

## ARDS AND NORTH DOWN BOROUGH COUNCIL

28 February 2024

Dear Sir/Madam

You are hereby invited to attend a hybrid meeting (in person and via Zoom) of the Planning Committee of the Ards and North Down Borough Council which will be held in the Council Chamber, 2 Church Street, Newtownards, on **Tuesday, 05 March 2024**, commencing at **7.00pm**.

Yours faithfully

Stephen Reid  
Chief Executive  
Ards and North Down Borough Council

### AGENDA

1. Apologies
2. Declarations of Interest
3. Matters arising from minutes of Planning Committee meeting of 06 February 2024 (Copy attached)
4. Planning Applications (Reports attached)

4.1	LA06/2015/0677/F	251a Bangor Road, Whitespots, Newtownards  Replacement of existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet
4.2	LA06/2022/0873/F	Vacant site north of Balloo Road, West of Bangor Grammar sports pitches and to the rear of No's 1 to 13 Rowan Glen, Balloo Road, Bangor  Relocation and redevelopment of Bangor Central Integrated Primary School to provide a new 22 class primary school building and recreational areas
4.3	LA06/2022/0823/F	25m East of Seaview Farm, 1 Ballyvester Road, Donaghadee  Erection of dwelling and conversion of three existing outbuildings for incidental usage (in substitution for planning application LA06/2017/0376/F).

4.4	LA06/2023/1791/F	64 Ballyholme Esplanade, Bangor Replacement dwelling with a detached garage.
4.5	LA06/2020/0322/F	Lands at High Bangor Road, Donaghadee - Opposite Rocklyn Avenue (Hadlow Development) and to the North and North-West of Donaghadee Rugby Club Playing Fields  Development of 16 No. dwellings and garages, with new access to High Bangor Road and associated landscaping and ancillary works
4.6	LA06/2022/1286/F	28 and 30 Bryansburn Road, Bangor Erection of 2no. dwellings and garages and associated site works and landscaping
4.7	LA06/2024/0041/A	45 Metres South of 108 Shore Road, Kircubbin Static Village Entrance Signage

5. Department for Infrastructure (Planning) 'Call for Evidence on A Future Focused Review of the Strategic Planning Policy Statement on the issue of Climate Change' (report attached)

### Reports for Noting

6. Update on Planning Appeals (report attached)
7. Response submitted to DFI Consultation on The Planning (Development Management) Regulations (NI) 2015 (report attached)
8. Quarterly update on Tree matters (report attached)

### In Confidence

9. Quarterly update on Enforcement Matters (report attached)

### MEMBERSHIP OF PLANNING COMMITTEE (16 MEMBERS)

Councillor Cathcart	Alderman McDowell (Vice Chair)
Councillor Creighton	Alderman McIlveen (Chair)
Alderman Graham	Councillor McKee
Councillor Harbinson	Councillor McLaren
Councillor Kendall	Councillor McRandal
Councillor Kerr	Councillor Morgan
Councillor Martin	Alderman Smith
Councillor McCollum	Councillor Wray

## ITEM 8.2

3

**ARDS AND NORTH DOWN BOROUGH COUNCIL**

A hybrid meeting (in person and via Zoom) of the Planning Committee was held at the Council Chamber, Church Street, Newtownards on Tuesday 6 February 2024 at 7.00 pm.

**PRESENT:**

**In the Chair:** Alderman McIlveen

**Alderman:** Graham  
McDowell  
Smith

**Councillors:** Cathcart  
Creighton  
Harbinson (zoom)  
Kerr (7.59 pm)  
Kendall  
Martin

McRandal  
McKee (zoom)  
McCollum  
McLaren  
Morgan  
Wray

**Officers:** Director of Prosperity (A McCullough), Principal Professional & Technical Officer (C Blair), Senior Professional & Technical Officers (C Rodgers & A Todd) and Democratic Services Officer (J Glasgow)

**1. APOLOGIES**

An apology for lateness was received from Councillor Kerr.

**2. DECLARATIONS OF INTEREST**

Councillor McCollum declared an interest in Item 4.2 - LA06/2021/1438/F - Land adjacent to 11-33 Cannyreagh Road, Donaghadee.

**3. MATTERS ARISING FROM MINUTES OF PLANNING COMMITTEE 5 DECEMBER 2023**

PREVIOUSLY CIRCULATED:- Copy of the above minutes.

NOTED.

**4. PLANNING APPLICATIONS**

**4.1 LA06/2021/0419/F - Lands adjacent to Seacourt, Maxwell Drive, 33m East of 3-6 Seacourt, 39m South of 4 Seacourt Garden, 24m West of 1-2 Seacourt Garden, and 8m North of 2A Maxwell Road, Bangor - Development of 7no. mansion apartments within a two and half storey building** (Appendix I)

PREVIOUSLY CIRCULATED:- Case Officer's Report.

**DEA:** Bangor West

**Committee Interest:** A local development application attracting six or more separate individual objections which are contrary to officers' recommendation.

**Proposal:** Development of 7no. mansion apartments within a two and half storey building

**Site Location:** Lands adjacent to Seacourt, Maxwell Drive, 33m East of 3-6 Seacourt, 39m South of 4 Seacourt Garden, 24m West of 1-2 Seacourt Garden, and 8m North of 2A Maxwell Road, Bangor

**Recommendation:** Grant Planning Permission

The Senior Professional and Technical Officer (A Todd) outlined the detail of the application which was seeking full planning permission for 7no. apartments within a two and a half storey building at lands 33m East of 3-6 Seacourt, 39m South of 4 Seacourt Garden, 24m West of 1-2 Seacourt Garden and 8m North of 2A Maxwell Road, Bangor.

The site was located within the development limit of Bangor in an established residential area north-west of the city centre and approximately 100m from the coastline. The immediate context of the site consisted of a wide variety of house types and plot sizes including apartments, terraced dwellings, semi-detached and detached dwellings. Some examples of those were shown along with the listed building, Seacourt House, located opposite the site which was occupied by apartments.

In terms of the Development Plan context, the site was located within the proposed Bangor West Area of Townscape Character in the Draft Belfast Metropolitan Area Plan (dBMAP).

The Officer displayed visuals of views of the site. The first showed from Maxwell Road where the site was located behind mature trees. The next view was from the entrance to Seacourt with the site on the right behind the trees and the listed building Seacourt House opposite and then the view from the end of the Seacourt Cul de Sac looking into the site. The view of the site from Seacourt Garden and the view from within the site looking out towards Seacourt Garden were also shown. The topography of the site dropped approximately 4m from south-west to north-east and there were a significant number of mature trees in the southern and western parts of the site which were protected by a Tree Preservation Order.

There was previous planning history associated with the site including an extant planning permission for 5no. dwellings under reference W/1993/0680/F. Three of those dwellings had already been completed to the east and north of the application site. The two remaining dwellings yet to be constructed under this extant permission would be located on the current application site. This permission represented a fall-back position for the development of the site and was therefore a material consideration in the assessment of the proposal, having established the principle of residential development on the site.

The proposed apartment building would occupy a central position in the site, outside of the root protection area of the protected trees. The two existing accesses onto the site from Seacourt would be used to serve the development. The main access would be at the northern end of the site where the majority of parking for the apartments would be located. A secondary access to the south would lead to two parking spaces and also provide pedestrian access to the block. Bin storage would be located in the north-eastern corner and an extensive landscaping scheme was also proposed for throughout the site.

The proposed building itself would be 2 ½ storey with a ridge height of 10.3m. Materials and finishes would consist of painted render and zinc cladding to walls, natural slate to the roof and hardwood painted sliding sash windows. The proposed design of the building was amended during the processing of the application at the request of DfC's Historic Environment Division. The slide showed the original submission and the final amended design which reduced the number of units proposed from 8no. to 7no. The main changes included the overall reduction in the massing of the roof and removal of the larger bay windows within the roof. While the ground and first floor remained largely the same, the reduction in the floor area of the second floor roof level was apparent.

As could be seen in sections AA and BB from the slides, the height of the building would sit well below that of the adjacent listed building Seacourt House which was at the far right of the images. The overall scale and massing of the building would also be comparable to other existing buildings.

The Officer displayed computer generated images to further demonstrate how the development would appear within its context. The first showed the existing and proposed views from Maxwell Road where the building was viewed set down from the road among the existing trees and therefore would not appear dominant from this viewpoint. The next slide showed the existing and proposed views from Seacourt. Again, from here the building would appear set down from the road and partially screened by the existing trees.

Having assessed the proposal against the relevant planning policies contained within Planning Policy Statement (PPS) 7 and PPS7 Addendum, the Planning Service was content that the development would create a quality residential environment and would not cause any unacceptable harm to either the character of the Established Residential Area or the overall appearance of the proposed Area of Townscape Character. The building had been carefully positioned on the site to ensure that the protected trees would not be adversely affected, and Historic Environment Division was content that the development would cause no harm to the setting of the adjacent listed building. Adequate amenity space and parking in line with the recommended standards were also provided.

A total of 67 objections from 26 separate addresses had, however, been received during the processing of the application. 45 of those from 19 separate addresses were received following the submission of the amended scheme.

The main concerns raised included:

- Overdevelopment of the site and visual impact of the scale and massing on the character of the area

- Setting of a negative precedent for similar apartment developments in the area
- Removal of trees and vegetation
- Loss of privacy to existing dwellings
- Traffic impact and road safety
- Inadequacy of bin collection arrangements

All of these have been considered in detail in the planning report.

In terms of the potential impact of the development on residential amenity, the visual showed the relationship of the development with existing properties. The closest dwellings most likely to be affected by the development were those at Nos. 1 and 2 Seacourt Gardens. As demonstrated on the slide, the separation distances between the proposed building and the existing dwellings are 22m and 32m. Creating Places recommends a minimum separation distance of 20m between rear opposing elevations; however, in this case the rear of the apartment building would face the front public aspect of Nos. 1 and 2 rather than their rear private garden areas. Regardless of that, it was recommended that a condition was imposed on the first and second floor windows at the northern end of the apartment building's elevation to require obscure glazing to be fitted prior to occupation and retained. That would ensure that the privacy to the first floor terrace located to the front of No. 2 would be maintained.

A lot of objections raised concerns regarding the removal of trees and vegetation within the site. As already outlined, the proposed development had been carefully positioned within the site to ensure that the existing protected trees would be retained, and that appropriate separation distances and protective measures would be put in place to ensure no harm would occur. As shown on the development impact plan, only one dying tree was to be removed.

Some trees had been removed from the site in recent years, mainly in the eastern and south-eastern areas of the site, as could be seen on the aerial views from 2014 and 2023. However, those works were carried out following the submission and approval of applications for works to the protected trees in 2019 and 2020.

In summary, the Officer detailed that the proposal was considered to comply with the development plan and all the relevant policy requirements of PPS7 Quality Residential Environments. The proposal would cause no demonstrable harm to the character or appearance of the area, the density of development and the height scale and massing of the building would be similar to the established built form in the area, adequate private amenity space and parking would be provided, existing protected trees would be retained and there would be no unacceptable adverse impact on the amenity of adjacent properties. On that basis it was recommended that full planning permission should be granted.

The Chair invited questions from members.

Councillor Cathcart raised a question regarding one of the visuals referring to the balconies and the conditioning of those windows only with obscure glazing. Discussion ensued and the Planning Officer provided clarification regarding the windows that were due to be obscured. There was also a condition that the flat roof would not be used for balcony or as roof terraces.

Councillor Martin asked if there were figures available of the massing of the area. The Planning Officer highlighted that page 20 of the Case Officer's Report provided the density per hectare as follows:

- The proposed density on this site – 20 dwellings per hectare
- Maxwell Gardens – 21 dwellings per hectare
- Seacourt Lane and Glenbank – 24 dwellings per hectare

Councillor Martin noted that over the years there had been quite a bit of development in the Princetown area. He expressed concern that if development was continually allowed in such area the density figures would continually increase and not provide accurate comparable data.

Referring to the question asked by Councillor Cathcart, regarding the obscure glass, the Chair questioned the separation distances and the need to obscure the glass to protect the amenity space.

Referring to the visual, the Planning Officer explained that the 22m separation distance shown was to the main elevation with the sizeable terrace sitting closer to that. The windows that were required to be obscured were either secondary windows or non-habitable rooms. A large terrace to a front location was not often seen.

Diana Thompson (Planning Agent), Noel Orr (Architect) and Brendan McLernon (Landscape Architect), were in attendance to speak in support of the application and the Chair invited those representatives to come forward.

Ms Thompson commenced her address with introductions, noting the architects were well known for their high-quality residential design evidenced across many sites in Northern Ireland. The architects were selected by the applicant because he recognised the sensitivities of the site, and it required a careful assessment of context and a design response that integrated and respected the natural and historic features of the site. Ms Thompson outlined that the application represented the culmination of a significant amount of work between the design team and the Council's Planning Officers. It had taken almost three years to get to this stage, but that length of time had been very well spent. There had been substantial input from specialists on the discrete matters of trees and the historic environment. It meant every issue and every sub-issue had been exhaustively identified, investigated and responded to. On behalf of the applicant, Ms Thompson thanked the planning officers involved in this scheme for their positive approach to the development and their proactive engagement with the design team both before the application was lodged and while it was being processed. Their helpful interventions and constructive criticisms of the scheme had positively contributed to the evolution of this attractive scheme that would enhance the townscape and urban design in the area. Ms Thompson believed the proposal was good design. Having read the Case Officer's Report, she fully endorsed its analysis and supported its recommendation that planning approval should be granted.

Ms Thompson wished to draw out two significant points: firstly, the setting of Seacourt House had for many years several residential properties within its grounds.

Those houses were part and parcel of its setting now – that could not be changed; and secondly, the Area of Townscape Character designation was a draft proposal only – it had not been adopted and so did not apply. The issue for consideration was whether the scheme, when considered in the context of the entire area that was proposed to be included as the Area of Townscape Character, did it harm its character or appearance. Ms Thompson felt that the proposal did not cause harm to the character and appearance, the planning officers were in agreement, and she asked Members to bear in mind:

- The sensitive location of the building used topography to nestle into that reducing its scale and massing, ensuring it was in no way dominant and remained subservient to Seacourt House;
- The building's simple design and its use of high quality, expensive materials;
- The retention and incorporation of the existing mature trees as a design feature of the scheme;
- The supplementing and enhancement of those existing trees by the substantial landscaping scheme that had been designed by Park Hood – significant amounts of new trees would be planted at a cost of around £80,000. That would significantly and beneficially enhance the visual appearance of the site.

There were no other planning or environmental constraints to the development of this site and that was confirmed by the various consultees who had contributed to the planning application. They were the competent authority on those matters.

Furthermore, Ms Thompson outlined that the proposal brought with it, the following benefits:

- Employment of 50 construction workers over its 18-month development period;
- A total investment of £2.75million;
- Diversification of housing type in the area with the provision of 7no. apartments which would be attractive to small households and particularly established residents who wished to stay within Bangor West area but needed to downsize their living accommodation;
- Utilisation of sustainable building technologies in the construction of the units to create energy efficient apartments with ratings far in excess of the average for Northern Ireland;
- A long-term solution for an otherwise vacant piece of land that had been severed from its original host property with a scheme that would considerably enhance the character and amenity of the area.

For the reasons outlined, Ms Thompson commended the scheme to the Committee, endorsed the conclusions and analysis of the Case Officer's Report and invited the Committee to support the recommendation.

The Chair invited questions from Members for the representatives.

Councillor McCollum referred to the topography of the area, outlining that as one approached the Maxwell Road roundabout the houses to the right enjoyed a certain amount of elevation and she expressed concern from the visuals that the proposal was not as subservient and nestling as suggested by Ms Thompson. Councillor McCollum asked for comment in that regard. Mr Orr explained that the finished floor



level of the proposal was 2.4m below the Seacourt cul-de-sac. Therefore, in essence there would be a storey and a half above existing ground level.

Following on Councillor McCollum referred to the raised terrace and questioned why the windows to the left had not been considered to infringe on the privacy. Mr Orr stated that was a condition recommended by Planning Officers. There was a small window to the left which was an ensuite window and would therefore be obscured. As could be seen the separation distance increased to 32m.

Alderman Graham referred to the extent of the landscaping. Mr Orr advised that there had been extensive discussions between the Landscape Architect and the Council's Tree Officer on how to protect the trees and that supplementary planting was included at the Client's request.

Mr McLernon advised that overall the scheme contained 22no. specimen trees. Furthermore, there would be supplementary hedge, boundary and shrub planting along with a full landscape framework throughout the site. All the existing trees would be retained, with Ms Thompson adding that those trees would be protected via a planning condition.

In response to a question from Councillor Creighton, Mr McLernon advised that there would be a mix of native and ornamental trees.

Councillor Creighton noted that NI Water had not provided consent to a sewage disposal scheme in the area. Mr Orr advised that was a separate negotiation outside the planning process. Any approval would be subject to a negative condition, that the satisfactory discharge would have to be achieved with NI Water. If the matter was unresolved and a water treatment plant on site was required that would be subject to a separate planning application.

As there were no further questions, the representatives returned to the public gallery.

The Chair invited questions from members for the Planning Officer.

Councillor Martin referred back to the area of density and the average figure and questioned if Policy QD1 of PPS 7 applied in this instance.

The Planning Officer clarified that it was the aspect of Policy QD1 that related to the designation of ATCs that did not apply. However, that was still a material planning consideration looking at the impact on the overall appearance of the ATC. The opinion in this instance was that an apartment proposal sat better within the site rather than being sub-divided.

Councillor Martin noted that the density of this area was higher than the other areas. He highlighted the cumulative effect if the sites per hectare were continually raised. He sought an opinion on the density vs the average density.

The Planning Officer stated that those densities quoted were a variety within the immediate area and from her professional experience the Planning Appeals Commission would consider a much wider area. The entire proposed ATC offered a

very diverse range of densities. The overarching requirement was that the development did not cause harm, and on balance, the professional planning judgement was that the proposal was acceptable.

Councillor Cathcart referred to the previous permission for 5no. dwellings, 3no. of which had been completed. He therefore questioned if there was a fall-back position as that permission had been commenced. The Planning Officer clarified that Nos 1 & 3 Seacourt Gardens were two of those properties previously approved with the third dwelling to the north of site. As that permission had been implemented, that permission remained live and therefore there was a fall-back position.

Proposed by Alderman Smith, seconded by Councillor McLaren, that the recommendation be adopted, and that planning permission be granted.

Alderman Smith highlighted the extant permission on the site. The application had been considered in good detail and the proposal was described as a quality residential development. He appreciated the number of objections, however, from the debate he felt those had been mitigated with the appropriate conditions attached.

As Members were not all in agreement, a recorded vote was undertaken which resulted as follows;

<p><b>FOR (12)</b>  <b>Aldermen</b>                  Graham                  McDowell                  McIlveen                  Smith</p>	<p><b>AGAINST (0)</b></p>	<p><b>ABSTAINED (3)</b></p>	<p><b>ABSENT (1)</b></p>
<p><b>Councillors</b>                  Cathcart                  Creighton                  Harbinson                  Morgan                  McCollum                  McLaren                  McRandal                  Wray</p>		<p><b>Councillors</b>                  Kendall                  Martin                  McKee</p>	<p><b>Councillor</b>                  Kerr</p>

**RESOLVED, on the proposal of Alderman Smith, seconded by Councillor McLaren, that the recommendation be adopted, and that planning permission be granted.**

**4.2 LA06/2021/1438/F - Land adjacent to 11-33 Cannyreagh Road, Donaghadee - Amendment to approved realignment of Cannyreagh Road and provision of new link section to ensure retention of vehicular and pedestrian access for existing residential properties**  
 (Appendices II -IV)

PREVIOUSLY CIRCULATED:- Case Officer’s report and two addendums.

