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Practice of Rights (PPR)**
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Mr E Baker
Belfast Planning Service
Cecil Ward Building
4-10 Linenhall St
Belfast
BT2 8BP

6th August 2021

Dear Mr Baker,

Application Reference: LA04/2020/1959/F

Location: Site to be developed includes vacant land bounded by the Forthriver Industrial Park in the east Springfield Road to the Southand Paisley Park & West Circular Road & Crescent to the West. Area also includes links through the Forthriver Industrial Park to Woodvale Avenue land at Springfield Dam (Springfield Road) Paisley Park (West Circular Road) and the Junction of West circular Road & Ballygomartin Road.

Proposal: Proposed new parkland (Section 2 Forthmeadow Community Greenway) - foot and cycle pathways, lighting columns, new entrances and street furniture.

We write to submit representations in relation to the above application, this is our second representation.

As you may know, Participation and the Practice of Rights (PPR) is a human rights organisation with a long-standing interest in the realization of the right to housing, as set out in Article 11 of the International Covenant on Economic, Social and Cultural Rights. We work to support people in housing stress and homelessness to advocate both for their rights and for the implementation of human rights based policies by duty bearers such as Belfast City Council.

Build Homes Now – our campaign to end homelessness in our society by promoting housing rights, ending inequality and raising the voices of people most impacted by the crisis -has been advocating for the development of sustainable social housing on the Mackies site in West Belfast for several years. We are working with academics, planning experts and families through the Take Back The City coalition to make our vision for the site a reality. We note that the most recent data provided to us from NIHE through FoI requests indicate that in West Belfast this year, 1,964 children were living in households on the waiting list, 1,614 children were living in households in housing stress and 1,408 children were living in FDA homeless households.

Further to our previous representations we have taken professional planning advice from **Pragma Planning and Development Consultants Limited** (Scottish Provident Building, 7 Donegall Square West, Belfast, BT1 6JH) and this letter is framed around that advice. In summary we are advised that Section 6(4) of the Planning Act (NI) 2011 states that in making any decision under the Act the authority must decide in accordance with the Local Development Plan, unless material considerations indicate otherwise. Material considerations have been defined by the Courts as any factor that is relevant to and could make a difference to a planning decision.

The sections below examine the Local Development Plan and Regional Policy (with a focus on policy for zoned employment land). We are firmly of the view that the proposal violates regional policy protecting zoned employment land from development for non-employment use and should be refused.

The proper route for considering the development status of the land is through the Local Development Plan process and in addition to regional policy we

consider the proposal to be premature in the context that the Council's new Local Development Plan is under preparation.

Accordingly, we are firmly of the view that the present application should either be withdrawn pending the outcome of the LDP process or refused under the regional policies detailed below and as premature under the Joint Ministerial Statement of January 2005.

Local Development Plan (LDP)

The Belfast Urban Area Plan (BUAP) is the statutory LDP for the purposes of Section 6(4). The site lies into an industry/employment zoning at Woodvale within the BUAP, the whole of the northern part of the application site is contained within the zoning.

BUAP policy is shaped by local need and the development of opportunities to create new business environments on former industrial land, it identifies Springfield and Woodvale as areas of potential and the land at the application site was zoned accordingly. Under Policy IND 1 the plan states that the purpose of the policy is to ensure supply and choice of locations for developers. Policy IND 2 seeks to provide land for business development in areas of urban renewal; the land at Woodvale falls into this policy also.

The Belfast Metropolitan Area Plan (BMAP) was initially conceived as a replacement for BUAP but remains in draft following the quashing of its adoption by the Court of Appeal in 2017; there is no indication that the Department for Infrastructure intends to adopt it. The Planning Appeals Commission (PAC) is on record as indicating that its position on draft BMAP is: draft BMAP is not a development plan as defined by Section 6 of the Planning Act (NI) 2011 and consequently no reliance can be placed on that document or the plans, policies and designations therein.

If the PAC is correct, the weight that can be placed on draft BMAP is significantly diminished to the point where it has no material relevance to the consideration of planning applications. Should the PAC be correct and draft BMAP has no status, there is no policy rationale supporting the proposal at all.

However, we are aware that the Council disputes the PAC's judgment and continues to treat draft BMAP as a material consideration. Accordingly, draft BMAP (dBMAP) has been considered for completeness.

Within dBMAP, the draft zoning referenced BT 010 covers the majority of the application site, and is similar to the BUAP zoning in location and extent. This zoning therefore reinforces the relevance of the BUAP zoning and provides a continuity that demonstrates Government continuing to place importance on the development of the lands for employment purposes. The zoning was not challenged at the BMAP inquiry and were the Department for Infrastructure to adopt the plan there would be a strong likelihood of the zoning being included.

