



APPROVAL OF PLANNING PERMISSION

Planning Act (Northern Ireland) 2011

Application No: LA11/2021/0928/F

Date of Application: 19th August 2021

Site of Proposed
Development:

74 and 76 Victoria Road
Newbuildings
L'Derry

Description of Proposal:

Proposed 4no Dwellings (2 Pairs of Semi Detached) and
associated car parking.

Applicant: Mr Coyle & Brookview Asc. Ltd.
Address: 55 Hazelbank
L'Derry
BT47 3NX

Agent: 5050 Architecture
Address: 3A Keldon Crt
17 Linenhall Street
Limavady
BT49 0HQ

Drawing Ref: 01 Rev1, 03Rev2, 04Rev1

The Council in pursuance of its powers under the above-mentioned Act hereby

GRANTS PLANNING PERMISSION

for the above-mentioned development in accordance with your application subject to compliance with the following conditions which are imposed for the reasons stated:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.





Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The vehicular access, including visibility splays of 2.4m x 55.0m and forward sight distance of 55.0m shall be provided in accordance with Drawing No 03 (Rev 2) bearing the date stamp 18 January 2022, prior to the commencements 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 development hereby permitted shall not be occupied until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No 03 (Rev 2) bearing the date stamp 18 January 2022 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

4. Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

Reason: To ensure waiting vehicles do not encroach onto the carriageway.

5. The access gradient(s) to the road hereby permitted 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 users.

6. The glazing units installed in the window openings of all habitable rooms facing onto the Victoria Road shall meet the acoustic attenuation performance criteria stipulated in Table 3 of the FR Mark and Associates noise assessment dated April 2021.

Reason: To provide noise insulation necessary to ensure an acceptable internal acoustic environment.

7. Prior to occupation of the approved dwellings, an alternate system of whole dwelling ventilation, in addition to that provided by openable windows, shall be





provided to all habitable rooms in each dwelling with windows facing onto the Victoria Road. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 26dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, 'The Building Control Technical Booklet K - Ventilation 2012'. Air inlets providing fresh air to the mechanical ventilation system should be located such that the possibility of pollution/odour entrainment within ventilation air from any nearby boiler/kitchen extract systems is minimised. The mechanical whole dwelling ventilation system shall be so designed and insulated to ensure that the external to internal noise break-in achieves the performance criteria stipulated in Table 3 of the FR Mark and Associates noise assessment dated April 2021.

Reason: To provide occupants with the ability to provide ventilation to the approved apartments without having to compromise the internal acoustic environment by opening windows.

8. Prior to occupation of the approved development the applicant shall submit a noise mitigation measure verification report. The report shall provide evidence that the noise mitigation measures as agreed and secured under planning conditions 6 and 7 have been installed.

Reason: To ensure the correct noise mitigation measures have been installed installed and will achieve the noise reduction requirements as agreed.

9. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Derry City & Strabane District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

The identification and evaluation of archaeological remains within the site;
Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
Preparation of the digital, documentary and material archive for deposition.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

10. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 9. These measures shall be implemented and a final archaeological report shall be submitted to Derry City & Strabane District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Derry City & Strabane District Council.

Reason: To ensure that the results of archaeological works are appropriately





analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

11. Subject to the above conditions, the development shall be carried out in accordance with the stamped approved drawings No 01 Rev and 04 Rev 1 which were received on 14th October 2021 and 03 Rev2 which was received on 18th January 2022.

Reason: To ensure the development is carried out in accordance with the approved plans.

Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Local Planning Authority or other statutory authority.
5. The developer, future purchasers and their successors in title should note that the access way and parking areas associated with this development are, and will remain, private. The Department has not considered, nor will it at any time in the future consider, these areas to constitute a 'street' as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.
Responsibility for the access way and parking areas rests solely with the developer.
6. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.
7. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
8. Notwithstanding the terms and conditions of the Council's approval set out above





you are required under Article 71 - 83 inclusive of The Roads (NI) Order 1993 to be in possession of the Department for Infrastructure consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Derry Section Office, 1 Crescent Road, Derry BT47 2NQ. A monetary deposit will be required to cover works on the public road.