**DEA:** Bangor East and Donaghadee

**Committee Interest:** A local development application attracting six or more separate individual objections which are contrary to officers' recommendation

**Proposal:** Amendment to approved realignment of Cannyreagh Road and provision of new link section to ensure retention of vehicular and pedestrian access for existing residential properties

**Site Location:** Land adjacent to 11-33 Cannyreagh Road, Donaghadee

**Recommendation:** Grant Planning Permission

(Having previously declared an interest, Councillor McCollum withdrew from the meeting)

The Senior Professional and Technical Officer (C Rodgers) outlined the details of the application. The application site comprised a section of the existing Cannyreagh Road on the western periphery of the town settlement of Donaghadee. Members would note that a number of properties front directly onto this Road. Most of the properties did not have in-curtilage parking. Existing residents availed of informal parking within courtyards to the rear and along Cannyreagh Road and Ashfield Drive to the east.

The land to the north of the application site was zoned for housing in the Ards and Down Area Plan 2015. A key design requirement established the need for a link between the Cannyreagh Road and the Newtownards Road.

Outline planning permission to develop this zoning was first granted in 2012 and then renewed in 2015. The detailed design of the Cannyreagh Road realignment was approved by the Council's Planning Committee in 2018 as part of the Reserved Matters. Construction was on-going. Many of the houses were now occupied and the development was known as High Trees. The principle of residential development for 390 dwellings on the zoned lands and the linkage to the Cannyreagh Road had therefore clearly been established.

The Officer showed the indicative plan approved as part of the outline planning permission showing a link to the Cannyreagh Road. She highlighted the detailed design approved at reserved matters stage including the realignment of the Cannyreagh Road and communal parking.

The Applicant's Agent advised that the application was submitted in response to concerns that the approved layout would restrict vehicular access and on-street parking along this section of the Cannyreagh Road.

The proposed layout maintained the Cannyreagh Road largely as it was at present, with a short link road to connect it to the approved new distributor road. Members would note that the proposal closely reflected the illustrative plan agreed as part of the original outline planning permission. The proposal involved the creation of a cul de sac along Cannyreagh Road with a landscaped area immediately adjacent to No.22.

Letters of objection from 10 addresses had been received and concerns related to

roads safety, parking, residential amenity and trees. Those matters had been considered in detail in the main Case Officer Report and Addendums.

A Roads engineer acting for the applicant had prepared a comparison of on-street parking capacity. It showed there was currently space to accommodate approximately 12 on-street spaces in front of 22-33 Cannyreagh Road and that the proposed amendment would still allow the same number of spaces to be accommodated in close proximity to existing homes. Whilst on-street parking would not be available immediately adjacent to No.22 due to the formation of a cul de sac, the Road engineer had identified other potential opportunities for on-street parking.

A number of site visits had been carried out both during the day and in the evening at approximately 6.30pm when most residents would likely to be home. At both times capacity for on-street parking was observed. The Officer displayed a number of visuals showing capacity in the area.

The Planning Service asked DfI Roads to review all objection letters to ensure careful consideration of matters raised. DfI Roads advised that the proposed on-street parking availability was similar to that which currently existed.

In response to concerns regarding the proximity of existing driveways to the new link road, DfI Roads stated that the road width in the vicinity of the junction was adequate to deal with traffic movements and that residents were expected to exit their driveways in forward gear in accordance with the High Way Code. DfI Roads also advised that as the road leads to a cul de sac where a turning head was provided, it would mainly be used by local residents, and there was enough room to manoeuvre vehicles safely with the use of the turning area. DfI Roads had also confirmed that the proposed anti-dazzle fencing was adequate to protect drivers from headlight glare. Having reviewed all objector concerns DfI Roads had confirmed it has no objection in terms of road safety or car parking.

The main traffic route serving the new residential dwellings would be along the previously approved distributor road. In contrast this part of the Cannyreagh Road leads to an unclassified rural road which would attract lower volumes of traffic.

Environmental Health noted the proposal would not alter the number of approved dwellings and that the existing dwellings currently front a road that was subject to passing traffic. Environmental Health stated that there would be no overall perceptible change in noise levels at the closest receptors caused by the road realignment.

The site contained a number of trees protected by a TPO. The proposal allowed more trees and landscaping to be retained than that previously approved.

The Council's Tree Officer was content that the proposal would have less impact on trees than the previously approved application and had provided no objection subject to a condition to prevent harm to protected trees during construction. Any future works to protected trees would be subject to consent from the Council.

To conclude, the principle of residential development on the zoned lands and linkage between the Newtownards Road and the Cannyreagh Road had already been established through the development plan zoning and the planning history of the site. The proposal would ensure the retention of the existing road for most of its length and the developer had been made aware of the need to ensure consistency between this application and the original planning permission.

Having considered all material considerations, it was recommended that this application was approved subject to conditions.

The Chair invited questions from members for the Planning Officer.

Councillor Morgan questioned the issue with the previous permission. The Planning Officer explained that there were 3 dwellings along the Cannyreagh Road that had a driveway and the realignment would have caused issue with access to those driveways. Residents had highlighted concern regarding the loss of on-street car parking. This application had then been lodged to amend and facilitate that pedestrian and vehicular access for existing residents.

Councillor Morgan sought clarity on the advantage of the change. The Planning Officer explained the change to the cul-de-sac arrangement allowed residents to access their driveways. The application had been submitted to address the concerns.

Councillor Cathcart was confused as to why this matter had not been raised at reserved matters stage. He also questioned if the reserved matters application was still active providing a fall-back position.

The Planning Officer was unsure of that reasoning. DfI Roads were consulted and provided no objections. In terms of road abandonment that was separate issue outside the planning process. The Planning Officer confirmed that development was ongoing and there was fall-back position.

The Chair invited Yvonne Goggins to come forward who was speaking in opposition to the application.

Mrs Goggins outlined that during the planning permission for the High Trees site there appeared to be complete disregard for the residents living on the affected section of Cannyreagh Road. Even though site inspections took place during the reserved matters stage with visuals showing dropped kerbs and off-street car parking, the application was approved, denying residents their entitlement to access their property directly from the road and land locking the frontage of those homes affected. DfI Roads had advised that it would not have granted the abandonment order therefore the section of the Cannyreagh Road had to be redesigned. While the revised road layout now allowed access to the driveways, there were still issues for the existing residents. The area in question sat on the periphery of the new High Trees housing development. The area was quiet, peaceful and overlooked natural habitat. There was mix of social and affordable housing, some of the residents were house owners, some were tenants but for everyone that was their home. The new T-junction should still provide access for larger vehicles including emergency and

agricultural vehicles. However, the layout proposed and measurements did not provide safe access to manoeuvre. That would be made worse if on-street car parking was reduced as intended, as vehicles would park on both sides of the road causing road safety issues. The T-junction design revisited the outline approval layout, DfI Roads had no objection in principle at that stage however declined the proposal at reserved matters due to start/stop vehicle noise and headlight issues. Mrs Goggins stated that residents did not see how moving the T-junction further along the road would counteract any of the previous concerns that were raised.

Mrs Goggins wished to highlight that the land to the west of Ashfield Drive was now deemed suitable for development. Erindee Gardens cul-de-sac was noted in the PAC report relating to the 2015 Area Plan as having scope to provide access to the future development site which may create a by-pass scenario to avoid town congestion. Therefore, this road layout would determine the future direction of traffic increase in the area. As proposed it would contribute to more road vehicle noise and generally reduce enjoyment of the area.

The proposed layout would reduce on-street car parking by 8 frontage car parking spaces. The area was already under pressure for car parking with the rear courtyard parking areas and immediate streets already at capacity. Residents would like to see the parking retained that they had been afforded with for many years. Any reduction in spaces would have a negative impact most notably for residents with mobility issues. The outline landscape drawings regarding the development mention that the tree planting along the Cannyreagh Road should be enhanced with the provision of mature trees. However, this application would instead cause the removal of several trees from a protected area, the hedgerow would be depleted and there would be disruption to wildlife habitat. The area referred to was a protected area and residents believed it should remain that way.

Mrs Goggins stated that residents have been made to feel that because their homes were social and affordable that their concerns and anxieties did not count and were dismissed. Residents had submitted objections previously and were told to remove them.

(Councillor Kerr entered the meeting 7.59 pm)

The residents wished for the error made during the planning process to be fixed properly. Raising objections had never been about attributing blame or in opposition to the housing development, it was about seeking a solution. Suggestions had been made previously and each time they had been deflected. The residents felt the current proposal was not a solution. Residents had patiently waited for 5 years and they hoped that when the residents brought the error to the attention of the DfI Roads, the agent and the planners, there would have been a shared effort to achieve a solution for all residents. If the issue was not dealt with now the development infrastructure including the new distributor road would be in place and would diminish any chance of getting the design layout right for everyone. The planning application process promoted fairness, transparency, accountable decision making and that all interests were taken into account.

Mrs Goggins stated that residents would ask for a deferral to allow members to visit the site and in context per paragraph 67 of the Planning Protocol (for Operation of the planning Committee) which they believed to be a valid reason for a deferral. It would appear from the consultation responses that the statutory bodies were somewhat aligned in approving the application and were also previously aligned when the land lock situation was presented. The consequences from the planning process should not continue to create distress and adversity for existing residents and therefore she appealed for the application to be further evaluated.

The Chair invited questions from members for Mrs Goggins.

Councillor Cathcart questioned how Mrs Goggins would foresee a solution. Mrs Goggins advised that residents had submitted various ideas previously which she briefly outlined.

Councillor Morgan questioned how the proposal would impact walker and cyclists. Mrs Goggins did not see the new proposal being any improvement.

Councillor Wray referred to the school in the area and the parking problems that existed. Mrs Goggins highlighted that there was not capacity in the area for additional parking.

Councillor Wray questioned if other social housing providers had been consulted. Mrs Goggins explained that the flats were owned by the NIHE, those provided on-street car parking for the tenants and that parking was utilised. She was unsure if there had been communication with the NIHE.

Councillor Wray asked if there had been contact between the residents and the developer. Mrs Goggins advised that the agent and the site foreman visited their home when it was realised that there was going to a land lock situation. The drawings at outline stage were unclear. It had been discussed that there was hope to reach an agreement however since that there had been no contact from the agent. Objections had been raised and residents had been asked to remove those.

Councillor McRandal asked why Mrs Goggins felt the current proposal provided no improvement. The outline proposal was of no benefit to any of the residents as there would be no in-curtilage parking. In terms of the current proposal, she referred to the reasoning outlined and Mrs Goggins stated that she was trying to achieve a solution for all residents along the road.

Councillor McRandal asked what a site visit would achieve. Mrs Goggins hoped a site visit would provide context and that the other options suggested may be better options. From a safety perspective, she reiterated her concerns.

Councillor McLaren noted that the area was busy at school times however she questioned the traffic movement outside those times. Mrs Goggins explained that there was comings and goings at Ashfield Drive and the area was busy in the evening. She stated that she had submitted photographic evidence.

As there were no further questions from Members, Mrs Goggins returned to the public gallery.

The Chair then invited David Donaldson, Brian Pope and David Wilson, to speak in support of the application.

Mr Donaldson outlined that Strand Homes acquired the 'High Trees' development site with planning permission for 390 houses in 2019. The Company had committed heavily to this site and had already contributed over 100 new homes for the town. The development had been in receipt of multiple awards, including 'Green Development of the Year 2023'. In accordance with the planning permission, Strand Homes was committed to provision of a new road through the site to connect Newtownards Road to the north with Cannyreagh Road to the south.

The provision of this road was not a new proposal – it had been planned and programmed for Donaghadee for in excess of 20 years. The Draft Ards and Down Area Plan was published in 2002 – this proposed the High Trees site for housing and stipulated the need for the connection from Newtownards Road to Cannyreagh Road. The Plan also referred to 'construction of a linkage to Cannyreagh Road.' There were no objections to the draft plan proposals and the Plan was adopted in 2009. The current application was simply seeking to deliver a development plan proposal.

The site also had the benefit of two outline planning permissions, granted in 2012 and 2015. The local distributor road, including the proposed link to Cannyreagh Road, was clearly shown in the approved Concept Plans. In 2018, 'reserved matters' for the overall site was granted. The permission included the complete realignment of Cannyreagh Road and a new communal parking area.

Mr Donaldson explained that when development commenced at the Newtownards Road end of the site in 2019, Mr and Mrs Goggins and other residents expressed a concern that their access to off-street car parking and garaging would be impacted by the Cannyreagh Road proposals. Mr and Mrs King (No 24) who also had a dropped kerb expressed a similar concern, with their suggestion being that the road should be left as it was. It was accepted that those concerns were legitimate and the current proposal was designed to specifically address them. Cannyreagh Road would be retained in its existing alignment and the previously approved car park would be removed. The new short link would link Cannyreagh Road to the distributor.

This new proposal would not alter the number of approved houses, nor would it change the approved alignment of the local distributor road. It would not result in any increase in traffic to or from the development site.

The proposed amendment in this part of the site would deliver betterment over the existing permission. In particular:

- It would retain almost the entire length of Cannyreagh Road, except for a small section (about 20 metres) where it has to abut the new distributor road;
- All residents with driveways and garages would retain the ability to safely use their driveways;



- Residents would retain the ability to park along almost the entire Cannyreagh Road frontage;
- Through traffic would be removed from the front of Nos 22-27 Cannyreagh Road and Nos 2A-2F Elmfield Walk;
- Pedestrian movement along Cannyreagh Road would be unhindered; and
- It would allow more hedges and trees to be retained than in the approved arrangement.

In relation to the concerns raised, it was not for the Applicant to determine whether the latest representations had merit – it was for the decision makers. In that respect the Council's Planning Officers, DfI Roads, Environmental Health and the Tree Officer had all reviewed the proposal in detail and considered the additional representations. They had all determined that the proposals were compliant with policy and guidance and that permission should be granted. Their independent assessments must be given substantial weight in the decision-making process.

Mr Donaldson advised that in 2019, Mr and Mrs Goggins referred back to the outline permission and themselves had stated 'that if Cannyreagh Road was retained in its present state, the new spine roads could still be accessed and many more trees would remain in situ'. They also suggested some form of exit point for Cannyreagh Road residents onto the re-aligned linkage which might necessitate removal of the proposed car park.

Mr Donaldson acknowledged that the proposal would bring change for some residents; however, the residents had certainly not been ignored by the development team. This application was lodged to ensure access to existing driveways and retention of Cannyreagh Road as requested. The proposal met DfI requirements.

This proposal related to development which had been planned and programmed for development in Donaghadee for many years. Several permissions had already been granted and remained extant. Mr Donaldson asked the Committee to support the independent assessment by the Planning Officers and grant permission for the proposed amendments to the development.

The Chair invited questions from members for the representatives.

Councillor Cathcart questioned if there was a fall-back position if the roads abandonment order was to be refused. Mr Donaldson explained that the roads abandonment process was completely separate from the planning process. There was an extant planning permission that could be implemented. The previous proposal caused difficulties for the residents and their driveways which was why the proposal had been amended and redesigned. The current application addressed the concerns raised by the residents and brought the most practicable and deliverable solution.

Councillor Cathcart questioned if the abandonment could be achieved if the application was to be refused. Mr Donaldson was unsure if the abandonment order would be achieved as that was a separate process. Anyone had the right to make representations to an abandonment process. Mr Donaldson highlighted the wish to secure planning permission that addressed the concerns that were raised in 2019. By way of background, the reserved matters application was approved in 2018 and

that time there was no representations from residents. Mr Donaldson clarified that residents were not instructed or asked to withdraw their objections. Residents lodged objections at the time related to the Newtownards Road end and residents were advised those did not relate to Cannyreagh Road.

Councillor Cathcart felt the application was a betterment of what had originally been proposed however he was trying to ascertain if the previous application was a viable fall-back. Councillor Cathcart asked if Mr Donaldson felt more could be done to improve road safety at the junction.

Mr Donaldson did not feel more could be done as the proposal had been carefully designed by chartered engineers. The proposal had been discussed a number of times by DfI Roads. The proposal had footpaths, crossing points, adequate road widths etc. which all complied with all the requirements. The proposal was entirely acceptable and a compliant arrangement in terms of road safety and design,

Councillor Kendall asked if the alternatives as alluded to by Mrs Goggins were considered. If the application was to be deferred to re-look at the alternatives how much of an impact would that have on the development.

Mr Donaldson explained that a lot of the frustration came from 2019 when the concerns were lodged regarding the driveways and residents wanting Cannyreagh Road retained which was what the amendment sought to do. The roads engineers had explored a number of alternatives which he expanded upon, though those were deemed not feasible or practical. The room was not available for roundabout. He reassured the Committee that the proposal had been given careful consideration. Although there would be change, the amended proposal brought the minimum impact.

There were no further questions for the representatives and they returned to the public gallery.

The Chair invited questions from members for the Planning Officer.

In relation to the alternatives suggested, Councillor McRandal sought the Planning Officers view in that regard. The Planning Officer stated that the Planning Service having consulted with DfI Roads considered that the current application was acceptable in its current form and therefore could not ask for alternatives.

Councillor McRandal asked if the consideration of road safety was based solely on the consultation with DfI Roads. The Planning Officer stated that there had been no evidence to demonstrate that the proposal would cause a road safety issue. She advised that she had asked DfI Roads to look at each objection that had been submitted and she was content that it had provided due consideration of those.

Proposed by Alderman Smith, seconded by Councillor McRandal, that the recommendation be adopted, that planning permission be granted.

Alderman Smith empathised with Mrs Goggins perspective. He wondered if the current proposal was an improvement and noted the Council's flexibility to respond

to the matter. The developer had stated that the current proposal was a betterment and the Council was limited on its ability with DfI Roads stating it was content.

Councillor McRandal recognised the difficulties, however, he felt the current proposal was a betterment. The car parking issue had been dealt with and was not a compelling argument with alternatives available. He was concerned in respect of road safety however felt everything had been done in that regard.

Councillor Cathcart stated that the current proposal was undoubtedly a betterment however he wondered how the original proposal was approved as reserved matters. Although a betterment he was not convinced that the proposal was the best that it could be. However, given the issues were outside the remit of the Planning Committee he reluctantly supported the proposal.

The Chair noted the constraints of the Committee. Mrs Goggins highlighted some good points however the application met policy and had been cleared by DfI Roads.

Alderman Graham understood the objectors' lack of confidence in the process given that the reserved matters had been approved.

As members were not all in agreement a recorded vote was undertaken which resulted as follows:

<b>FOR (6)</b>	<b>AGAINST (0)</b>	<b>ABSTAINED (8)</b>	<b>ABSENT (0)</b>
<b>Aldermen</b>		<b>Aldermen</b>	
Smith		Graham	
McIlveen		McDowell	
<b>Councillors</b>		<b>Councillors</b>	
Cathcart		Creighton	
Harbinson		Kendall	
Morgan		Martin	
McRandal		McKee	
		McLaren	
		Wray	

*\*Councillor Kerr was unable to vote as he entered the meeting during the consideration of the application.*

**RESOLVED, on the proposal of Alderman Smith, seconded by Councillor McRandal, that the recommendation be adopted and that planning permission be granted.**

(Councillor McCollum re-entered the meeting)

**4.3 LA06/2021/0627/O - Land adjacent to and approximately 17m east of 6a Ballykeigle Road, Comber - Farm Dwelling and Garage**  
(Appendices V, VI)

PREVIOUSLY CIRCULATED:- Case Officer's Report and Addendum.

