be delivered for each unit of accommodation. From this plan, the amenity measurements are detailed below:
Unit 1 – 97.96 m² (Area to side and rear)
Unit 2 – 30.54 m²
Unit 3 – 25.74 m²
Unit 4 – 24.19 m²

Unit 5 – 26.96 m²

Unit 6 – 158.52 m² (Area to side and rear)

- 8.17 Units 1 and 6 would meet amenity space requirements for permanent dwellings as they are both above recommended requirements of 70m² per dwelling. Units 2-5 have amenity space requirements which are below 40m².
- 8.18 While amenity spaces for Units 2-5 are between 10 and 30m² per unit, these units of accommodation are not classified as apartments. Creating Places advises for “1 and 2 bedroomed houses on small urban infill sites, private communal open space will be acceptable in the form of landscaped areas, courtyards or roof gardens. These should range from a minimum of 10 sq m per unit to around 30 sq m per unit.” The application site is not considered to be a small urban infill site. The site is a sizeable development site in a village. The size of the site is considerably larger than surrounding plots in this settlement limit of Portballintrae.
- 8.19 While smaller amenity areas are allowed for houses with 1 or 2 bedrooms, these units potentially have 3 bedrooms. Also, smaller amenity areas are allowed for units located opposite or adjacent to public or communal open spaces. This is not the case in this application as residential development is located opposite and adjacent as well as a restaurant use. Creating Places states “For any individual house however an area less than around 40 sq m will generally be unacceptable.” It is on this basis; the application is unacceptable as these units would not have adequate amenity space for domestic needs. In addition, approval of this application would set an undesirable precedent for new houses to have amenity spaces less than the minimum requirement. It is considered that this application comprising 6 units would not provide a quality residential development as the amenity space is too low for 4 units.
- 8.20 If this proposal were to be 6 dwellings for permanent use, then the parking requirement from “Parking Standards” is 9 spaces based on a 2 bedroom dwelling taking the use of the 3rd bedroom as a study. However, if it were to be used as 3 bedrooms then the parking requirement would be more. We are unable to enforce the use of the 3rd room use as an office and as such the property could operate as 3 bedrooms and therefore

inadequate car parking is provided. The proposal fails to meet the creating places standards for in curtilage parking. DFI Roads was consulted in relation to this application to consider the possible intensification of parking given the more permanent use. DFI Roads have no objection to this application. However, parking policy guidance is under the remit of Planning policy.

- 8.21 Environmental Health was consulted in relation to this application to assess the relationship of the approved units (if they were to be permanent dwellings) adjacent to Sweeney's Wine Bar. Environmental Health have no objection in principle to the removal of this condition following a review of the documentation submitted in support of the application.

9 CONCLUSION

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan, and other material considerations, including the SPPS. The development for 6 holiday units has been commenced and is extant. The proposal seeks permission to remove condition 2 of application C/2013/0437/F. Condition 2 states the holiday accommodation cannot be used as private residences as there is insufficient amenity space. This application comprising 6 units would not provide a quality residential development as the amenity space is below the minimum requirement for 4 units. These units would not have adequate amenity space for domestic needs. Approval of this application would set an undesirable precedent for new houses to have amenity spaces less than the minimum requirement.
- 9.2 If this proposal were to be 6 dwellings for permanent use, then the parking requirement from "Parking Standards" is 9 spaces based on a 2 bedroom dwelling taking the use of the 3rd bedroom as a study. However, if it were to be used as 3 bedrooms then the parking requirement would be more. Enforcement of the 3rd room as a study/office is not possible therefore inadequate car parking is provided. Refusal is recommended.

10.0 REFUSAL REASONS

1. The proposal is contrary to Paragraph 4.26 & 4.27 of the SPPS and Policy QD1 of Planning Policy Statement 7 “Quality residential environments” in that it fails to create a quality and sustainable residential environment and fails to provide adequate private amenity space and in-curtilage parking.

Block Plan



Referral of contentious delegated decision

Planning reference LA01/2024/0005/F

Alderman Mark Fielding

The applicant has requested removal of condition 2 from Planning permission C/213/0347/F for 6/no. Cottages in Portballintrae.

Condition 2 - The units hereby approved shall be used for the purposes of holiday accommodation only and not as private residence and shall be permanently retained as such unless with prior written consent of the Department.

Officer report considers that this is not acceptable as inadequate amenity space and in-curtilage parking is provided.

I request that Planning Committee considers this application for the following reasons:

1. In granting application C/2013/0347/F the case officer noted that the level of private amenity space was acceptable.
2. These are small unit houses. The amenity provision, and the design concept, were plainly acceptable to the Planning Authority when permission was granted on previous occasions.
3. The proposed garden sizes average about 60m² so potential residents can have a choice of larger or more easily maintained gardens. Policy provides guidance on amenity provision, but it is not set in stone and must be interpreted flexibly with regard to the site context.
4. The site is in the very centre of Portballintrae. There are a wide range of amenities on the doorstep of the site which includes coastal walks, restaurants, etc.
5. DFI Roads has no concerns over parking provision.

Yours,

Mark
Ald M Fielding
Sent from [Outlook for iOS](#)