Draft BMAP also contained a Local Landscape Policy Area (designation BT 160) that overlapped with the BT 010 employment zoning. The purpose of the LLPA was to protect the Victorian Woodvale Park and the landscape of the river valley; however at the BMAP public inquiry the Department of Environment conceded that it could not sustain that part of the LLPA that included the BT 010 zoning and in its report into the inquiry the Planning Appeals Commission recommended the removal of LLPA status from that part of the zoning that could be developed for employment (the area west of the Forth River valley). The version of BMAP that was adopted took this recommendation into account.

In recommending the deletion of BT 160 the PAC considered that the LLPA would be disruptive to the employment potential of the land and there is accordingly a much lower likelihood that it would be retained should the plan be adopted. This is important because it highlights the weight placed on ensuring the area could be developed for employment purposes.

The Forth River/Glencairn/Ligoneil community greenway also traverses BT 010, contained within the river valley. The PAC did not consider the planned route along the river valley to be detrimental to the development of the land for employment purposes and again were dBMAP to be adopted there would be a strong likelihood that the proposal will be included on that route.

The concerns voiced by the PAC regarding the developability of the land west of the river must also apply to the concept of developing the area for open space, as it results in the loss of land zoned for industry or employment. It is notable that the proposal ignores the provisions of draft BMAP specifically in relation to the location and alignment of the greenway.

Draft BMAP identifies a network of community greenways, the current proposals are only a section of the Forth River/Glencairn/Ligoneil community greenway. The application should be able to demonstrate how this particular proposal will connect to that wider network.

Given the multiple deprivation in the wider area both BUAP and draft BMAP zone the land for employment purposes to provide as much choice as possible for potential employment generating development in an area where opportunities are scarce.

Regional Planning Policy

In terms of operational planning policy the Strategic Planning Policy Statement for Northern Ireland (SPPS) is the most up to date expression of planning policy available.

The SPPS sets out the Department's policy on planning for the whole of Northern Ireland. It provides the core planning principles to underpin delivery of the two-tier planning system with the aim of furthering sustainable development and it sets the strategic direction for councils to bring forward detailed operational policies within their new Local Development Plans.

In general the SPPS does not seek to restate policy or guidance that is expressed elsewhere within other strategies or policies and consequently the majority of Planning Policy Statements (PPSs) have been retained. The SPPS instructs planning authorities to continue to apply retained Planning Policy together with the SPPS and relevant supplementary and best practice guidance.

Where a council adopts its Plan Strategy, the retained policies will cease to have effect in the district of that council and when all councils have adopted their Plan Strategies the PPS series and related guidance will be cancelled.

Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. It expressly states that where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with the retained policy, the SPPS should be accorded greater weight in the assessment of individual planning applications. However, where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy. In effect this means that the SPPS has primacy over the retained policy and under no circumstances does the retained policy have primacy over the SPPS.

Accordingly the detailed policies of the following documents continue to apply:

- PPS 4
- PPS 2
- PPS 8
- PPS 6

In relation to this report we have specifically referred to PPS 4 and its policy PED 7. However, the other policy statements also apply.

The SPPS echoes the rationale supporting the zoning, that to tackle disadvantage and promote job creation, a generous supply of land suitable for economic development is needed (paragraph 6.82). The policy also supports the reuse of previously developed land for employment purposes, particularly in locations where integration between transport, economic development and housing can be achieved (also paragraph 6.82). All of these objectives apply in this case.

In determining planning applications in cities paragraph 6.84 requires decisions to be to a large extent informed by the provisions made for economic development through the LDP process. Paragraph 6.89 adds to that general principle by citing the importance of retaining employment land that is well located and suited to economic development purposes. It states that: -

“...planning permission should not normally be granted for proposals that would result in the loss of land zoned for economic development use. Any decision to reallocate such zoned land to other uses ought to be made through the LDP process.”

It is clear that the SPPS does not support the proposal and the position is worsened when it is considered that under draft BMAP provision is made for the greenway in a manner that does not conflict with or undermine or sterilise the economic development potential of the land in the way the current proposal would.

PPS 4 - Policy PED 7

PPS 4, Policy PED 7 has been singled out of the above list as the application falls to be considered within its terms. In the context of the SPPS paragraph 6.89, as the land is zoned for employment use in both the statutory BUAP and the draft BMAP, PPS 4 PED 7 has determining weight.