**DEA:** Comber

**Committee Interest:** A local development application "called-in" to the Planning Committee by a member of that Committee (Councillor Morgan)

**Proposal:** Farm dwelling and garage

**Site Location:** Land adjacent to and approximately 17m east of 6a Ballykeigle Road, Comber

**Recommendation:** Grant Planning Permission

The Principal Professional & Technical Officer (C Blair) outlined the detail of the application noting that as the application was for outline permission, it was the principle of development that was being considered with the detail of the proposal to be submitted at any reserved matters stage should Members agree with the officers' recommendation to approve the application.

Members should further note that there were no objections to the proposal from Statutory Consultees and no representations had been submitted, either in support of or objecting to the proposed farm dwelling.

The site was located on the south side of Ballykeigle Road to the east of No.6a, which was a single storey detached dwelling and domestic garage, both which front onto Ballykeigle Road. The site consisted of an agricultural field and was bounded by a hedgerow along the road frontage. It was relatively flat in topography with open views of the surrounding countryside and trees located to the south. A 1.2m ranch fence defined the western boundary with No.6a. The surrounding land was rural in character with agricultural fields.

In terms of the policy consideration for the application, the Ards and Down Area Plan 2015 was the current local development plan for the area. The site was located in the countryside and was compliant with the Plan.

Policy CTY1 of Planning Policy Statement 21 'Sustainable Development in the Countryside' sets out the types of development which were considered to be acceptable in the countryside. More specifically, CTY1 made provision for 'a dwelling on a farm in accordance with Policy CTY10'. CTY 10 was therefore the main policy consideration for this application and in particular paragraph (a) which was – "the farm business is currently active and has been established for at least 6 years." However, for completeness, the Planning Officer advised that the Planning Service was content that paragraphs (b) and (c) were met in that there had been no development opportunities sold off within 10 years of the date of the application, and the new building was visually linked or sited to cluster with an established group of buildings on the farm. It however had not been practicable to access the site from an existing lane. The Planning Service considered that the proposed siting to the rear of site enabled it to meet the requirements of policies CTY 13 (Integration) and CTY 14 (Rural Character).

In terms of this application the agricultural activity related to a small field to the rear of the house and a larger field adjacent and east of the house.

There were two key elements of CTY 10(a). Firstly, whether the farm business was currently active, and secondly, had it been established for at least six years. The business was not currently engaged with DAERA and did not have a business ID No (confirmed by DAERA). The applicant had submitted other evidence in support of the application to demonstrate that the business was currently active and that it had been established for at least 6 years. To not have a Farm ID was not fatal to the policy test as the ID was there to indicate whether an applicant claimed the single farm payment subsidy. On this occasion, the applicant did not. Therefore, the applicant must demonstrate through other means and the submitted receipts as set out in the Case Officer's Report demonstrated that the farm business was currently active business therefore meeting the first test of criterion (a).

As set out in the case officer's report, the Planning Appeals Commission underlined the period of relevance to be the preceding six years from the date of the application, and to an extent the information prior to this date was not as relevant. The Officer alluded to an example of PAC decision.

The Planning Department must be mindful of the Strategic Planning Policy Statement which outlined agricultural activity as per Article 4 of the European Council's Regulations (EC) No.1307/2013.

In terms of the second test of criterion (a) that was to show that the business had been established for at least six years. The receipts also submitted go some way to supporting this however they do not cover the entire six-year period. The applicant had also relied upon letters from third parties regarding the sale of produce to them, Google Earth images and Google Street View images. The agricultural activity was on the small field to the rear and the field adjacent and east of No.6A Ballykeigle Road, as displayed on the google earth images.

The Planning Officer also referred Members to a decision taken by a previous Planning Committee in 2018, where it was accepted that the bar for this test within CTY 10 was low. CTY 10 did not list the type and level of evidence required and therefore the Planning Service could not demand that an applicant produced such levels for example, accounts information. In relation to LA06/2017/1072/O for a "Site for dwelling on a farm" at lands approximately 15m North of 48 Ballydorn Road, Killinchy - whilst the applicant had a business number this applicant too was not claiming single farm payment and relied solely upon other information. Whilst material policy considerations were assessed on a site-by-site basis, the Planning Service recommended that members accept this application as the information demonstrated that agricultural activity had been ongoing for at least six years and was therefore established. The Planning Service recommended that planning permission was granted.

The Chair invited questions from Members for the Planning Officer.

Councillor Cathcart noted that the application had been in system for some time and questioned the reasoning for the delay. The Planning Officer stated that the evidence was built up over time although there was an issue with NI Water regarding sewage disposal.

Alderman Smith noted the fundamental question was – was the site a farm. He highlighted that the land was 0.24h with the definition of a farm being 3h for single farm payments. The evidence would suggest there had some degree of cultivation. Alderman Smith questioned the wriggle room noting that the bar for the definition of a farm was very low. He questioned the start and stop point for such proposals. The Planning Officer highlighted that officers had to consider the information that was put before them. The proposal had a farm number with a farm map. The area was small however CTY10 did not differentiate in terms of the overall size and therefore there was a need to take on board previous PAC decisions from similar schemes across Northern Ireland. The PAC had indicated that a level of agricultural activity was acceptable and from the evidence put forward there was a level of agricultural activity having taken place.

The Chair referred to the European Legislation (paragraph b) which provided the minimal level. The Planning Officer stated that legislation did state that maintaining an agricultural area making an estate suitable for grazing. The google earth images showed that there was grazing occurring within the site.

The Director recalled that the Committee had refused an application on the Greengraves Road, Newtownards, on the basis of not providing substantial evidence on what constituted a farm and that appeal had been overturned. Therefore, that needed to be taken into consideration. It was the minimum activity suitable for grazing or cultivation and there was nothing further in the policy detailing what extent a farm was required to be active. The Director appreciated the members concerns in that regard and highlighted that as a matter that members may wish to further review within the LDP process in the future.

In response to a question from Councillor Martin, the Planning Officer reiterated that there had been no objections lodged against the application.

Councillor Morgan asked a number of questions of the Planning Officer. She referred to the receipts provided as evidence, only three of those receipts had a name and address detailed which related to this farm and the PAC decisions noted the importance of a name and address. The invoices provided related to fruit and vegetables and she questioned how that related to the farm. Councillor Morgan asked was the site a farm business.

Responding to those questions, the Planning Officer confirmed that there was only a small number of receipts that had a name and address detailed however there was nothing within CTY10 to detail that there must be a name and address on a receipt. There was an indication that there was agricultural activity on the land which had been taken in account.

## **RECESS**

The meeting went into recess at 9 pm and resumed at 9.15 pm.

Referring to the evidence provided, Councillor Kendall asked how that compared to the evidence provided in the previous PAC decision.

(Councillors McCollum and Martin re-entered the meeting – 9.16 pm)

The Planning Officer stated that the evidence was reviewed on a case-by-case basis. The previous appeal decisions were taken into account in relation to the assessment of CTY10.

Councillor Kendall further questioned the level of information that was provided and she wondered if there was more evidence provided in the appeal decision for testing against CTY10 than what was provided in this instance. The Chair felt that was difficult question to answer. The Officer had detailed what they felt was satisfactory.

The Director stated that the application that she had referred to was slightly different as the applicant had rented out the land in conacre and therefore only had to demonstrate that the fences and hedging were maintained in good order appropriately for farming.

Councillor McRandal highlighted that there was already a house on the site and questioned why it would be permissible to build a second house. The Director stated that policy CTY10 permitted a new dwelling on a farm every 10 years. As detailed in the Officer's address there was another dwelling which the proposal could cluster and visually link with.

Referring to the plan, Councillor McRandal questioned if the proposal did form a cluster given that the site sat away from the current buildings. The Planning Officer stated that when assessed from the various visual view points it was considered that the site did visually interlink with the existing buildings at the site.

The Chair invited Andy Stephens, the agent for the applicant, to the meeting who was in attendance via Zoom and was speaking in favour of the application.

Mr Stephens noted that the application had been in the system since 14 May 2021, and there had been significant discussion, engagement and deliberation with Planning Officers. He thanked those involved in the Planning section for their positive engagement and efforts on this application to reach the approval recommendation. The Case Officer's Report provided an excellent chronology and process history of this case, as it referenced both the observational and physical evidence provided in support of the case spanning from 2005 to 2023. The Case Officer's Report considered notable Planning Appeal Commission (PAC) decisions in the application and interpretation of Policy CTY 10, and specifically the "active and established" test. There were no objections from any of the statutory consultees to the proposal on traffic/parking, environmental impact, flooding, built heritage or residential amenity grounds. There were also no 3rd party objections to the application over the 36 months of processing.

The word 'active', did not require a particular level of agricultural activity and considered as the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition". This was identical to the provisions of Section 250 of The Planning (Northern Ireland) Act 2011 and the referred EU guidance.

The purpose of the duration of time (6year period), applied was to demonstrate an ongoing commitment to agriculture and to deter the speculative formation or subdivision of a farm business. It was not fatal not to have a farm business identification number. Likewise, there was no requirement to be in receipt of subsidies if sufficient alternative evidence existed. The Policy did not apply any specified standard of how evidence of agricultural activity was demonstrated. It was a very low bar test and if there was any ambiguity, then the applicant was entitled to have the proposal assessed on the policy interpretation most favourable to them.

The Commission's interpretation had adapted since the policies' inception in the finalised version of PPS21 on 1st June 2010. Whilst each site and circumstance was considered on its own merits there was five notable appeal decisions which established the interpretation of the "active and established" policy test in CTY10 indicate the following notable points:-

- The farm did not have to be economically viable, and a 'hobby' farmer or a small holding could meet the test.
- The definition adopted set a very low bar threshold for active farming and it accepted that agricultural activity could fluctuate over a period of time.
- It also accepted that invoices and paperwork could be submitted to demonstrate.
- Referring to the PAC decision as alluded to by the Director, Mr Stephens highlighted that the policy did not indicate any standards, the type of evidence or that an address was required.
- The frequency of activity did not need to be considered at a basis level it was about keeping the ground in a good agricultural condition.

Mr Stephen's viewed the Case Officer's Report as fair and balanced and applied the legal principles in the Northern Ireland High Court in ABO Wind NI Limited and Energia Renewables Company 1 Limited's Judicial Review [2021] – where Humphreys J referenced the precedent value of PAC decisions at paragraphs 34 – 38 & 100, reaffirming the Commission's decisions must either be accepted and respected or challenged through the courts. The Case Officer's Report confirmed the proposal was compliant with all aspects of the local development plan, regional planning policy and that all material considerations had been considered. Policy CTY10 applied a low bar threshold with the PAC accepting there was no prescribed evidential standard. The applicant's evidence had been considered on the balance of probabilities. It was an accepted planning principle, that if matters were finely balanced, the decision would go in favour of the applicant. That was set out in the overarching presumption in favour of development in the absence of demonstratable harm. Likewise, the Planning Act required the consistent application of planning policy and as alluded to there was previous applications.

Mr Stephens fully supported the positive recommendation before members, and he respectfully asked the Committee to endorse the granting of planning permission.

As there were no questions for Mr Stephens he was returned to the virtual public gallery.



The Chair invited questions from members for the Planning Officer.

Proposed by Alderman Graham, seconded by Councillor Kerr, that the recommendation be adopted.

Speaking to his proposal, Alderman Graham felt that it was significant point that there had been no third party objections to the proposal.

Councillor Kerr was content that the application met all the required credentials.

Alderman Smith accepted that the proposal did meet the policy although noted that the bar was too low in that policy and that was something which should be reviewed as part of the LDP.

Councillor Morgan stating that she would be voting against the proposal as she could not see how the application met the policy. She questioned how low the evidence needed to be with only three receipts having been submitted with the name and address. Councillor Morgan felt the Committee should not be pre-empting planning appeals decisions and it was for the Committee to determine the application against the planning policies.

The Chair highlighted that previous PAC decisions needed to be taken into account and guidance was being yearned from those. It was recognised that the policy set a low bar of what determined agricultural activity.

The Director stated that whilst the justification and amplification sets out the requirement for a farm ID number, that was not in the policy headline box and therefore not set as a policy requirement. Consistent planning appeal decisions stated that it was not fatal to the consideration of the application.

As all the Committee were not in agreement, a recorded vote was undertaken which resulted as follows;

<b>FOR (13)</b>	<b>AGAINST (3)</b>	<b>ABSTAINED (0)</b>	<b>ABSENT (0)</b>
<b>Aldermen</b>			
Graham			
McDowell			
McIlveen			
Smith			
<b>Councillors</b>	<b>Councillors</b>		
Cathcart	Creighton		
Harbinson	McRandal		
Kerr	Morgan		
Kendall			
McKee			
McCollum			
McLaren			
Wray			

*\*Councillor Martin did not vote on the application as he was absent for part of the consideration\**

**RESOLVED, on the proposal of Alderman Graham, seconded by Councillor Kerr, that the recommendation be adopted.**

**4.4 LA06/2019/1295/F - Site of the former Bangor Leisure Centre, Castle Park Avenue, Bangor - 19 apartments (4 storey) with on-site parking and amenity space**  
(Appendix VII)

PREVIOUSLY CIRCULATED:- Case Officer's Report.

**DEA:** Bangor Central

**Committee Interest:** A local development application attracting six or more separate individual objections which are contrary to officers' recommendation.

**Proposal:** 19 apartments (4 storey) with on-site parking and amenity space

**Site Location:** Site of the former Bangor Leisure Centre, Castle Park Avenue, Bangor

**Recommendation:** Grant Planning Permission

The Principal Planning and Technical Officer (C Blair) outlined the detail of the application.

Members should note that eight letters of representation from six separate addresses had been submitted, all of which were fully considered within the Case Officer's report. However the issues raised include road safety – impact of the access and increased traffic in area, potential overlooking of the hotel and adjacent primary school, noise nuisance, and design and massing of proposed building out of keeping in the area.

Members should further note that a previous planning application, LA06/2016/0279/F, was granted full permission on 7 September 2017 for "Demolition of the vacant leisure centre and erection of 14 No. Apartments and associated car parking, access and ancillary works."

The site was located adjacent to the Castle Park Avenue and Castle Park Road junction. The site was vacant and was at a lower level than the adjacent road. The front part of the site contains green open space with trees and a pedestrian path. An existing access onto Castle Park Road served the site. The western and southern site boundaries comprised mature trees. The four-storey Premier Inn hotel was located in the northern half of the former Bangor Leisure Centre site with this adjoining boundary consisting of palisade fencing. Bangor Central Integrated Primary School was situated to the northeast at a lower ground level. To the south and southeast of the site was Castle Park with the listed Bangor Castle and its Historic Parks and Gardens beyond.

This slide showed the site layout of the current application and it was noted that the layout was similar to the originally approved.

The North Down and Ards Area Plan 1984-1995 (NDAAP) was the current statutory plan for the area however the draft BMAP Plan 2015 remained a material consideration.

The site was located within the Town Centre and an Area of Parking Restraint as designated in draft BMAP 2015. The town centre area comprised a number of uses including retail, offices, residential and recreational.

Taking account of the previously approved apartment development on the site and other residential uses within the Town Centre area the principle of development on the site was considered acceptable.

In terms of parking within the site, the proposal included 20 parking spaces for 19 apartments. DfI Roads considered that low with the standard of 1.5 spaces per unit, however, within draft BMAP the Area of Parking Restraint identified one space per residential unit. Although BMAP has been quashed the Area of Parking Restraint was assessed during the public inquiry of draft BMAP and considered an acceptable level. If and when draft BMAP was lawfully adopted this area of parking restraint would remain.

The site was in close proximity to public transport (rail and bus serviced) and a bicycle storage area has been included in the proposal. It was considered that alternative modes of transport were also available. Taking account of these points it was considered that the parking space provision within the site was acceptable. DfI Roads had not raised any objection in relation to the proposed access or that the proposal would prejudice road safety or significantly inconvenience the flow of traffic. In terms of design, the proposed building was four storey in height with the 4<sup>th</sup> floor set back from the façade and finished in contrasting materials, which reduced the visual impact of the proposal in terms of its scale, overall appearance and dominance. The plans indicated that the apartment building height would be lower than the adjacent hotel.

The proposal would be sited on lower ground level than the adjacent roads with the roadside trees retained to ensure continued screening with the area of undeveloped open space at the front of the site retained.

The building would be sited on lower ground level than the adjacent roads with the roadside trees being retained to ensure continued screening.

In terms of amenity space the proposal was acceptable with 10 square metres being exceeded per apartment. There was no impact on the adjoining hotel with no windows on the adjacent gable facing towards the hotel.

The proposed apartment building had been designed with a walkway on each floor along the elevations facing the hotel and school. Those walkways would be screened by fixed louvre panels which would limit views out of and into the walkways to protect the proposed residential amenity and prevent overlooking into the hotel and school.

Additionally, there was sufficient separation distance to the northeast facing the school with no windows on the adjacent side elevation. The mature band of trees along the adjoining shared boundary were to be retained. There would also be no adverse loss of natural light or overshadowing of school buildings given the significant separation distance.

Given the proximity of the proposal to the road network, hotel and school a Noise Impact Assessment was submitted. Environmental Health was content with the mitigation measures proposed within the design and conditions would be added to ensure specific glazing, ventilation and wall & ceiling material to provide noise attenuation.

The proposal complied with the relevant criteria of Policy QD1 of PPS 7. In terms of the site's close proximity to City Hall, a Grade A listed building and Bangor Castle Stable Yard, the Visitors Centre, Grade B+ listed, HED were consulted and were content with the proposal given the use of sympathetic, high quality materials including the contrasting materials to the 4<sup>th</sup> floor, planting of more trees, and the use of the natural gradient of the site all of which help to limit any impact and respect the setting of the listed buildings. HED had proposed the use of a number of materials in any proposed landscaping scheme which would be conditioned.

The scheme complied with the requirements of the SPPS and policy BH11 of PPS 6 (Development affecting the setting of a listed building).

A Drainage Assessment Addendum submitted in September 2022 demonstrated that the proposed construction of a suitable drainage network was feasible. DfI Rivers had no objection subject to condition in terms of any potential flood risk from exceedance of the network. A negative condition would be attached to any decision notice to ensure that the method of sewage disposal had been agreed in writing with NI Water. The Planning Department recommended that the application was granted.

The Chair invited questions from members.

Councillor McRandal expressed concern regarding car parking, he noted the parking guidelines and sought clarity that the appropriate test was one space per apartment. The Planning Officer confirmed that within the area of parking restraint the rule was one car parking space per residential unit.

Councillor Cathcart noted that the application was submitted in 2019 and he questioned if it was the NI Water issue that caused the delay. To the best of his knowledge, the Planning Officer stated that issue had caused a significant delay.

Councillor Cathcart referred to the boundaries and asked what was proposed. The Planning Officer stated that a condition would be placed on an approval to ensure submission of a suitable landscaping scheme. In terms of the existing boundaries, the trees would be maintained and augmented with hedging.

The Chair asked if the previous planning application had expired for 14 apartments. The Planning Officer confirmed that had expired.

The Chair invited Mr Donaldson and Ms Whyte (Agent/Architect) to come forward who were speaking in support of the application.