9. All construction plant and materials shall be stored within the curtilage of the site.
10. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This approval does not give consent to discharge surface water into a DfI Roads drainage system.
11. Loughs Agency request that work methods and materials must not impinge upon any nearby watercourses. The use of cement/concrete on site will require careful management. While they are versatile building materials, they are also highly toxic to aquatic life and therefore must be kept out of all drains and watercourses.
12. Oil storage must have a secondary containment system (of 110% capacity) to ensure that any leaking oil is contained and does not enter the aquatic environment. Should for any reason, oil or fuel be stored in the area, it must be kept in a bunded area (providing 110% capacity of the largest stored unit), within 10 metres of a watercourse, ditch or drainage channel.
13. The applicant should demonstrate best environmental practice when working close to watercourses, as per environmental guidance in GPP 5: Works and maintenance in or near water. The potential for deleterious matter to enter a watercourse is of primary concern. Impacts on the aquatic environment such as a decrease in water quality can cause a significant impact upon various life history stages of fish species.
The applicant should also be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.
14. The proposed development is located adjacent to existing residential property. The developer should be advised by way of an informative to ensure that adequate steps are taken during construction to control noise and dust. Advice on noise can be found in BS 5228:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites - Part 1: Noise. Adequate arrangements should be in place for the storage and disposal of waste.
15. In order to protect amenity, the developer should under no circumstances burn any waste materials on the site. Such actions are contrary to the provisions of the Clean Air (Northern Ireland) Order 1981 and the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.
The applicant should be aware that an updated Atlas of Radon Affected Areas in NI





has been published in August 2015, via Public Health England. A radon affected area is defined as 1% probability or higher of present or future homes above the action level - 200Bq/m³ (annual average radon concentration). The indicative atlas 2015 suggests the proposed development is within a Radon Affected Area with greater than 10-30% of homes at or above the action level.

16. The applicant is strongly recommended to access the updated atlas at <http://www.ukradon.org/information/ukmaps> and; <https://www.gov.uk/government/publications/radon-indicative-atlas-for-northern-ireland> Building Regulations (NI) 2012 Guidance Technical Booklet C 'Site Preparation and Resistance to Contaminants and Moisture, October 2012: Section 3 provides further information on the level of protection required and directs to the Building Research Establishment (BRE Reports) which provide detailed guidance on protective measures relevant to new dwellings in NI). Technical Booklet C can be accessed at: <http://www.buildingcontrolni.com/regulations/technical-booklets>.

17. Please refer to the HED guidance document Development and Archaeology: Guidance on Archaeological Works in the Planning Process which contains advice on how to fulfil the requirements of the archaeological conditions attached to your planning approval. Please allow sufficient time in advance of the commencement of site works for the agreement of the programme of archaeological work document with the planning authority and for your archaeological consultant to obtain an archaeological excavation licence. For guidance on the preparation of the programme of archaeological work please contact:
Historic Environment Division - Heritage Development & Change Branch
Ground Floor
9 Lanyon Place
Belfast
BT1 3LP
Tel: 02890 823100
Email: HEDPlanning.General@communities-ni.gov.uk
Quote reference: SM11/1 LDY 22: 25, 30 and LA11/2021/0928/F

18. There is no public surface water sewer within 20m of the proposed development boundary however access is available via extension of the existing public surface water network. The Applicant is required to consult with NI Water (InfrastructurePlanning@niwater.com) to determine how this development may be served. The applicant is advised that no development shall proceed beyond sub-floor construction until an extension to the existing surface water network to serve the development is provided. The applicant may requisition NI Water in accordance with Article 154 of the Water and Sewerage Services for this purpose. The above information will only be valid for a maximum period of 18 months from the date of this consultation response.

19. The applicant should demonstrate best environmental practice when working close to watercourses. The potential for deleterious matter to enter a watercourse is of primary concern. Impacts on the aquatic environment such as a decrease in water quality can cause a significant impact upon various life history stages of fish species.





The applicant should also be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.

20. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

21. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

22. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

23. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

24. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
kill, injure or take any wild bird; or
take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
at any other time take, damage or destroy the nest of any wild bird included in Schedule A1;
or
obstruct or prevent any wild bird from using its nest; or
take or destroy an egg of any wild bird; or
disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturb dependent young of such a bird.
Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.





25. Environmental Health would highlight that it is unlikely that future occupants of the proposed development would have recourse through Statutory Nuisance legislation if the development was occupied and the fast food takeaway reopened and was operating normally under its existing planning approval.

Dated: 14th April 2022

Authorised Officer