PED 7 is split into three parts, the first of these is the most relevant to this application; it deals with land zoned for economic development use in a local development plan, it states: -

"Development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses **will not be permitted**, unless the zoned land has been substantially developed for alternative uses." (Emphasis added)

In its justification and amplification section the policy stresses the importance of retaining employment land that supports the diversity of the local economy

and highlights its potential to make a substantial contribution to renewal and revitalisation. As such PED 7 accords with the objectives of the BUAP in zoning the land in the first instance and is supported by the SPPS. Finally, paragraph 5.30 states: -

"Planning permission will not be granted for proposals involving the loss of land zoned for economic development use, either existing or proposed, in a development plan to other uses. **Any decision to reallocate such zoned land to other uses where necessary will be carried out as part of the development plan process.**" (emphasis added)

The last sentence is particularly relevant and is again supported by the SPPS: the only mechanism for changing the use of the land to open space is through the LDP process. This is especially relevant in this instance as the Council is proposing to develop land that has been zoned for employment in successive development plans and considered suitable for employment use by the PAC on two separate occasions (at the BUAP and BMAP public inquiries).

Therefore in accordance with Section 6(4) and regional planning policy in the SPPS and PPS 4, the current application should be refused.

Prematurity

Prematurity is an issue that emerges where decisions taken either individually or cumulatively can have a material effect on a draft Local Development Plan by pre-determining decisions that ought to be taken after a public inquiry.

The policy governing this issue is the Joint Ministerial Statement of January 2005 (JMS) which sets out the circumstances in which prematurity applies. It should be noted that the SPPS does not refer to the JMS at all and consequently the JMS remains material planning policy, further the JMS is not a Planning Policy Statement and so is not subject to the transitional arrangements contained in the SPPS.

At paragraph 20 the JMS states that where a development plan is under preparation there are circumstances where it is appropriate to refuse planning

permission. This is a very wide definition and the policy provides only one example of how it might be applied thereby leaving the possibility of other applications open to interpretation. The example it gives is that where the planning authority can demonstrate that development proposals (either individually or cumulatively) would prejudice the outcome of a plan process by pre-determining decisions about the nature, scale, location or phasing of new development they should be refused. Given the breadth of the definition and that the policy provides a singular example it must be concluded that prematurity as an issue extends to almost any aspect of an emerging plan.

In this case, the proposed greenway is not located on the land allocated for it but is sited on land zoned for industry and employment purposes in the adopted and draft development plans, while its development would as a matter of course displace the zoned employment land. In these circumstances PPS 4 PED 7 advises that decisions about reallocation ought to be taken through the development plan process. It is logical therefore to conclude that approval would be prejudicial to that process.

This feeds into the preparation timelines for the new Belfast Local Development Plan, see below. The Belfast LDP has completed the public examination of its Plan Strategy and decisions in respect to the allocation of lands for all uses have yet to be taken. As the proposal does not conform to either BUAP or dBMAP and its approval would by necessity displace land zoned for employment before the overall allocation of land uses has been decided, it is likely to be premature.

Local Development Plan and Prematurity

The Council's LDP draft Plan Strategy has been published and the examination in public hearings have taken place. The draft Plan Strategy is extremely ambitious, it aims to provide really significant levels of new housing and employment development all on land within the developed footprint of the city. As such the conversion of land from employment to any use other than housing in advance of the plan completing its processes are premature. The reasons for this are set out below.

The draft Growth Strategy has four pillars, these are interlinked and are reliant on one another for the overall soundness of the draft Plan Strategy.

The basis of the Growth Strategy is the creation of 46,000 additional jobs in Belfast City. The draft Plan Strategy then uses this figure to extrapolate the population growth figure of 66,000 additional persons living in the City and alongside that a housing growth figure of 31,600 new residential units. It is clear that all of the housing and population figures are reliant on the creation of sufficient employment floorspace to accommodate the 46,000 additional jobs, which the Council indicates amounts to 550,000 square metres of floorspace. **Finally, the Council has set itself the ambitious goal of accommodating these aspirations within the existing urban footprint of Belfast City.**

The linkage between these elements is illustrated by paragraphs 3.25 and 3.26 of Technical Supplement 2 – Housing. These paragraphs indicate that one way in which the additional housing growth will be accommodated within the urban footprint is through the change of land use from employment land to housing land. The basis for this is an assumption that there is a requirement for 550,000 square metres of employment floorspace but an historic provision of 1.1m square metres and hence there is a surplus on which changes of land use can be accommodated.

While this could involve the application site, the only change under consideration by the draft Plan Strategy is from employment to housing and under the terms of the JMS that decision can only be taken through the plan making process.

Failure to secure sufficient brownfield land to accommodate the ambitious housing and employment targets will inevitably result in greenfield land being needed to meet the housing and employment demand and will undermine the LDP's key objective.

Accordingly the proposal, if approved, has the potential to prejudice the draft Plan Strategy by pre-determining a decision that ought to be taken following

assessment of employment and housing need through the plan process, including the examination in public.

It should be noted that the extent of employment floorspace required to justify the housing development figure was disputed at the examination in public and it is uncertain whether 550,000 square metres will be sufficient; a higher figure up to 1.1 million square metres may be required.