On behalf of the applicant, Ms Whyte welcomed the Case Officer's comprehensive report and the recommendation of approval. Since lodging the application in 2019 the department, applicant and agent had worked consistently to ensure a design that fulfilled planning requirements and addressed relevant concerns raised. The applicant was local who had a portfolio of quality residential "build to let" developments and this was a continuation of same. In response to the concerns raised Ms Whyte outlined the following:-

- Increase in numbers apartments and material - was a choice:- from 14 to 19 units was economic, added to the sharp increase in the cost of building materials, was the overriding determination to deliver a building and associated landscaping with a high quality material finish. The additional units made that feasible. Samples and exemplars had been provided that would elevate the quality of finish and complement the existing historic as well as neighbouring buildings.
- Noise – The applicant provided a noise impact assessment. The applicant would take all reasonable steps to minimise disturbance during construction (e.g. discussions with Environmental Health and neighbours - piling was proposed during the school holidays & within working hours or otherwise agreed) with the department.
- Overlooking – the walkways would be permanently screened and existing mature evergreen trees would be retained.
- Landscaping – McIlwaine Landscape Architects had been involved from the start of the application and consultation had occurred with HED regarding the quality and style of landscaping.
- The Applicant was content to engage with the school going forward with all reasonable steps taken to ensure considerate contractors' practice.
- Bin storage – that would be in a "landscape covered" location, separate from the living accommodation that would be easily serviced and accessed by tenants and operatives.

In finishing, Ms Whyte trusted her remarks served as a reassurance to those who voiced concerns and she look forward to receiving the planning approval that would allow the regeneration of the former diving pool site to at last commence.

The Chair invited questions from members.

Councillor Cathcart welcomed work occurring with the school to minimise any disruption. He referred to his earlier question regarding landscaping and sought confirmation that there was DfI approval for visibility splays. He also questioned the material of the boundaries. Ms Whyte advised that the boundaries would be a combination of a fence and native hedging, that was to be kept at a certain height. In terms of the visibility splays those were good along with a wide footpath and green belt.

Noting the historical importance of the area, Councillor Cathcart was glad to hear that the trees were going to be retained. He also welcomed the HED conditioning of

some of the materials and the design noting the deliberations that had previously occurred during the approval of the Premier Inn application with this proposal sitting alongside that.

Councillor Morgan asked how the increase in apartment from 14 to 19 apartments had been achieved. Ms Whyte advised that had been achieved by reducing the size of the apartments and a slight reconfiguration of the layout. The apartments would be a combination of 1-bed and 2-bed apartments.

Councillor Creighton referred to the temporary fence that was at the site presently and questioned if that was the site boundary. Ms Whyte explained that the site boundary that was around the inside of the current footpath.

Councillor Creighton was pleased to see the green space approaching the City Hall.

In relation to the concerns raised regarding the safety of access to the school, Councillor McCollum noted that Dfl had not raised any concerns in that regard however questioned the distance between the entrance to the school and the entrance to the proposed development. Ms Whyte referred to the car park and lay-by and explained that the entrance to the school was off-set considerably.

As there were no further questions, Mr Donaldson and Ms Whyte returned to the public gallery.

The Chair invited questioned for the Planning Officer.

Councillor Morgan expressed concern regarding the reduction in size of the apartments and questioned the size of those. The Planning Officer stated that the proposal met the space standards required under policy. The proposal was within an area where there was presumption of favour of development.

Councillor Creighton asked if the apartments were to be used as AirBnBs. The Planning Officer stated that the planning office could not provide comment in that regard and that the application was 19 apartments.

Proposed by Councillor Cathcart, seconded by Councillor Kendall, that the recommendation be adopted, that planning permission be granted.

Speaking to his proposal, Councillor Cathcart welcomed the design and the conditions were appropriate. Parking in the City had been debated at length, applications with less car parking spaces had been approved and he therefore did not feel that was a valid reason to refuse. As previously stated, he welcomed the applicant working with the school to address any concerns regarding disruption.

Councillor Kendall was content the application met the necessary requirements.

The Chair was not satisfied with the car parking, he felt the parking was restricted in the surrounding area and noted the potential impacts on the car park at Castle Park.

As members not all in agreement, a vote was undertaken which resulted as follows:

<b>FOR (14)</b>	<b>AGAINST (2)</b>	<b>ABSTAINED (0)</b>	<b>ABSENT (0)</b>
<b>Aldermen</b> Graham McDowell Smith	<b>Alderman</b> McIlveen		
	<b>Councillor</b> Harbinson		

**Councillors**

Cathcart  
Creighton  
Kerr  
Kendall  
Martin  
McKee  
McCollum  
McLaren  
McRandal  
Morgan  
Wray

**RESOLVED**, on the proposal of Councillor Cathcart, seconded by Councillor Kendall, that the recommendation be adopted, that planning permission be granted.

- 4.5 **LA06/2021/118/F - West of Nos. 39 and 80 St Andrews Avenue, Ballyhalbert, immediately West of 45 Longfield Way and North of Nos.72 and 84 Longfield Way, Ballyhalbert - Housing development of 98 units, detached garages (site nos. 175 to 272 inclusive), extension to footpath on Shore Road and playpark**  
(Appendix VIII)

PREVIOUSLY CIRCULATED:- Case Officer's Report.

**DEA:** Ards Peninsula

**Committee Interest:** An application in the major category of development – approved by Planning Committee at its meeting of 07 November 2023, but further amendments received to include extension to footpath on Shore Road and installation of a playpark

**Proposal:** Housing development of 98 units, detached garages (site nos. 175 to 272 inclusive), extension to footpath on Shore Road and playpark

**Site Location:** West of Nos. 39 and 80 St Andrews Avenue, Ballyhalbert, immediately West of 45 Longfield Way and North of Nos.72 and 84 Longfield Way, Ballyhalbert

**Recommendation:** Grant Planning Permission

The Senior Professional and Technical Officer (C Rodgers) outlined the detail of the application.

The application seeks full planning permission for 98 dwellings in Ballyhalbert. The proposal would form an extension to the existing St. Andrew's development located to the north of village.

Members would recall that this application was approved at the November Planning Committee meeting. Prior to the decision notice being issued further amendments were received to include an extension to the footpath on Shore Road and the installation of a playpark. The application had therefore been brought back to Planning Committee for determination.

It was important to remind members that the principle of residential development on this site had clearly been established. The site formed part of the designated housing policy area in the Ards and Down Area Plan and there was a long history of planning approvals associated with the wider designation. Many of the houses in the St. Andrew's development had been constructed and were now occupied.

Outline planning permission for the wider designation was originally granted in the year 2000 and was followed by approval of the reserved matters. The permission pre-dated the introduction of the PPS8 policy requirement to provide a playpark as part of residential developments of 100 units or more. Numerous applications to amend house types within the zoning had since been granted planning permission.

The Planning Service had advised the Applicant of concerns expressed by members of the Planning Committee regarding the lack of playpark provision in this part of the village. In response, the Applicant now proposed to provide a playpark within the site to ensure the layout included adequate provision for children's play.

The visual showed the location of the playpark within a central area of open space which would be well overlooked by the proposed dwellings. This central location would promote user accessibility and safety. That was a welcome addition to the scheme and would assist the creation of a quality residential environment.

A wide range of playground equipment would be provided including a climbing frame, standard swing, a pod swing, a seesaw, springer, and rotating equipment. Safety surfacing would be installed as per safety standards, a 1.2m fence and single gate would enclose the play park in the interests of child safety. A condition was recommended to ensure that the playpark would be provided prior to the occupation of 25 dwellings and would be subsequently managed and maintained by a management company on behalf of the residents.

Subsequent to further advertisement and neighbour notification, seven additional objections were received. Matters raised had been considered in detail in the addendum to the report and related primarily to road and pedestrian safety, provision of safe areas for children's play and impact on existing infrastructure.

The existing footpath would be extended along the existing verge to the driveways of 94 and 95D Shore Road. It was considered that provision of this playpark, in addition to the proposed areas of space would go some way towards reducing the need for pedestrian travel from the development to the existing playpark within the



centre of Ballyhalbert. DfI Roads provided no objection to the current application in terms of roads safety subject to the provision of the proposed footpath extension.

The speed humps within the development would aid the regulation of speed within the development and there would also be footpaths for pedestrians to use within the development.

To conclude the application site formed part of a wider area of land that was deemed suitable for housing through the Development Plan. The site also had a long planning history for similar residential development. The layout closely reflected the layout for the change of house type application approved in 2012 under the same policy context but with the addition of a playpark and extension of the existing footpath to enhance the scheme.

No objection had been received from any statutory consultee. Having weighed all the material planning considerations it was recommended that this application proceed by way of an approval of planning permission subject to conditions listed in the addendum.

Proposed by Councillor Kerr, seconded by Councillor Wray, that the recommendation be adopted, that planning permission be granted.

Councillor Kerr welcomed the addition of the playground and the extension to the footpath.

Councillor Wray felt it was fantastic news and noted that a lot of the concerns discussed when considering the previous application had been addressed. He thanked the Planning Officer for detailing the concerns of the Committee to the applicant. Councillor Wray questioned where the traffic calming measures would be placed.

The Planning Officer stated that those traffic calming measures were proposed for within the development itself. The private street determination drawings showed a number of speed humps to slow traffic within the development. The Officer referred the Member to the plans on the planning portal.

Councillor Cathcart was pleased with the application, he knew the people of Ballyhalbert and elected representatives had campaigned for a play park for the area for some time. The proposal brought a positive development and was great news for the village of Ballyhalbert.

Councillor McRandal viewed it as refreshing that the feedback of members had been listened to. He noted the application also brought the addition of a new house along with the playpark and questioned the location of those. The Planning Officer highlighted using the visual, that the playpark would be positioned on what was previously approved as a landscaped area of open space. She was of the view that the additional house was a detached house changed to semi-detached houses. The layout remained essentially the same.

On behalf of the Committee, the Chair thanked the Planning Officer for her action in this regard.

**RESOLVED, on the proposal of Councillor Kerr, seconded by Councillor Wray, that the recommendation be adopted, that planning permission be granted.**

- 4.6 LA06/2023/1910/F – Cloughey Pavilion, Main Road, Cloughey - Proposed two storey extension and existing Pavilion to include a balcony and associated alterations as well as other works including a paladin fence and disabled parking (renewal of approval LA/2017/1256/F)**  
(Appendix IX)

PREVIOUSLY CIRCULATED:- Case Officer's Report.

**DEA:** Ards Peninsula

**Committee Interest:** An application relating to land in which the Council has an interest

**Proposal:** Proposed two storey extension to existing Pavilion to include a balcony and associated alternations as well as other works including a paladin fence and disabled parking (renewal of approval LA06/2017/1256/F

**Site Location:** Cloughey Pavilion, Main Road, Cloughey

**Recommendation:** Grant Planning Permission

The Principal Planning and Technical Officer (C Blair) outlined the detail of the application.

The site comprised a single storey building, which was used for community/sports activities, was accessed via an existing lane. The site lay within an enclosed area which contained a bowling green and three tennis courts.

The site's northern, eastern and southern boundaries were defined by a combination of steel mesh security fencing and close board fencing. The western boundary was undefined as the site formed part of a larger sports complex. The topography of the site was level with undulating sands and grass area to the east. The surrounding area was predominantly residential with properties assuming a variety of styles and scales. The Warren and Cloughey Beach was located southeast of the site.

Members should note that there are no objections from consultees subject to conditions. There had been no letters of representation, either objecting to or in support of the application.

The Planning Officer highlighted that the application was a renewal application at the site for previous approval under LA06/2017/1256/F – "Proposed two storey extension to existing Pavilion to include a balcony and associated alterations as well as other works including a paladin fence and disabled parking", which was granted on 5 September 2018.

As such, the principle of the development had already been considered and deemed acceptable during the processing of this application. It should be noted that there

had been no change in the development plan or policy context since this original approval.

Moving now to the Plan and Policy consideration. The site was located in the countryside and therefore out with Cloughey Settlement Limit.

The site was located within a Local Landscape Policy Area and was immediately adjacent to the Outer Ards Area of Special Scientific Interest, Outer Ards Ramsar site, North Channel Special Area of Conservation, and the Outer Ards Special Protected Area. The proposed extension to the existing pavilion including balcony has no detrimental impact to the existing beach to the southeast.

This site was found within LLPA 4 of ADAP 2015, which was entitled "Caravan Park and adjoining lands". The proposal was on an area of existing development and given the surrounding topography there would be limited views with no material impact on the LLPA. The proposal did not extend beyond the existing site boundary into the undeveloped headland area.

The SPPS referenced the Regional Development Strategy (RDS) and outlined that coastal areas need to be protected from coastal squeeze, to safeguard against loss of distinctive habitats, and to help adaptation to climate change, and states the landscape setting of features should also be conserved. The proposed development to extend the existing building, erect fencing and provide disabled parking does not have an adverse impact on the surrounding coastal area, does not alter existing access arrangement (including to the beach) and does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

The proposed development could be visually integrated into the surrounding landscape, was of appropriate design and did not cause a detrimental change to, or further erode the rural character of the area. Therefore, it was compliant with policies CTY 1, CTY 13 and CTY 14 of PPS 21 'Sustainable Development in the Countryside'.

Finally, in terms of Policy OS3 [Outdoor Recreation in the Countryside] of PPS 8 for Open Space, the proposed development was of a high standard design and was sympathetic to the surrounding environment due to its siting, layout and landscape treatment. As such it met the requirements of this policy.

The Planning Service recommended that the proposed development was granted full planning permission subject to any condition required.

There were no questions from members.

Proposed by Councillor Wray, seconded by Councillor Kerr, that the recommendation be adopted, that planning permission be granted.

Councillor Wray expressed his delight with the application for the community of Cloughey.

Councillor Kerr agreed and stated that the pavilion was a great asset for the community.

**RESOLVED, on the proposal of Councillor Wray, seconded by Councillor Kerr, that the recommendation be adopted, that planning permission be granted.**

## **5. UPDATE ON PLANNING APPEALS**

(Appendices X)

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity providing the undernoted detail:-

### **Appeal Decisions**

1. The Planning Appeals Commission found, on 29 November 2023, that there was no valid appeal in relation to the refusal of planning permission below.

PAC Ref	2022/A0204
Application ref	LA06/2018/0996/F
Appellant	Cedarville Ltd
Subject of Appeal	Erection of 8 dwellings with associated car parking and landscaping
Location	Lands to the West of 7 Main Street and South of 6a Ballyrawer Avenue, Carrowdore

The Council refused the application on 13 January 2023 for the following reasons:

- The proposal is contrary to the SPPS in that it had not been demonstrated that the adjacent minerals development is not likely to compromise safety or to significantly impair the amenity of people living in the proposed dwellings;
- The proposal is contrary to Policy QD1 of PPS 7: Quality Residential Environments in that it had not been demonstrated that residents of the proposed dwellings will not be adversely affected by noise and dust arising from activities of the adjacent quarry.

The application form submitted to the Council described the location of the site as “Lands to the West of 7 Main Street and South of 6a Ballyrawer Avenue, Carrowdore”. However, the site was in fact located to the east of 7 Main Street and to the south west of 6a Ballyrawer Avenue.

The Commissioner stated that the description of the site location relied upon by the Council was seriously misleading. It may have led interested members of the public to believe that the proposal related to land on the opposite side of Main Street and they may therefore have assumed that the proposal would not affect them and may not have followed the matter up. The misleading address could therefore have prejudiced their ability to comment on the proposal.

While the inaccuracy in the relationship to 6a Ballyrawer Road was of less consequence, the confusing of east and west in relation to 7 Main Street was fatal. The published address failed to inform people living in the locality of the proposal

and could prejudice their ability to follow the matter up by making representations if they wish. Failure to publish a proper notice defeats the purpose of publication and renders the Council's decision on the application invalid. Accordingly, it was found that there could be no valid appeal.

The Council had contacted the agent for the applicant and was awaiting amended application forms but had re-advertised and neighbour notified on the basis of the correct address. Staff had been reminded of the importance of checking addresses at validation stage accordingly.

2. The following appeal was upheld on 27 November 2023.

PAC Ref	2022/A0193
Application ref	LA06/2020/1008/O
Appellant	Ashton Fraser Investments
Subject of Appeal	The refusal of outline planning permission for the erection of 9 dwellings with access off Messines Road
Location	Lands immediately north of 10-18 Cambourne View and 17 Cambourne Park, Newtownards

The above application had been called-in to Planning Committee and was heard on 18 January 2022 when members were advised by DfI Roads that the protected route onto which the proposed development would access was a 'Category 2' meaning that it fell within Policy AMP 3 of PPS 3 – 'Other Dual Carriageways, Ring Roads, Through-Passes and ByPasses – All locations'. That was disputed by the applicant's barrister as the road was not categorised as such on the DfI Roads website and that further to a decision by the Planning Appeals Commission in 2005, any ambiguity should be settled in favour of the applicant.

Members voted to defer the matter for legal advice; however, the applicant sought the application be refused without be referred back to Planning Committee in order that an appeal could be lodged as soon as possible. The refusal decision issued on 02 February 2023 with the following reasons:

- The proposal is contrary to PPS 3 , Policy AMP 3 in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety;
- The proposal is contrary to PPS 3, Policy AMP 2 in that it would, if permitted, prejudice the safety and convenience of road users since it would lead to an unacceptable level of conflict by reason of the increased number of vehicles entering and leaving the proposed access including the unacceptable provision of a Right Turning Pocket.

Further to legal advice, the Council liaised with the applicant prior to the hearing and subject to provision of a traffic island to enable left-turn in, left-turn out only, withdrew its reasons for refusal. DfI Roads confirmed that while it no longer had any road safety concerns, it still had concerns regarding the principle of taking access from the Messines Road due to its Protected Route designation; however, DfI Roads was

a consultee, whilst the Council was the statutory decision maker. The Commissioner upheld the appeal on the basis of the revised road arrangements.

**New Appeals Lodged – as of the date of this report there have been no new appeals received.**

Details of appeal decisions, new appeals and scheduled hearings can be viewed at [www.pacni.gov.uk](http://www.pacni.gov.uk).

RECOMMENDED that Council notes the report and attachments.

The Principal Planning and Technical Officer spoke to the report.

**AGREED TO RECOMMEND, on the proposal of Alderman McDowell, seconded by Councillor Kerr, that the recommendation be adopted.**

## **6. NIW FENCE AT SEACOURT WASTEWATER PUMPING STATION**

(Appendices XI, XII)

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity attaching letter to NIW and Open letter from NIW. The report detailed that members would be familiar with the background to this matter, but for ease of reference the following information was provided.

A planning application under reference LA06/2019/1007/F was submitted to the Council by Northern Ireland Water (NIW) for retrospective development comprising 'Fence and gate surrounding an existing pumping station' at Seacourt WsPS, Lands 20m north of 1 Seacourt Lane, Bangor, further to seeking to remedy a breach of planning control as identified by the Council.

That application was refused planning permission on 20 July 2022 for reasons relating to its detrimental visual impact on, and demonstrable harm to, the coastal environment/North Down coastal path. NIW subsequently appealed the refusal to the Planning Appeals Commission; however, prior to the appeal being heard, NIW submitted two separate applications seeking a Certificate of Lawfulness for both the existing development, and in respect of proposed increase in height of the development.

Given that applications seeking Certificates of Lawfulness of Existing or Proposed Use or Development ("CLEUDs / CLOPUDs) are not required to be neighbour notified or advertised (as they are not planning applications, rather, inter alia, certification of compliance with permitted development rights), and the significant public and Member interest around this matter, the submissions and subsequent assessments and determinations were brought to the attention of members of Planning Committee as Item 6 of 04 April 2023 meeting and Item 11 of 22 June 2023 meeting.

It was determined that the development fell within the permitted development rights afforded to NIW as a statutory undertaken under The Planning (General Permitted

Development) Order (Northern Ireland) 2015 (“the GPDO”), and the Certificates were issued on 13 June 2023. Those determinations were not challenged by way of application for judicial review on a point of law. The appeal was withdrawn further to determination of the Certificates of Lawfulness.

NIW had its submissions certified in respect of meeting Part 14 – Development by Statutory and Other Undertakers, Class H – Water and sewerage undertakings, part (h) - any other development in, on, over or under operational land, other than the provision of a building but including the extension or alteration of a building.

Article 2 of the GPDO sets out interpretation of the terms used within the Order with the extract pertaining to “operational land” set out below

“operational land” in relation to the undertakers specified in Parts 14, 15, 25 and 29 of the Schedule means—

- (a) land which is used for the purpose of carrying on their undertakings; and
- (b) land in which an interest is held for that purpose;

not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of carrying on those undertakings:

Provided that where an interest in land is held by such undertakers for the purpose of carrying on their undertaking and—

- (a) the interest was acquired by them on or after 1st October 1973; or
- (b) it was held by them immediately before that date but the circumstances at that date were such that the land did not fall to be treated as operational land had this Order applied to it, that land shall not be treated as operational land unless there is in force with respect to the land a planning permission granted on an application made in that behalf under Part 3 of the 2011 Act for its development and that development, if carried out, would involve the use of the land for the purpose of the carrying on of the undertaking;

Further to the issuance of the Certificates of Lawfulness, the Council was approached informally by a member of the public raising a complaint concerning the Council's application of the GPDO to the assessment of the submissions for Certification. This was premised on the fact that the complainant had obtained evidence from NIW concerning a transfer of part of the site, subject of the Certificates, in or around 2016. The point being raised was that this conveyance in 2016 was long after the 1973 date relied upon by NIW in its submission, and thus the site could not fall within the definition of ‘operational land’ for the purposes of the GPDO.

The Council took legal advice from its planning lawyers and the letter at in the appendix was issued to NIW's lawyers. NIW responded via its solicitors setting out its responses to the questions posed by the Council, which was received shortly before Christmas 2023, and marked legally privileged. That response was reviewed by the Council's planning lawyers who subsequently confirmed that NIW did have the requisite interest in the land as ‘operational land’ prior to 01 October 1973, and as such was entitled to rely on Part 14, Class H (h).

NIW had not waived legal privilege but had provided an open letter which was attached to the report.

RECOMMENDED that the Council notes the content of this report and attachments.

The Director spoke to the report noting the extensive history to the issue.

Councillor Cathcart sought clarity if the legal advice was in the public domain. The Director stated that legal advice remained legally privileged and an open letter had been provided and was attached to the report.

Councillor Cathcart thanked the Planning Officers for taking the matter forward. The issue had been explored and it was unfortunate that the Council had no grounds to explore that matter further. He believed there was scope in terms of what the Council could do, and he hoped the Council's Parks team could try to engage with NI Water. He had discussed the matter with the Parks section regarding doing something to lessen the impact of the fence on the area.

**AGREED TO RECOMMEND, on the proposal of Councillor Cathcart, seconded by Councillor Morgan, that the recommendation be adopted.**

## **7. PLANNING SERVICE BUDGETARY CONTROL REPORT – DECEMBER 2023**

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity detailing that the Planning Service's Budgetary Control Report covered the 9-month period 1 April to 31 December 2023. The net cost of the Service was showing an overspend of £28k (2.4%).

### **Explanation of Variance**

The Planning Service's budget performance was further analysed into 3 key areas:

<b>Report</b>	<b>Type</b>	<b>Variance</b>
<b>Report 2</b>	Payroll Expenditure	£174k favourable
<b>Report 3</b>	Goods & Services Expenditure	£4k adverse
<b>Report 4</b>	Income	£197k adverse

### **Explanation of Variance**

The Planning Service's overall variance could be summarised by the following table:

<b>Type</b>	<b>Variance £'000</b>	<b>Comment</b>
<b>Payroll</b>	(174)	Vacant posts during the year include Manager's post and Administration posts.
<b>Goods &amp; Services</b>	4	There are a small number of goods & services overspends and underspends which basically offset each other.



Type	Variance £'000	Comment
Income	197	Mainly Planning application fees. No major applications received. General slowdown in applications in NI this year.

REPORT 1 BUDGETARY CONTROL REPORT						
Period 9 - December 2023						
	Year to Date Actual £	Year to Date Budget £	Variance £	Annual Budget £	Variance %	
<b>Planning</b>						
730 Planning	1,159,654	1,132,100	27,554	1,541,500	2.4	
<b>Total</b>	<b>1,159,654</b>	<b>1,132,100</b>	<b>A 27,554</b>	<b>1,541,500</b>	<b>2.4</b>	
REPORT 2 PAYROLL REPORT						
	£	£	£	£	%	
<b>Planning - Payroll</b>						
730 Planning	1,613,581	1,787,400	(173,819)	2,383,000	(9.7)	
<b>Total</b>	<b>1,613,581</b>	<b>1,787,400</b>	<b>(173,819)</b>	<b>2,383,000</b>	<b>(9.7)</b>	
REPORT 3 GOODS & SERVICES REPORT						
	£	£	£	£	%	
<b>Planning - Goods &amp; Services</b>						
730 Planning	196,316	191,900	4,416	308,100	2.3	
<b>Total</b>	<b>196,316</b>	<b>191,900</b>	<b>4,416</b>	<b>308,100</b>	<b>2.3</b>	
REPORT 4 INCOME REPORT						
	£	£	£	£	%	
<b>Planning - Income</b>						
730 Planning	(650,243)	(847,200)	196,957	(1,149,600)	23.2	
<b>Totals</b>	<b>(650,243)</b>	<b>(847,200)</b>	<b>196,957</b>	<b>(1,149,600)</b>	<b>23.2</b>	

RECOMMENDED that the Council notes this report.

The Director briefly spoke to the report.

**AGREED TO RECOMMEND, on the proposal of Councillor McRandal, seconded by Alderman Graham, that the recommendation be adopted.**

### **TERMINATION OF MEETING**

The meeting terminated at 10.27 pm.

## ITEM 4.1

## Ards and North Down Borough Council

Application Ref	LA06/2015/0677/F
Proposal	Replacement of existing structure with 1no. single storey unit to accommodate 5no. stables, donkey shelter, tack room/feedstore/WC, tool store, and circulation space/carriage store, with associated septic tank and landscaping (Revised description and amended plans).
Location	251a Bangor Road (77m southwest of 251 Bangor Road, and 135m north to northwest of The Ark Farm at 290 Bangor Road), Whitespots, Newtownards
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to officers' recommendation – and deferred from the Planning Committee meeting of 05 December 2023
Validated	28/10/2015
Summary	<ul style="list-style-type: none"> <li>Deferred by Planning Committee on 5 December 2023 to consider alleged abandonment of the use of the site and new creation of area of hard standing.</li> <li>The neighbour's solicitor has referred to a 3D image from Google Earth that is undated on the basis that it comprises a mixture of aerial images so no single date can be tied to it.</li> <li>The Addendum report demonstrates that the hard standing, which was dealt with through the service of an Enforcement Notice on the site has been fully removed and the applicant remains in compliance with the Notice.</li> <li>Photographs and Orthos of the site demonstrate use of the land for the grazing of horses. This has been reduced over the last number of years due to actions of persons unknown accessing the site and letting the horses out onto the busy Bangor Road dual carriageway.</li> <li>This has led to the existing shed fall into a form of disrepair as the applicant fears for the safety of his horses should they remain on the site unattended.</li> </ul>
Recommendation	<b>Approval</b>
Attachment	Item 4.1a – 4 <sup>th</sup> Addendum

	Item 4.1b – Case Officer Report Item 4.1c – 1 <sup>st</sup> Addendum Item 4.1d – 2 <sup>nd</sup> Addendum Item 4.1e – 3 <sup>rd</sup> Addendum
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## **Addendum to COR LA06/2015/0677/F February 2024**

This application was deferred by the Planning Committee on 5 December 2023 in order to consider new information received concerning an area of hard standing at the site.

During the Planning Committee, the objector's solicitor, Ms Maria O'Loan, speaking on behalf of her client, also alleged abandonment of the building being considered for replacement, and challenged the proposed description of the development proposal and the accuracy of the site address. Whilst these issues were not part of the reason for the application being deferred, they will also be addressed later in the report.

### **Reason for Deferral: Hard Standing**

1. In Ms O'Loan's presentation, it was put to the Planning Committee that the applicant has installed a new area of hard standing on his site.
2. This appears to originate from a 3D Google Earth image of the site which was provided in Ms O'Loan's Speaking Note, and is shown in Figure 1 below. In terms of this 3D image, it is undated as it comprises a mixture of several different aerial images taken over a period of time to enable the 3D effect. As such, this does not relate to any one time and does not provide an up-to-date image of the site at this point in time – February 2024.

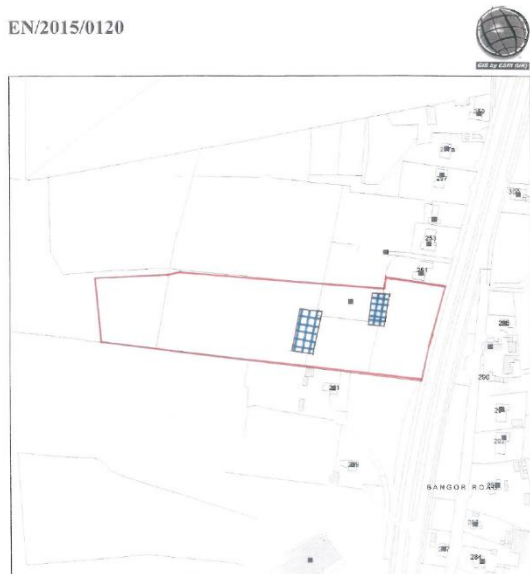


Alleged Area of Hard Standing

Figure 1

3. This area of hard standing was investigated under enforcement case X/2014/0047/CA. The hard standing was deemed to constitute a breach of planning control and an Enforcement Notice (EN/2015/0120) was served requiring its removal, which came into effect on 10 August 2015 and is attached under Appendix 1 of this Addendum.

- The section to which the objector’s solicitor refers is the part hatched in blue to the right-hand side on the associated map attached to the Enforcement Notice (Figure 2).



- The photo in Figure 3 below shows the area of hard standing being removed by digger on 12 May 2017.



Figure 3 (individual people redacted)

6. The enforcement case was subsequently closed at the unauthorised infill material which comprised the hard standing had been removed from the site and the Enforcement Notice was complied with.
7. This Enforcement Notice (EN) remains in effect on the land meaning that it requires continued compliance.
8. The subsequent Google Earth images below (Figures 4, 5 and 6) demonstrate that the unauthorised area of hardstanding has not been re-instated on the site.



Figure 4



Figure 5



Figure 6

### Abandonment

9. In relation to this it is important to consider the legal principles of abandonment. In the English Court of Appeal in *Hartley v Minister of Housing and Government* [1970] 1 QB 413 Lord Denning MR posed this question:

*“the question in all cases is simply this, has the cessation of use (followed by non-use) been merely temporary or did it amount to an abandonment?”.*

He went on:

*“if the land has remained unused for a considerable period of time, in such circumstances that a reasonable man might conclude that the previous use has been abandoned, then the tribunal may hold it to have been abandoned.”*

10. In a later decision of *Hughes v Secretary of State for the Environment [2000] 1 PLR* it clarified the standard of the ‘reasonable man’ as being the view of a reasonable man with knowledge of all the relevant circumstances.
11. On this occasion a reasonable man with knowledge of all the relevant circumstances of this site is the applicant Mr Patrick Finnegan.
12. Mr Finnegan’s planning consultant, Mr Stuart Magee, outlined to the Planning Committee on 5 December 2023 that the applicant could not keep his horses on the site anymore due to safety reasons with unknown persons trespassing onto the site and letting the horses out onto the nearby dual carriageway. He also stated that the applicant and his wife had not been on the site as often recently due to ill-health.
13. However, it cannot be concluded that the use of the land has been abandoned, moreover it has temporarily ceased due to extenuating circumstances, which the applicant’s agent has outlined to Members.
14. The photos below help to show that there has been activity on the site since the application was submitted in 2015:



Horse Box and Car





Tractor with shed to rear



Front field adjacent to Bangor Road dual carriageway.



27 February 2023 – photograph of a rear grassed field within applicant’s land.



27 February 2023 – photograph of access into applicant’s site and agricultural trailer parked beyond.

15. There is no evidence that the use of the site has been abandoned.

16. Additionally, it had been alleged that there had been no grazing taking place on the site for a number of years, whereas ortho photography dated March 2022 shows animals in the field.



### Site Address & Proposal Description

17. The site address was amended as follows –

*“251a Bangor Road (77m south west of 251 Bangor Road, and 135m north to north west of The Ark Farm at 290 Bangor Road), Whitespots, Newtownards, BT23 7PH.”*

18. The proposed description has been amended as follows:

*“Replacement of existing structure with 1no. single storey unit to accommodate 5no. stables, donkey shelter, tack room/feedstore/WC, tool store, and circulation space/carriage store, with associated septic tank and landscaping (Revised description and amended plans).”*

19. Neighbours were re-notified on 19 December 2023 and the changes were advertised on 11 January 2024. No further representations have been received.


### Conclusion

20. The Planning Department is satisfied that the area of hard standing was permanently removed from the site to comply with the served and in effect Enforcement Notice. There is no evidence that the area of hard standing has been re-installed at the site.

21. It is evident that the use of the site has not been abandoned.

22. The site's address has been amended to reflect the objector's solicitor's (Ms O'Loan) concerns and the proposed description has been clarified.

23. The Planning Department's recommendation has not changed. Approval is recommended subject to a section 76 Planning Agreement to ensure the site remains in domestic/hobby use.

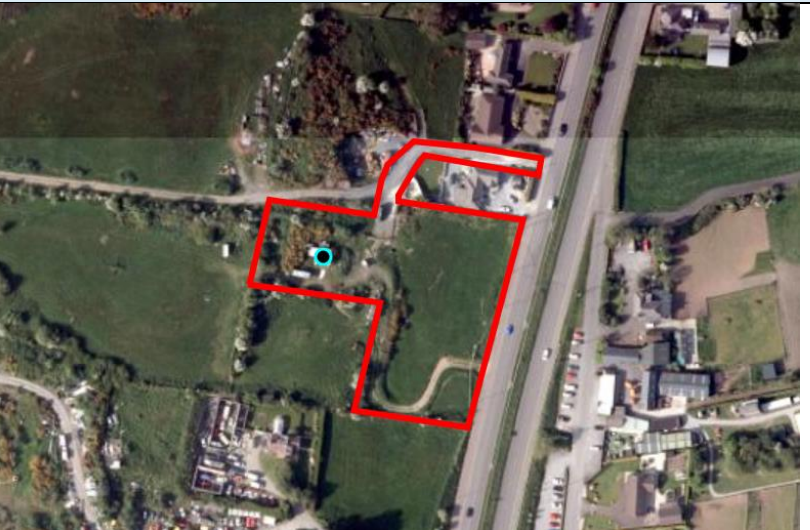
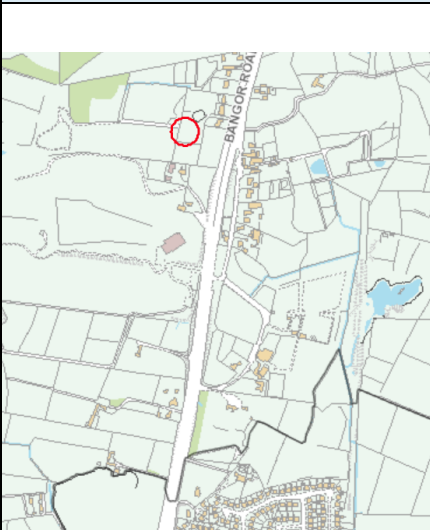
<b>Development Management Case Officer Report</b>			
<b>Reference:</b>	LA06/2015/0677/F	<b>DEA:</b> Newtownards	
<b>Proposal:</b>	Replacement of existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet		
<b>Location:</b>	251a Bangor Road, Whitespots, Newtownards		
<b>Applicant:</b>	Mr P Finnegan		
<b>Date valid:</b>	28/10/15	<b>EIA Screening Required:</b>	No
<b>Date last advertised:</b>	03/02/22	<b>Date last neighbour notified:</b>	26/01/22
<b>Letters of Support: 0</b>		<b>Letters of Objection: 11</b> from 6 separate addresses	<b>Petitions: 0</b>
<b>Consultations – synopsis of responses:</b>			
DFI Roads		No objections	
Environmental Health		Content subj to conditions	
NI Water		Standing Advice	
NIEA: Regulation Unit		Content subj to conditions	
NIEA: WMU		Advice and guidance	
<b>Summary of main issues considered:</b>			
<ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Visual Amenity</li> <li>• Impact of the proposal on the character of the countryside</li> <li>• Impact on Biodiversity</li> <li>• Access &amp; Road Safety</li> </ul>			
<b>Recommendation: Grant Planning Permission</b>			
<b>Report Agreed by Authorised Officer</b>			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal <a href="https://epicpublic.planningni.gov.uk/publicaccess/">https://epicpublic.planningni.gov.uk/publicaccess/</a>			

### 1. Site and Surrounding Area

The proposed site is located on the western side of Bangor Road, to the north of Newtownards. The land rises from the road upwards in a westerly direction. The site is accessed via a laneway that runs from the Bangor Road along the northern side of No. 251 and then it turns along the rear of this property and opens out into a roughly levelled area. There is a sloping field between this level area and the roadside. The area would appear to have been infilled with rough hard-core material at some stage in the past to level the ground out. There are two horse lorries, one which consists of the back portion of the lorry only and the other one appears to have been in situ for a considerable period of time and is not in working order. Another lorry which appears to be an old army type model is also on the site and again does not appear to have been moved in some time. There are various pieces of scrap metal strewn around the site. There are also a number of scrap vehicles on the site and an old trailer. There is a makeshift shed on the site consisting of a wooden frame with sheet metal cladding which is divided up in different sections. The application is effectively for the replacement of this shed. There are a number of dwellings adjacent to the road along this section of Bangor Road.



### 2. Site Location Plan



### 3. Relevant Planning History

**X/2013/0142/O:** 251a Bangor Road, Newtownards; Farm dwelling, detached garage and new access - Withdrawn 18 December 2014

The above application was recommended for refusal under Planning Policy Statement 3 (Access, Movement and Parking) grounds and in addition, the proposed dwelling could not cluster with any existing farm buildings.

#### **Enforcement History on site**

**X/2014/0047/CA:** Alleged unauthorised infilling of land  
**Case closed** as breach remedied by removal of imported waste material used for the unauthorised infilling

**X/2015/0001/CA:** Alleged unauthorised Shed  
**Enforcement Notice served** requiring removal of shed and associated foundations.  
Case closed as complied with

**LA06/2015/0075/CA:** Alleged unauthorised change of use of land to manufacture of equestrian/equine equipment  
**Case closed** as no breach identified

**LA06/2015/0030/CA:** Alleged unauthorised creation of new access onto a protected route:  
**Case closed** as no breach identified

**LA06/2015/0187/CA:** Alleged unauthorised change of use of agricultural access for other purposes, via new field gate on Protected Route  
**Case closed** as use of access not demonstrated to be for any other purpose other than agriculture and as such would fall under agricultural permitted development - Class C, Part 7 [Agricultural Buildings and Operations] of The Planning (General Permitted Development) Order (Northern Ireland) 2015

**LA06/2017/0156/CA:** Alleged unauthorised advertisement for alleged unauthorised equine archery at site:  
**Case closed** as no breach identified

**LA06/2017/0157/CA:** Alleged unauthorised change of use of land to equine archery business  
**Case closed** as no breach identified

**LA06/2017/0179/CA:** Unauthorised construction of laneway from agricultural gate through field to land to rear  
**Case closed** on 04 March 2022: The Council is content that the works meet the criteria under Part 7, Class C (Agricultural Buildings and Operations) of the Planning (General Permitted Development) Order (Northern Ireland) 2015.