The basis for the 550,000 square metres was an assessment of employment space requirements undertaken by the Ulster University's Economic Policy Centre. That assessment assumed two broad scenarios: a baseline scenario and an upper scenario. The baseline scenario would see the creation of an additional 25,000 jobs. The upper scenario requires 'considerably stronger job creation' than the baseline scenario and would result in the creation of 45,000 additional jobs, which is much closer to the Growth Strategy's 46,000 jobs target.

The conclusion of the assessment was that forecasts of employment growth of between 25,000 and 45,000 additional jobs creates an estimated demand for employment space of between 540,000 square metres and 1.18m square metres. Within the report 480,000 square metres of floorspace is given as the absolute minimum requirement for creating 25,000 jobs and 1.1m square metres is given as the absolute maximum for creating 45,000 jobs.

As the Council's growth strategy seeks the creation of 46,000 jobs and it is that figure on which it has based its housing growth figures then it logically follows that any realistic assessment of employment floorspace requirements must be based only on the upper scenario of 45,000 jobs which will require between 895,000 square metres and 1.1m square metres based on the Council's own figures.

It is clear from this that even the issue of the extent of employment floorspace required has not been settled and accordingly permitting the loss of land from employment use before it has been considered fully through the Local Development Plan process is premature. The application should not be

considered until decisions have been made about the long term future of the land through the LDP process.

In this context both the JMS and the SPPS/PPS4 provide a clear policy rationale in favour of refusal.

Local Development Plan – Green and Blue Infrastructure

A further issue is created by the Council’s policy for green and blue infrastructure.

The draft Plan Strategy supports the development, improvement and protection of the network in Policy GB1, it includes the following:

“The LDP will seek to secure improvements and expansion of the green and blue infrastructure network, including those identified in the LDP **and/or the council’s GBIP** and associated strategies/action plans, as a result of new development.” (emphasis added)

And:

“The LDP will seek to safeguard designated and potential sites and corridors that form part of the network of green and blue infrastructure across the district and **will only permit development either within or adjacent to such sites and corridors where it does not prejudice the retention, use, enhancement or further development of the network.**” (emphasis added)

The GBIP is the Council’s green and blue infrastructure plan, which is supplementary guidance but is given weight by inclusion in the policy.

The employment land remaining between the edge of the proposed parkland around the greenway and the Forth River valley is badly compromised by the proposal to the extent that it is probably rendered undevelopable for employment purposes. The effect of this policy is to compromise it further and the net result will be the sterilisation of the employment land west of the Forth River.

This could be avoided if the Council would follow the planning guidance in relation to the location and alignment of the greenway. In terms of that alignment, the GBIP highlights community greenways as a component of its strategy and states:

“Greenway routes provide safe pedestrian and cycle routes across the city. Figure 9 sets out the existing greenway routes such as the Connswater Community Greenway and the Comber Greenway **as well as those proposed in the Belfast Metropolitan Area Plan, 2015** and Northern Ireland’s Strategic Plan for Greenways, 2016 and other future possibilities. The routes are intended to extend the network to connect with open spaces across the city and out to the surrounding countryside where they can link to the broader Northern Ireland greenways and cycle network.” (emphasis added)

Figure 9 is not a detailed map but it shows a route for the Forth River/Glencairn/Ligoneil greenway that accords with the route set out in draft BMAP. Substantial supplementary guidance on the Forth River/Glencairn/Ligoneil greenway was published as part of BMAP, while the status of this is uncertain the Council has adopted it and it is embedded in the draft Plan Strategy. This is a further indication that the current application is premature.

BMAP contained a sensible subdivision of the land, the areas that could be used for economic development were retained and the areas that could not as a result of topography and the ban on culverting were proposed for a different public use. The current planning application wholly departs from that established approach.

Summary

To summarise our objections to the application, they are: -

1. The proposed change in land use involves the loss of land zoned for economic development purposes in both BUAP and BMAP and consequently the proposal is incompatible with paragraph 6.89 of the

SPPS and policy PED 7 of PPS 4 which prevent the loss of employment land to other uses;

2. The SPPS and PPS 4 PED 7 have determining weight and the application should be refused as it does not meet the policy tests;
3. The proposed development is premature in accordance with the JMS and the content of paragraph 6.89 of the SPPS and policy PED 7 of PPS 4 as it predetermines a decision that ought to be taken following full consideration of the issues through the LDP process; and
4. The proposed route of the greenway departs from the established route identified in BMAP, the Council's GBIP and the draft Plan Strategy and involves the sterilisation of land zoned for employment purposes.

We trust that this letter will be considered, as approval contrary to established planning policy would set a significant precedent for changing land use outside the plan making process. As we indicated at the outset it would be preferable for the Council to withdraw the application and re-design it based on the established greenway route.

Yours sincerely,



Chloë Trew

Director, PPR