The makeshift shed does not have any planning permission associated with it although from review of orthophotography it is clear that it has been in situ for a period in excess of 5 years and is therefore immune from enforcement action, however no Certificate of Lawfulness has been sought or granted in this regard.

#### 4. Planning Assessment

**The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:**

- North Down and Ards Area Plan 1984-1995 (NDAAP)
- Ards and Down Area Plan 2015
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 8: Open Space
- Planning Policy Statement 21: Sustainable Development in the Countryside

Planning Guidance:

- Building on Tradition: A Sustainable Design Guide for the NI Countryside (BoT)

#### Principle of Development

The proposal is for replacement of an existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet

The site described above is in the countryside as defined in the Ards and Down Area Plan 2015 which operates as the Local Development Plan for the area. The site is located within a Local Landscape Policy Area (LLPA): 'Whitespots, lead mines, Golden Glen and associated lands'.

Policy CTY 1 of PPS 21: Sustainable Development in the Countryside sets out a range of types of development which are in principle acceptable in the countryside, and further highlights that other types of development will only be permitted where there are either overriding reasons why it is essential and could not be located in a settlement, or that it is otherwise allocated for development in a development plan.

The initial test in relation to the principle of development is therefore whether the proposal falls within a category of development under Policy CTY 1 which is in principle acceptable, or whether planning permission can only be justified through Policy CTY 1 on one of the 'fallback' bases, namely that:

- Overriding reasons can be shown as to why the development is essential and could not be located in a settlement; or
- The proposal is allocated for development in a development plan.



Further to the above, Policy CTY 1 states that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety.

The policy under which this proposal is being assessed is Policy CTY 1 in respect of non-residential development i.e. outdoor sport and recreational uses in accordance with PPS 8: Open Space, Sports and outdoor Recreation (PPS 8)

The proposal in the context of the Plan designation relating to the Local Landscape Policy Area is considered later in this report.

Policy OS3 of PPS8 entitled 'Outdoor Recreation in the Countryside' sets out that permission will be granted for the development of proposals for outdoor recreational use in the countryside where all of a number of criteria are met. Further, it states the following within the justification and amplification:

*'The keeping and riding of horses for recreational purposes is increasingly popular in many parts of the countryside. Outdoor participatory recreational uses such as riding schools will normally be considered acceptable in principle, provided the scale of ancillary buildings is appropriate to its location and can be integrated into their landscape surroundings.'*

Whilst the notes specifically refer to riding schools, the approach taken by the Commissioner in Appeal 2018/A0008, was that this would not '*bar consideration of other equestrian uses under the policy.*' The headnote does not distinguish between recreational facilities for personal use and larger commercial operations.

It must be noted that the proposal was originally for three new buildings on site and was associated with a business use. An amended application form and plans were received for the replacement of the existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet. The agent stated on behalf of the applicant that the stables are for the use of the applicant only and will not be open to clients, customers or members of the public. Whilst the applicant will use part of the stables for commercial work connected to his business, the actual business use is carried out off-site. The following was stated within an email from the agent:

*'Furthermore; I can confirm all lands and buildings are used solely by the Finnegans for equestrian and equine purposes associated with the breeding of horses (and all activities associated with this, including occasional visits by a vet and/or delivery of supplies), the training of horses (by Mr Finnegan) for carriage promotional work (this work being carried out off-site, on surrounding roads, in towns and villages) and the maintenance of carriages/coaches by the Finnegans.'*

In addition to the above statement, the agent submitted copies of several horse passports. I consider such a use to be appropriate to the countryside and ascertain that it could not reasonably be accommodated within a settlement. The above policy does not set a minimum threshold for equestrian activity before which the erection of new buildings can be considered.

The proposed new shed will replace the existing dilapidated structure on site. Figures 1 and 2 show the existing three buildings to be removed and proposed site layout consisting of one building.

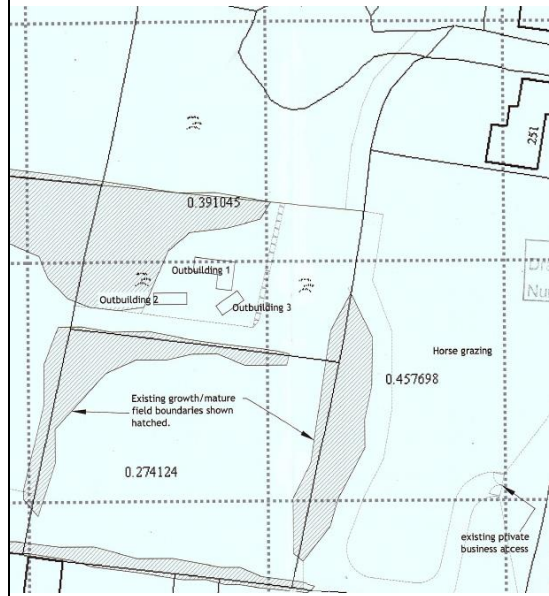
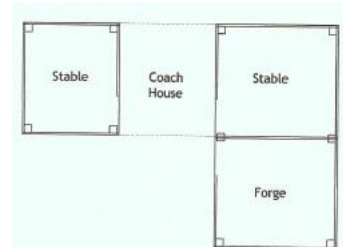


Figure 1: Existing Site Layout

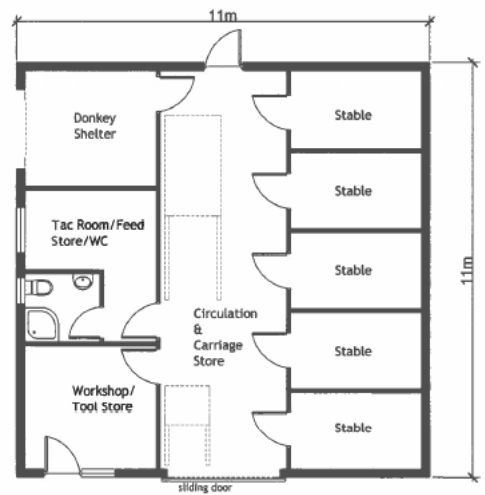


Figure 2: Proposed Site Layout

The proposed shed measures 11m x 11m and will have a pitched roof with a ridge height of 4m. The shed will be a lightweight steel framed building finished in green corrugated cladding. Other finishes include clear translucent roof panels, timber sliding main central door and upvc windows. The proposed shed would be considerably larger than the existing outbuilding with a slightly higher ridge height. (see floorplan of existing and proposed to right hand side)



The shed will be located on the same footprint of an existing shed and will be placed within a field that is currently used for horse grazing. I do not consider there to be any loss of high value agricultural land as a result of this application. The current condition of the site, with dilapidated structures and old horse boxes, takes away from the visual amenity and character of the landscape. I am of the professional opinion that a new shed with additional landscaping will improve the visual amenity of this existing site, further to removal of the existing structures.



The proposed shed will be situated on an elevated site which sits above the carriageway between Bangor and Newtownards. Image 1 below shows the existing site from the road.



*Image 1: Existing site as viewed from the main road travelling north toward Bangor*

As the site is within a prominent position, I had concerns that there would be sustained views of the shed when travelling along both sides of the carriageway. Given the shed will effectively replace the existing dilapidated shed/structure on site, the new shed will not be considerably more prominent. There is a line of existing vegetation growth/field boundaries which will help screen the shed when travelling from Newtownards which will be conditioned to be retained. In order to help with screening when travelling from Bangor, the agent included landscaping measures within the proposed site plan. This consists of 6 native species varying between 4 – 5.5m in height. This landscaping will be vital in integrating the building into the landscape and will help screen the shed from these public viewpoints along the carriageway. The proposed landscaping scheme will be conditioned to be carried out during the first planting season following erection of the building.

There will be no adverse impact upon features of importance to nature conservation, archaeology or built heritage.

### **Visual Amenity & Integration into Landscape**

Policy CTY 13 and CTY14 of PPS 21 have been considered in regard to this application. As assessed previously, I am satisfied that the proposal will integrate sympathetically into the surrounding landscape and the proposed building will not cause a detrimental change to, or further erode, the rural character of the area. The existing and proposed landscaping will help screen the building from view and soften the visual impact of the new building. The existing outbuilding has a ridge height of 3.7m. The proposed shed is only 0.3m higher than this therefore it is not considered that this proposal will have a significantly greater visual impact.

The site is located within an LLPA: Ref LLPA 3: Whitespots, Lead Mines, Golden Glen and associated land. The Plan sets out those features or combination of features that contribute to the environmental quality, integrity or character of these areas. In relation to this particular designation I have reviewed those features which would be relevant to this site, noting that the LLPA designation covers nearly 300ha,

and further to application of Policy CON 2 within the ADAP which states that planning permission will not be granted to development proposals which would be liable to adversely affect the environmental quality, integrity or character of these areas, I am content given the structure will replace an existing shed/outbuilding and additional landscaping is proposed that the proposal will not have a major detrimental impact upon the visual amenity of the LLPA.

### **Residential Amenity**

The proposal is not considered to unduly affect the privacy or amenity of neighbouring residents. The closest dwelling at 251 Bangor Road will be approximately 55m from the stables. Given the stables will accommodate a workshop/tool store, the Council's Environmental Health Department (EHD) was consulted on the proposal and offered no objections in relation to noise issues. EHD did propose an informative stating that the applicant should be advised to ensure that all plant and equipment used in connection with the development is so situated, operated and maintained as to prevent the transmission of noise to nearby dwellings. I consider this should be secured by a planning condition rather than merely referred to in an informative, which has no legal standing and is unenforceable.

### **Road Safety and Access**

The application form indicates that there will be no additional traffic generated by the proposal and it will be for private use only. There is a gravel laneway leading from an agricultural gate adjacent 251 Bangor Road to the site. The development proposes to utilise this access coming off the Bangor Road, which is a protected route. DFI Roads was consulted on the proposal and stated the following:

*'No objections providing this application is non-commercial and there will be little or no intensification in use of the existing access. These comments are on the basis that this is an exception to the Protected Routes Policy.'*

Within PPS 3, Access, Movement and Parking, Policy AMP 3, examples are given to what can be considered exceptions to the Protected Routes Policy. Under (d) 'Other Categories of Development' it is stated that approval may be justified in particular cases for other development where access cannot reasonably be obtained from an adjacent minor road'. I am therefore of the professional planning judgement that the use of this access will not prejudice road safety or significantly inconvenience the flow of traffic.

DFI Roads had no objections providing the application is non-commercial. As stated previously, the main use of the building is for private stable use with a workshop/tool store which will be used by the applicant in connection with his carriage business. This is considered ancillary to the main use and is to support the applicant's business which is carried out off-site. The applicant has stated that there will be a maximum of 3 vehicles accessing the site on a daily basis. Development Control Advice Note 15 (DCAN 15) defines intensification of use as increasing the traffic flow using an access by more than 5%. Given the stables will not be open to members of the public, I do not consider there will be any intensification in use of the existing access. The

applicant has a right of way onto this laneway and currently uses it to access his fields upon which his horses graze.

### **Sewerage Disposal**

The application form states that a septic tank and soakaway system will be used and that the surrounding land is within the control of the applicant. I am satisfied that the sewerage system would be a sufficient distance from third party dwellings and will not result in adverse pollution.

NIEA: Water Management Unit was consulted on the proposal and provided the following advice:

- All hardstand areas where the storage and handling of animal waste, animal feed or compost occurs must be located and designed to prevent runoff having a negative impact on the water environment.
- Any dung heaps associated with this development should be sited at least 10m away from any watercourse or drains.
- In order to reduce unnecessary run-off of surface water and to minimise the volume of dirty water produced at the site, hosepipes should not be left running to prevent dirty water from being generated by onsite activities.

It is considered that these requirements can be met by imposition of appropriate conditions.

### **Contaminated Land**

It was identified at an early stage of this application that former activities within the surrounding area may have caused the land to be affected by contamination. A Preliminary Risk Assessment (PRA) was provided by Pentland MacDonald Ltd in support of this application which identified no unacceptable risk to environmental receptors.

NIEA: Regulation Unit was consulted and asked to provide comments on the PRA, considering the potential for contamination to be present at the site that could impact on environmentally sensitive receptors including groundwater and surface water. It has no objection subject to imposition of conditions.

The Council's Environmental Health Department (EHD) was also consulted and stated that the PRA determined that no potential contamination sources were identified at the site itself; however, there are several potentially contaminating previous land uses in the vicinity. EHD highlighted that the contamination associated with the historical landfill located to the southwest may pose a risk to the site; therefore, it was deemed appropriate that gas protection measures should be incorporated into the proposed building and as such EHD recommended conditions relating to such measures.

## Designated Sites and Natural Heritage

Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify any potential adverse impacts on designated sites. No such scenario was identified. The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has therefore been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

In terms of protected and priority species, Part 2 of the Checklist was referred to and did not identify a scenario where survey information may reasonably be required.

## Planning Agreement

The execution of a section 76 agreement to limit the use of the development proposal to domestic only was the most appropriate and robust mechanism to impose the required restrictions on the development in order to prevent the planning harm should the proposal be utilised for any commercial use identified by the Council during its consideration and that identified by its consultees. The proposed agreement will seek to ensure that the proposed shed is for private use only and will not have any commercial use associated with it.

## 5. Representations

A total of 11 objections were received for this application from six separate addresses. Further to the proposal being amended to one building rather than three separate buildings, one further objection was submitted from an existing objector.

Those material planning matters raised in submitted representations are summarised below:

- **Principle of Development:** Several objectors stated that the existing shed/outbuilding on site does not have any planning permission and as such the application cannot be considered a replacement building. I have addressed this above under the section 'Principle of Development'. Given the existing outbuilding is immune from enforcement action, the proposed shed can be considered a replacement. In addition, a number of the objectors questioned the business use aspect of the business. As referred to previously, the applicant will use part of the stables for commercial work connected to his business, with the actual business use being carried out off-site. There is no existing business use on site and the fields are currently used for grazing horses.
- **Septic Tank:** One of the neighbours stated that the applicant does not have a septic tank on the site. The p1 form indicates that a septic tank will be used to deal with sewerage disposal. Control of septic tanks is a matter for NIEA:WMU and would require consent accordingly. NIEA:WMU was consulted and offered no objections.

- **Access:** Several objectors stated that the proposal will result in intensification of the existing access onto a protected route. I have addressed these matters in detail under section 'Road Safety and Access' above.
- **New farmyard not in compliance with Policy CTY12:** Policy CTY 12 relates to Agriculture and Forestry Development and states permission will be granted for development on an active and established agricultural holding where certain criteria are met. This application is not for a new farmyard nor for development on agricultural holding, rather it is being assessed for a replacement building in relation to an equine business.
- **Prominence in the skyline:** One of the objectors stated that the shed will appear prominent. I have addressed these matters under section 'Principle of Development' above.
- **Land Ownership:** One of the objectors claims the 'existing right of way' access laneway is not in control of the applicant. Consequently, I contacted the applicant and asked for confirmation that Certificate C was filled in correctly. The agent confirmed the details within the P1 form were correct, which included ownership as detailed/signed as part of Certificate C with notice also served on other owners (of the access/laneway) on 03/10/15. The Council cannot become embroiled in landownership disputes as this is not a planning matter, rather a civil matter; however, the Council queried the veracity of the certificate due to the objector's concerns. If the objector does legally own the land, then he can prohibit the developer from gaining access over his land.
- **P1 form:** A number of the objectors highlighted that the existing use as described on the application form was misleading as it suggests there is an existing business use (horse breeding/carriage promotions). There is an existing dilapidated shed on the site, along with a number of scrap vehicles and an old trailer on the site. As stated previously, these are immune from enforcement action or do not constitute development. Objectors furthermore stated that whilst there are horses on the site, it is unclear whether the applicant is currently carrying out any business use. I have assessed the proposed use under 'principle of development' and have not stated there is a current business being operated on site but rather that there is an existing shed on site.

## 6. Recommendation

**Grant Planning Permission**

## 7. Conditions

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

Reason: To comply with the requirements of Section 61 of the Planning Act (Northern Ireland) 2011.

2. The stable building hereby approved shall be constructed in accordance with the materials and finishes in accordance with Drawing 05A, date stamped 24 January 2022.

Reason: To ensure the materials used are appropriate in the interest of maintaining the character of the surrounding countryside.

3. Prior to the commencement of any development, the existing structures shaded in green on Drawing No. 01, date stamped 27 October 2015, shall be demolished with all rubble and foundations removed.

Reason: In the interests of visual amenity and to prevent an accumulation of buildings on site.

4. All landscaping works shall be carried out in accordance with the approved details as shown on Drawing No.02a bearing the date stamp 24 January 2022. All new planting shall be permanently retained, as indicated on the same stamped drawing and shall be completed during the first available planting season after the erection of the building hereby approved.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

5. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

6. If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at:

<https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.

In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use.



7. Prior to the use of the proposed development, the applicant shall provide to the Council, for approval, a Verification Report. This report must demonstrate that the remediation measures outlined in the report entitled Preliminary Contamination risk assessment, 251a Bangor Road, Newtownards, Pentland Macdonald Ltd Report No. PM14- 1028 dated April 2014 have been implemented.

The Verification Report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use. It must demonstrate that the identified potential pollutant linkages are effectively broken. The Verification Report shall be in accordance with current best practice and guidance as outlined by the Environment Agency. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance referenced above.

The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

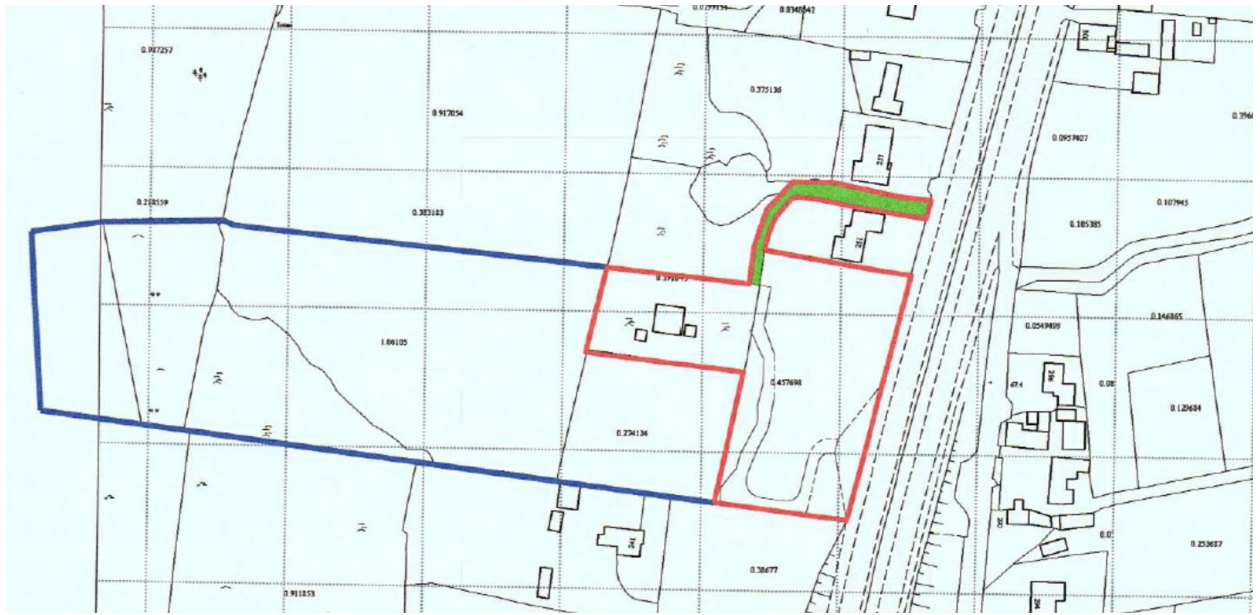
8. Gas protection measures shall be installed, prior to the commencement of the use hereby approved and shall be retained in perpetuity, to meet the requirements of C665 Characteristic Situation 2, namely as a minimum:
- Concrete floor slabs
  - A proprietary gas and vapour resistance membrane
  - A passively ventilated under floor void

Reason: Protection of environmental receptors to ensure the site is suitable for use.

### **Informative**

This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees, where relevant, on the Portal.

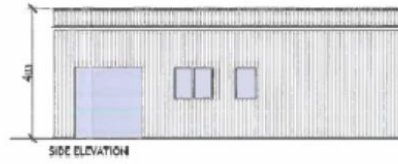
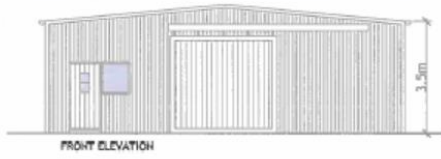
### Site location plan



### Site Block Plan

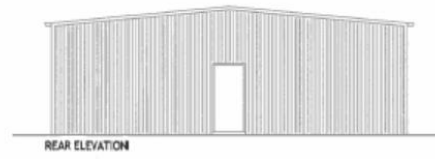
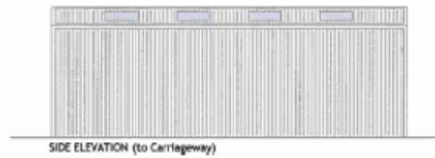


### Proposed Plans



RECEIVED  
 ARDS and North Down Borough Council  
 24 JAN 2022  
 File No. 2015/0677

Drawing Number... OS A  
 ARDS and North Down Borough Council



**FINISHES**

- Lightweight steel framed building with corrugated cladding to walls and roof - colour Green.
- Clear translucent roof panels for natural light.
- Galv. ms gutters and downpipes.
- Timber sliding main central door to front elevation.
- uPVC windows and pedestrian doors.

### Site Photos



Existing dilapidated shed on site along with scrap metal



Existing horse trailer and lorries



Public views of site along Bangor Road





Existing gravel laneway leading up to the site



## Item 4.1c

### Addendum to COR LA06/2015/0677/F

Following the publication of the case officer report in relation to the application referenced above, one further objection has been received from Jim Shannon MP on behalf of a constituent. This has taken the total number of objections up to 12 from 7 different addresses.

The following issues were highlighted:

- **Sight Lines:** A comment was made stating that the plans detail no allowance for sight lines. The development proposes to utilise an existing access coming off the Bangor Road, which is a protected route. DFI Roads was consulted on the proposal and offered no objections provided the use is not commercial in nature. DFI Roads did not ask for any amended plans in relation to the existing access and visibility splays.
- **Contamination:** The objector stated that contamination of the surrounding grounds has already occurred, and the concerned parties believe this will continue to have negative impacts and potentially become worse. Please see the main report for details regarding contamination. The application has been recommended for approval subject to a number of conditions in relation to contamination risks, submission of a Verification Report and Gas protection measures to be installed.
- **Dwelling:** There was reference to an existing dwelling being an eye-sore for which approval should not have been allowed as it does not meet criteria and the belief is that this application will develop this dwelling further. This is not relevant to this application for a stable building. There is no existing dwelling on site.

The issues raised within the objection have been considered and the recommendation to approve the proposal remains.

Nicole Keizer 28/03/23

## Item 4.1d

**Further Addendum to COR LA06/2015/0677/F**

Following the publication of the case officer report in relation to the application referenced above, additional objection letters have been received. This has taken the total number of objections up to 15 from 7 different addresses.

The majority of issues raised have been addressed in the case officer report. The following issues were highlighted:

**Address:** The objector has stated that No. 251a does not exist and this does not refer to the applicant's residential address. The address is listed and shown on the Council's GIS and google maps. The applicant would have had to apply to Building Control to register this address on the site therefore this is not a planning matter. It is the responsibility of the agent and/or applicant to submit the correct details on the P1 form.

**Preliminary Contamination Risk Assessment (PRA):** The objector has stated that this assessment does not reflect the planning proposal as the report describes the proposal as a 'Farm Dwelling and detached garage', therefore the conclusions contained therein cannot possibly have any credibility or relevance to this agricultural / commercial proposal. The report states that historical landfill may have resulted in the land to be affected by contamination and the report identifies that there will be no unacceptable risk to environmental receptors. NIEA: Regulation Unit was consulted and offered no objections subject to imposition of conditions. The Council's Environmental Health Department (EHD) was also consulted and stated that the PRA determined that no potential contamination sources were identified at the site itself; however, there are several potentially contaminating previous land uses in the vicinity. EHD offered no objections subject to conditions. Both consultees were re-consulted on amended proposals and did not make any further comments. The findings in the report are relevant to the contamination of the site regardless of a proposed residential or commercial use.

**Existing Commercial Business(s) operating from the site:** Neighbours stated that there is no commercial business operating on the site. A number of the objectors highlighted that the existing use as described on the application form was misleading as it suggests there is an existing business use (horse breeding/carriage promotions). I have assessed the proposed use under 'principle of development' and have not stated there is a current business being operated on site but rather that there is an existing shed on site. One objector stated that the applicant had recently given evidence as part of a separate planning appeal regarding the commercial use of the site. This will not be considered as it does not form part of this application.

In addition, an objector has highlighted that the proposed block plan shows reference to an 'existing right of way business access'. This has now been removed from the plans therefore will not be 'stamped' upon approval/refusal of this application. Please see the amended block plan below:





**Use not compatible with horses being kept on site:** The objector stated that workshop activities such as carriage repairs and promotions are not typical equestrian activities, and the noise created by the repair work is likely to startle any animals nearby. Environmental Health was consulted and offered no objections to the proposed use or any issues with noise as a result. The agent has clarified that the workshop is for the applicant's personal use only.

**Site was put up for sale:** An objector stated that the site was put up for sale stating it had 'commercial' planning approval for stables. This was raised with the agent and applicant and the For Sale sign has since been removed given there was no planning permission on site (live application). If the application were to be approved, it will be subject to a planning agreement. The proposed legal agreement will ensure that the proposed shed is for private use only and will not have any commercial use associated with it. The agreement will be registered on the Statutory Charges register.

**Increase in traffic movements:** One objector stated that the applicant mentioned in the supporting statement that the proposal was required due to continuing growth of the businesses. The objector further elaborated that, by definition any growing businesses, this will surely have an increase in traffic therefore they have questioned the accuracy of the information provided in the P1 form which states there will be no increase in traffic movements. In addition, another objector stated that any change of use or development of the existing grazing ground would cause intensification of use & or increased vehicular movement and therefore under AMP3 of PPS3 - Protected Route Policy any form of development / business should be automatically refused. This has been covered in detail in section 'Road Safety and Access' in the COR. The agent has stated that the stables building is for the applicant's horses and for a workshop for repairs of carriages. The business use is carried out off-site hence the only traffic movements would include the applicant attending the site along with

occasional animal feed deliveries/vet check-ups. The use of the site will be subject to a planning agreement as referred to above.

A comment was also received which stated that any car park or lane through the front field would also constitute development and again should be refused (or appropriate Planning Enforcement Notices served). There is an existing access in place with no new proposed access or parking shown on the plans therefore this does not need to be considered.

**Reference to CTY10:** One objector stated that the application fails to meet any criteria of CTY10. CTY10 relates to proposals for a dwelling on a farm therefore is not relevant to this application.

**Replacement shed:** It was stated by objectors that the applicant is trying to gain planning permission through the retrospective shed on site. This shed is immune from enforcement action and therefore it was considered that the replacement of this shed with a new building would be acceptable. This has been considered in detail under 'Principle of Development' in the COR.

**Environmental issues:** Objectors have stated that the applicant has previously disregarded rules and planning regulations on numerous occasions and has had NIEA enforcement out on the site. The contamination issues have been considered within the report with NIEA consulted on the proposal. Please note that if approved, the development is subject to a number of conditions. If any condition is not complied with, an enforcement case can be opened to investigate any unlawful activity/non-compliance with conditions.

**Fencing around Site:** Two of the objectors stated that there have been issues with the fencing around the site to keep the horses secure. This is not a planning matter or material to this consideration. The upkeep of the existing paddock is the responsibility of the applicant.

**FOI:** The objectors have stated that they would also like to apply for a Freedom of Information to disclose how much this particular application has cost the council. This is not material to this planning application and can be done outside of the planning application process. Additionally, the only detail that the Planning Service can record in relation to this case is in respect of the planning fee paid, as the Council does not record hours against application processing.

**Planning agreement:** One objector asked if the applicant rents the land how will the proposed plans be policed, as this would mean the land/shed will now be business related rather than personal use. The planning permission enures with the land therefore any legal agreement, enforcement action etc. is applicable to the land itself. The domestic use of the stables will be applicable to any land owner/user.

**Amended Plans:** One objector stated that planning policies should be reviewed and that given the amendments are vastly different from original plans the applicant should be forced to resubmit new plans. Current planning legislation (not policy) enables submission of amendments to a proposal, and the plans have been amended from 3 sheds to 1 shed for stables/workshop use. This was considered as

a more appropriate development and therefore the Council was able to process this application under this one application and the principle of consideration of the policy did not change.

## Item 4.1e

### 3<sup>rd</sup> Addendum to LA06/2015/0677/F

The above planning application was originally presented at Planning committee meeting on 04 April 2023.

A proposal was put forward by Alderman McIlveen to defer the application until a further Planning Committee meeting in order for further clarification with regard to the following matters:

#### 1. How long has the existing shed been in place?



Fig 1: Boundary of application site



Fig 2: OSNI Orthophotography flown 31/05/2009 (shed shown within red circle)

It is evident from orthophotography that the shed has been in site from at least 31 May 2009 as shown in Figure 2 above.

#### 2. Can a shed built without planning permission be considered for replacement be considered in the absence of a CLEUD?

As stated in the Case Officer Report the shed under consideration for replacement does not have planning permission and a Certificate of Lawfulness of Existing Use or Development (CLEUD) was not submitted to regularise the development.

It should be noted that the submission of a CLEUD is voluntary and an applicant cannot be forced to submit such details for consideration. Certification is granted solely on the basis of proof having been provided that

a use/development has been ongoing/in place for five years back from the date of application and therefore immune from enforcement action.

While the submission of a CLEUD is considered to be preferable by the decision maker in the determination of a planning application, in this situation it is left to the decision maker to determine a proposal in the absence of same taking into account a number of material considerations.

This current application is different from other proposals, such as those for an 'infill' dwelling under Policy CTY 8 'Ribbon Development' or Policy CTY 2a 'New Dwellings in Existing Clusters' in PPS 21 – Sustainable Development in the Countryside. In those such cases, the Planning Appeals Commission has refused to take into consideration unauthorised buildings in the absence of a CLEUD to contribute to a substantial and continuously built-up frontage or a cluster.

Additionally, in planning caselaw (*Zurich Assurance v North Lincolnshire Council* [2012] EWHC 3708) the Courts rejected a proposition that a fall back position could not be a material consideration in the absence of a lawful development certificate. While this case does not involve a fall back, the principle is that the Council cannot ignore the fact that the building is immune from enforcement action, in respect of this proposal.

Regardless of the absence of a Certificate in this case, it is a material planning consideration that the shed is immune from enforcement action, as observed from the 2009 orthophotography.

### **3. How can the Committee be assured that a material change of use from domestic to commercial could be protected/enforced accordingly?**

As with any approval of planning permission conditions are included, which if an applicant is in breach of, enforcement can be taken if it is deemed expedient to do so.

The application is for the replacement of an existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet.

While the Council must take into account the application before it, in *Blum v Secretary of State for the Environment* [1987] J.P.L 278 it was held to be valid for a decision-maker to have regard to the possible environmental impact of the use of land. In that particular case, a livery stable began being used as a riding school and livery stable. The Court upheld an inspector's decision that a material change of use had occurred, noting that the inspector had been entitled to consider the additional staff required for a school as opposed to the livery, the additional facilities required, and that there would be more horse activity, more horse traffic, more rides out, more car traffic and more parking.

Statutory consultee DFI Roads has also stipulated that there should be no commercial operations from the site which would cause intensification of traffic onto a dual carriageway.

In order to provide an additional level of 'protection' to ensure that the any approval is restricted to domestic use only, it was considered that the execution of a section 76 planning agreement to limit the use of the development proposal is the most appropriate and robust mechanism to impose the required restrictions on the development to prevent the planning harm identified by the Council during its consideration and that identified by its consultees.

The proposed agreement will ensure that the proposed shed is for private use only and will not have any commercial use associated with it. If following approval there is evidence to suggest there is an intensification of the approved use, as with any other development, enforcement action can be taken given this would be considered a material change of use of the land beyond that for which permission has been granted, taking account of the circumstances at the site.

#### **4. Details of the business verified and how we can ensure that no such use is carried out onsite?**

Whilst there were references to a business use on site by the applicant in several statements during the course of processing of this application since 2015, there has never been any evidence to suggest this is currently the case.

The agent has also confirmed that there is currently no business use on the application site and the existing shed is used solely for equestrian and equine purposes associated with the breeding of horses as this is an interest of the applicant.

It should be noted that an enforcement case was opened under 'LA06/2015/0075/CA: *Alleged unauthorised change of use of land to manufacture of equestrian/equine equipment*' however, this case was closed as no breach was identified.

While the storage and repair of carriages has been proposed onsite within the proposed building, this is deemed acceptable given the small- scale operation more for a hobby use for the storage and repair of carriages when required. Given a planning agreement will be used to restrict the use of the stables onsite, this is considered appropriate to ensure no intensification of use occurs on the site.

#### **5. Clarification on how condition versus s76 agreement appropriate**

Conditions attached to any approval can be appealed to the Planning Appeals Commission, or alternatively applications to vary such conditions can be

submitted under Section 54 of the Planning Act (NI) 2011. In theory, once a decision notice issues, a Section 54 application could be submitted immediately for consideration.

Section 76 of the Planning Act (NI) 2011 allows the Council to enter into a legally binding agreement with a landowner as part of the grant of planning permission for a development.

A Section 76 legal agreement is considered to provide a higher level of protection as any attempt to amend restrictions set out in the legal agreement cannot be applied for within 5 years.

In addition, a Section 76 forms a statutory charge on the land should any site go on the market for sale with any potential purchaser being aware of restrictions associated with the land.

Paragraph 5.56 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) advises that a planning agreement should only be used when the imposition of a condition does not overcome the particular obstacles to the grant of a planning permission. Policy and guidance advocates a 'condition first' approach but that Local Council should consider each application on 'case by case' basis.

Following consideration of the additional matters of clarification the recommendation remains for approval of the proposal.

## ITEM 4.2

### Ards and North Down Borough Council

Application Ref	LA06/2022/0873/F
Proposal	Relocation and redevelopment of Bangor Central Integrated Primary School on vacant site North of Balloo Road to provide a new 22 class primary school building and recreational areas. New vehicular access with right turn lane off Balloo Road, internal vehicular configuration and site layout to include car parking, car and bus pick up/drop off areas and pedestrian crossing points. Other work to include school meal service area, bin storage areas, boundary fencing, entrance walls and gates, underground drainage, landscaping and associated site works.
Location	Vacant site north of Balloo Road West of Bangor Grammar sports pitches and to the rear of no's 1-13 Rowan Glen, Balloo Road, Bangor
Committee Interest	Major Planning Application
Validated	31 <sup>st</sup> August 2022
Summary	<ul style="list-style-type: none"> <li>• Site lies within the settlement limit.</li> <li>• There were 10 letters of objection.</li> <li>• Local concern about the impact on road and pedestrian safety and congestion</li> <li>• DFI Roads are content with the proposal.</li> <li>• Loss of land zoned for housing has been weighed up against EA intentions and community benefit.</li> <li>• No significant visual impact as design is appropriate in the context of the area and adjacent land uses.</li> <li>• No impact on residential amenity due to low ridge height and separation distances.</li> <li>• Complies with relevant Planning Policy SPPS, PPS2, PPS3, PPS15.</li> <li>• PACC report submitted with application.</li> <li>• NIW negative condition added regarding capacity.</li> </ul>
Recommendation	<b>Grant Planning Permission</b>
Attachment	Item 4.2a – Case Officer Report



### Development Management Case Officer Report

<b>Application Ref:</b> LA06/2022/0873/F		<b>DEA:</b> Bangor Central	
<b>Proposal:</b> Relocation and redevelopment of Bangor Central Integrated Primary School on vacant site North of Balloo Road to provide a new 22 class primary school building and recreational areas. New vehicular access with right turn lane off Balloo Road, internal vehicular configuration and site layout to include car parking, car and bus pick up/drop off areas and pedestrian crossing points. Other work to include school meal service area, bin storage areas, boundary fencing, entrance walls and gates, underground drainage, landscaping and associated site works.			
<b>Location:</b> Vacant site north of Balloo Road West of Bangor Grammar sports pitches and to the rear of no's 1-13 Rowan Glen, Balloo Road, Bangor			
<b>Applicant:</b> Education Authority NI		<b>Agent:</b> Resolve Planning and Development	
<b>Date Valid:</b> 31/08/2022		<b>Env Statement Requested:</b> No (EIA determination was carried out)	
<b>Date last Advertised:</b> 25/01/2024			
<b>Date last Neighbour Notified:</b> 10/01/2024			
<b>Consultations:</b> Yes			
<b>Representations:</b> Yes			
<b>Letters of Support</b>	3	<b>Letters of Objection</b>	10
		<b>Petitions</b>	0
<b>Summary of Main Issues:</b>			
<ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Visual and residential amenity impacts</li> <li>• Access and road safety</li> <li>• Loss of land zoned for housing in draft Plan</li> <li>• Environmental Health Issues</li> <li>• Impact on Natural Heritage</li> <li>• Flooding</li> <li>• Water connection issues</li> </ul>			
<b>Recommendation:</b> Grant Planning Permission			
<b>Agreed by Authorised Officer</b>			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal <a href="https://planningregister.planningssystemni.gov.uk/simple-search">https://planningregister.planningssystemni.gov.uk/simple-search</a>			

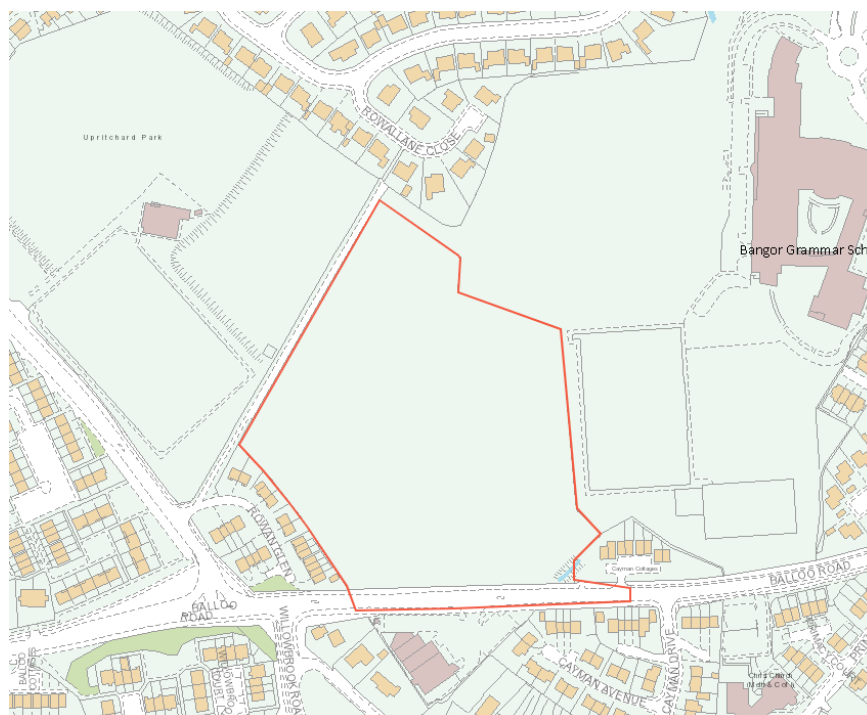
## 1. Description of Site and Surrounding Area

The site is vacant land north of Balloo Road, west of Bangor Grammar School's sports pitches and to the rear of nos. 1-13 Rowan Glen, Balloo Road, and immediately south of Upritchard Park cricket/rugby ground, Bangor.

Historically the site was playing fields associated with the Clanmorris Campus.

The site is comprised of unused grassland interspersed with a number of low quality small trees and scrub. There is housing along the western boundary to the south (Rowan Glen) and along a small portion of the eastern boundary also to the south (Cayman Cottages). To the north and east of the site is Bangor Grammar School and associated grounds. There is a public right of way located along the northwestern boundary outside the red line of the application. The site is irregular in shape and is relatively flat in terms of topography.

## 2. Site Location Plan





Extract from dBMAP showing site zoned for Housing (ref BR 05/10)

### 3. Relevant Planning History

**LA06/2020/1241/PAD** – pre-application advice was provided for the current application

**LA06/2022/0180/PAN** is the associated Proposal of Application Notice (PAN)

Section 27 of the Planning Act (NI) 2011 places a statutory duty on developers to carry out a Pre-application Community Consultation on major development proposals. The threshold for this proposal which falls under Retailing, Community, Recreation and Culture was that the area of the site exceeded 1ha. The PAN was submitted to the Council 12 weeks in advance of the submission of this application.

The PAN as submitted complied with the legislation and a community consultation event in respect of the proposal was held within the local area. A Pre-Application Community Consultation Report was submitted alongside this application which raised community concerns, and demonstrated, where possible, how these would be addressed in the current proposal.

There is history pertaining to the site to demonstrate historical educational land use on this site. This includes:

W/1997/0662 for fencing at Gransha High (red line included the proposed site)

W/1973/0151 for a care taker's residence (red line included the proposed site)

W/2005/0573/F for a fence at Bangor Academy (red line included the proposed site)

#### 4. Planning Policy Framework

The relevant planning policy framework for this application is as follows:

- North Down and Ards Area Plan 1984-1995
- Draft BMAP 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 15: Planning and Flood Risk

#### 5. Supplementary Planning Guidance

Relevant supplementary planning guidance for this application is as follows:

N/A

#### 6. Consultations

Consultation was carried out with the following statutory and non-statutory consultees and a synopsis of responses is listed

Consultee	Response
Historic Environment Division	Content subject to conditions
DFI Roads	Content subject to conditions
DAERA Water Management Unit	No objection subject to condition
ANDBC Environmental Health	Content subject to conditions
NIEA Natural Heritage	No objection subject to conditions
NI Water	Wastewater Impact Assessment required - negative condition required to cover
Shared Environmental Service	No adverse effect - conditions to be attached
DAERA Regulation Unit	No comments to make
DFI Rivers	No objection subject to condition
NIE	No objection

#### 7. Consideration and Assessment

Upon the transfer of the majority of planning powers to the local councils in April 2015, the majority of the Planning Act (Northern Ireland) 2011 ("the Act"), the primary legislation governing planning in Northern Ireland, came into effect. This Act represents a difference to the previous Planning Order (Northern Ireland) 1991 which set out that the local development plan was merely a material consideration in the

determination of any planning applications, having the same weight as any other material planning consideration.

The Act introduces the 'plan-led system' in Northern Ireland and section 6(4) sets out that "Where, in making any determination under this Act, 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."

Additionally Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations.

The process of 'weighing up' the relevant factors, is often described as the 'planning balance'. The planning authority must exercise its judgement and consider many (sometimes) conflicting issues to decide whether planning permission should be granted. This balance is carried out pursuant to Section 6(4) of the 2011 Act which is detailed above, requiring that a decision under the Act must be made in accordance with the development plan unless material considerations indicate otherwise. This will mean examining the development plan and taking material considerations which apply to the proposal into account. These matters must be properly considered otherwise the decision of whether or not to grant permission will have excluded a consideration.

It should be noted that all applications in the major category of development are mandatorily referred for determination by the Council's Planning Committee, and not delegated to officers.

Additionally, it should be noted that under The Planning (Notification of Applications) Direction 2017, where a Council proposes to grant planning permission for development falling within any of the descriptions of development listed within the Schedule to that Direction, the Council must notify the Department for Infrastructure and is prohibited from granting planning permission until such time as the Department has notified the Council that it does not intend to issue a direction 'calling-in' the application for determination by the Department. One of the categories referred to in the Schedule is as follows:

- A major development application which would significantly prejudice the implementation of the local development plan's objectives and policies.

It is crucial therefore to consider this application against the objectives and policies within the extant NDAAP and draft BMAP, despite its draft status, as a material consideration.

### **Development Plan**

The relevant development plan for this proposal is the extant North Down and Ards Area Plan 1984-1995 (NDAAP), with dBMAP remaining a material consideration.

Within NDAAP the site is within the settlement limit of Bangor and identified as whiteland.

Within dBMAP 2015 the site is within the settlement limit of Bangor and within an area zoned for housing (BR 05/10 – Playing Fields at Clanmorris Campus, Balloo Road) with a series of key site requirements, including a density requirement of 25-35 dwellings per hectare. Within dBMAP it is adjacent to land zoned for education (ref BR 35 – now redeveloped as Bangor Grammar School) and an area of existing open space (Upritchard Park).

Whilst the proposal is in conformity with the extant NDAAP, it is contrary to the Draft BMAP and this will be discussed below.

### **Basis of Site Selection**

The Education Authority (EA) submitted a confidential report at PAD stage assessing alternative sites. When doing this the EA used a court ruled model whereby the site must be suitable to fit the proposal and requirements of the project and not by picking a site that the proposal would then need to be made to fit.

The current primary school site is located at 6 Castle Park Road, Bangor, which opened in 1958. The site is part of a larger Campus which includes Bangor Academy and Bangor Central Nursery School. Throughout the years there have been numerous additions including mobile classrooms and a modular school meals block. This existing accommodation falls significantly short of EA minimum design standards in respect of both accommodation and play areas.

This proposed 22-class based primary school with an enrolment number of between 631-660 has been agreed in principle with the Department of Education, taking into account school admissions, enrolments and projected pre-school birth rates. The school has therefore been specifically designed and planning permission is sought on this basis.

The Department of Education's 'Primary School Building Handbook – Edition 3 (September 2020)' (Appendix 2) sets out minimum design standards and sizes for new primary schools in Northern Ireland. Appendix 2 of that document sets out the minimum site size requirement for a 22-class base school, taking into account classroom sizes and minimum areas for both hard and soft play areas. It sets a minimum site size for such schools as being 2.12 hectares, 3,350 sqm of hard play area and 10,000 sqm of informal grass play area. The required accommodation area for a school of this size is

3,355m<sup>2</sup>. In assessing the availability of any alternative sites therefore, the applicant has considered only those with a minimum developable area of 2.12 hectares or above.

Within the settlement limit of Bangor there were 40 sites that met the minimum size required and all of these were assessed for viability. As well as none of the sites being available for sale, the majority of the sites had open space or employment and industry zonings and therefore would result in a loss of other types of zoned land. There were also sites with physical constraints like topography and shape.

At the end of the process it was concluded that the proposed site was the most viable option and is currently in EA ownership.

### **Draft Belfast Metropolitan Area Plan 2015**

The Department for Environment (DOE) published the BMAP 2015 in September 2014. This is a joint plan covering the original city council areas of Belfast and Lisburn and the borough council areas of Carrickfergus, Castlereagh, Newtownabbey and North Down.

Although it was formally adopted in 2014, that adoption was found to have been unlawful, and as such the adopted BMAP was quashed in May 2017.

Although this means the North Down and Ards Area Plan 1984-1995 remains the statutory development plan for the area, the draft BMAP remains material to all future planning decisions. This means that any zonings, including housing zonings, are draft only. Unless an Executive takes further steps to adopt it, the draft remains the most advanced and up-to-date collection of development management policies for Bangor, despite related policies not carrying statutory force.

As there were no objections to the zoning from review of the PAC Report into objections to draft BMAP – if BMAP were to be lawfully adopted, the zoning would likely be included.

The Southeastern Education and Library Board (SEELB) was in control of the site at the time of the publication of draft BMAP in 2004. The then planning authority had consulted with relevant bodies with statutory responsibility for service provision, such as education, during preparation of the draft Plan, and where the Department had been advised of a specific proposal for provision of facilities such as a school site over the course of the Plan period (to 2015), land was identified within the relevant District Proposals section of the draft Plan.

The Education Authority (EANI) was established and became operational in 2015 and obtained ownership of the site, and as such the EANI would have been unaware of the proposed zoning for residential. The Education Authority has confirmed that it has no

intentions of developing the site for housing or placing it on the market to facilitate its development for residential, in association with the draft plan zoning.

Policy HOU 1 of dBMAP allocates land for housing purposes and recognises that “*the zoning of land provides a basis for rational and consistent decisions on planning applications and provides a measure of certainty concerning the types of development that will and will not be permitted*”.

As the proposal is for an educational use, draft policy CF 2 ‘Education, Health, Community and Cultural Facilities’ would apply which states that planning permission would be granted for such facilities, subject to a range of criteria. However, the PAC report on the Public Inquiry into objections to dBMAP states that the Department requested that the PAC consider that this policy be deleted from any adopted plan as it considered that prevailing regional planning policy along with general planning considerations together provide an appropriate policy context for the determination of any proposals for education, health, community and cultural facilities. The PAC concurred with this view stating, “*We see no need for the Plan to contain a ‘positive’ policy in respect of educational, health, community or cultural facilities if there is no general presumption against their approval*”. The PAC recommended that Policy CF 2 be deleted from the Plan.

Within the wider context of spatial planning LDPs allocate appropriate land for differing types of land use and set out the main planning requirements to be met in respect of particular zoned sites.

In this case the application site falls on land which was zoned within the draft Belfast Metropolitan Plan 2015 (dBMAP) for housing.

Within the extant NDAAP the site is ‘whiteland’. Whiteland is defined as land which is within the settlement limits which is neither built up nor zoned for a particular use. Here development will be permitted where any physical or environmental constraints to development can be overcome, and it is demonstrated that such development is acceptable in planning terms.

In the context of the extant LDP, the proposal is in accordance with the Plan; however, the draft BMAP remains a material consideration which also be taken account of, despite not being adopted.

With draft BMAP the site is zoned for housing under Proposal BR 05/10 – a site consisting of 4.14ha for which the Plan includes a key design requirement relating to density of 25-35 dwellings per hectare.

Within draft BMAP, a total of 186ha of land is zoned/designated within the legacy North Down borough area for housing (zoned in Bangor and Holywood, designated in Groomspoint, Helen’s Bay, and Seahill), of which approximately 165ha is within Bangor, for the Plan period to 2015.



The application site represents 2.5% of the overall land zoned for housing in Bangor, and 2.2% of the overall land zoned for housing in the urban area of the legacy North Down borough area.

As set out above, the 2011 Act requires the planning determination to be made in accordance with the development plan, which in this case is the extant plan which sets out that the site is 'whiteland'.

I have taken account of the fact that the site is zoned within the draft BMAP, but consider that, even if the Plan were to be lawfully adopted, and the zoning remain given there were no objections to its zoning, its loss to education use would not significantly prejudice the implementation of the plan's objectives and policies. This conclusion is reached taking account of its size against the wider housing allocation to the legacy North Down area (2.2%) and the fact that there is unlikely to be any adverse precedent set whereby other sites owned by the Department of Education have been zoned for housing in the draft Plan.

Additionally, the land is in full ownership of the Education Authority and immediately adjacent to an existing school site. It has made it clear that it requires the site for educational use, therefore I can only conclude that the possibility of achieving housing on the site is so remote as to be beyond any reasonable prospect of occurring, even if the site were confirmed in any lawfully adopted Plan.

The Strategic Planning Policy Statement (SPPS) sets out that where a new LDP is under preparation or review it may be justifiable, in some circumstances, to refuse planning permission on the grounds of prematurity. This may be appropriate in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant planning permission would prejudice the outcome of the plan process by predetermining decisions about the scale, location or phasing of new development which ought to be taken in the LDP context. A proposal for development that has an impact on only a small area would rarely come into this category, but refusal might be justifiable where a proposal would have a significant impact on an important settlement, or a substantial area, with an identifiable character. Given that the Council has yet to publish its draft Plan Strategy, the size of the site and its loss in the context of the overall housing allocation to North Down, and specifically Bangor, within the draft BMAP, I do not consider that any issue of prematurity arises.

### **Strategic Planning Policy Statement (SPPS)**

Under the SPPS (which came into effect in September 2015), the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material

considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

There is a presumption in favour of development as the site is within the settlement limit of Bangor, subject to the proposal complying with prevailing planning policy.

The SPPS states that during the transitional period existing Policy within the Planning Policy Statements that have not been cancelled will apply. Within this context PPS3, PPS2, and PPS15 continue to apply.

As this proposal does not fall neatly into the applicable subject Planning Policy Statements, the impact on visual amenity and neighbouring amenity will be assessed under the SPPS with regard to impact on interests of acknowledged importance.

As this proposal is for an integrated primary school it is considered that the proposal complies with the Regional Development Strategy and SPPS with regard to achieving balanced communities. Achieving balanced communities and strengthening community cohesion is one of the major themes underpinning the Regional Development Strategy. With emphasis on development that provides opportunities for the community to share in local employment, shopping, leisure and social facilities, as this is fundamental to the building of more balanced communities.

### **Principle of development**

The proposal will provide a 22 classroom irregular shaped building set within the middle of the site. The proposed building is single storey and has a flat roof with a layout and design that includes three projections. The design is typical of a modern school building. The proposed layout will consist of this main school building along with grass play areas, formal hard play areas, storytelling area, car parking, cycle parking, and bin stores. The site is accessible by cars and has an arrangement to accommodate drop off within the site as well as accessibility for the pedestrian and cyclists. The proposal site sits alongside Bangor Rugby Club and Bangor Grammar School as well as some housing and is deemed to be a compatible use within the surrounding context as there is already educational use in close proximity. The principle of a school on this site is acceptable.

See proposed layout overleaf:



Both formal and informal amenity space is included in the proposal.

There is a refuse storage area and a recycling depot included in the plans.

Site levels will not differ significantly from existing.

### Visual Amenity

The existing site consists of unused scrub and grassland and is largely screened from public view by housing and vegetation.

With regard to the proposed development and visual impact, the building is to be flat roof construction with a low overall ridge height of 6.5m at highest point and 4.3m at lowest point. There will be views from the Balloo Road; however, as the site is to be well landscaped and lies within an urban area with mixed character and adjacent to other educational uses, it is not considered that there will be an adverse visual impact or impact on the character of the area.

The design of the school is of an appropriate scale and massing and differentiation in ridge height ensures the building is not overly dominant in the streetscape.

The finishes to the buildings are to be a mix of Portland render and coloured render, as well as brick with powder coated aluminium fenestration. The roof is to be PPC metal coping. There is to be a dual pitch roof light. The design is acceptable and is of a high quality and is of a standard and character expected for a school building within the urban area (see images at end of this report).

As yet there is no lighting plan submitted and this shall be negatively conditioned in order to be appropriately considered prior to development commencing in respect of both light pollution and impact on wildlife.

The boundary fencing will consist of 2.4m metal railings and entrance gates at the access, 2.4 m high mesh panel fencing to Balloo Road, Cayman Cottages and Rowan Glen boundaries. This fencing will be lined with trees (some existing trees to be retained where possible), hedging and planting as shown in the landscaping plan. The remaining boundaries to Bangor Grammar School and the rugby/cricket club will retain the existing 3m high mesh panel fencing (as seen below). The landscaping as proposed is appropriate to mitigate against any loss of residential amenity for adjacent properties.



### **Neighbouring Amenity**

With regard to neighbouring amenity the proposal has a ridge height of approx. 4.3m at lowest point and 6.5m approx. at highest point.

The housing at Rowan Glen and Cayman Cottages is the mostly likely to be impacted upon by loss of existing open aspect, however due to significant separation distances from the dwellings to the school building considered with the low ridge height of the proposed school, the surrounding residents will not suffer any loss of light, overlooking or dominance. There is a separation distance from the proposed school building to the residential boundary in excess of 75metres at the closest point from both the dwellings at Rowan Glen and Cayman Cottages. The neighbouring rugby/cricket club and school will not suffer loss of amenity due to nature of the proposal. See proposed layout in relation to existing dwellings on page 11 above.

## **Planning Policy Statement (PPS) 2: Natural Heritage**

This document sets out planning policies for the conservation, protection and enhancement of our natural heritage.

### **Policy NH 1 - European and Ramsar Sites, International**

*Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on –*

- *a European Site (Special Protection Area, proposed Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance);*
- *a listed or proposed Ramsar Site*

The site is hydrologically connected to Ballyholme Bay at the Outer Ards Special Protection Area (SPA) and Area of Special Scientific Interest (ASSI) via an existing watercourse. Provided the pollution prevention measures within the Outline Construction Environmental Management Plan are implemented, NED (Natural Environment Division) is content that the proposal is unlikely to have significant effects on any designated sites due to distance from the sites and the scale and nature of the development proposed.

The Shared Environmental Service was consulted and responded advising that the project would not have an adverse effect on the integrity of any European site, either alone or in combination with other plans or projects and provided conditions to be included in any approval.

### **Policy NH 2 - Species Protected by Law**

A Preliminary Ecological Appraisal stated that trees planned for removal have low or negligible bat roost potential. NED has requested wildlife-friendly lighting is to be used however no lighting plan has been submitted but will be conditioned appropriately.

NIEA is content with the proposal subject to conditions, and content with pollution prevention guidance as detailed in the outline Construction Environmental Management Plan (CEMP) and will require all of these measures to be followed during construction.

### **Policy NH5- Habitats, Species or Features of Natural Heritage Importance**

NED notes the planting plan is to be read in conjunction with the previous landscape specifications, however in order to ensure compensatory habitat is implemented as agreed, NED has recommended conditioning of submission of a final Landscape planting

and management plan which incorporates the landscape specifications of the previous layout into the amended planting plan to ensure the loss of priority habitat is adequately compensated.

### **Planning Policy Statement (PPS) 3: Access, Movement and Parking**

#### **Policy AMP 2 - Access to Public Roads**

*Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic.*

DFI Roads was consulted on the proposal and has no objections subject to conditions.

Safety Audit: An exception report was required and has been submitted and accepted by DFI Roads.

AutoTracking: has been deemed acceptable and hence the request for Private Street Determination (PSD) plans.

Objections raised by third parties were reviewed by DFI Roads: The objections raised by objectors appear to have been addressed by the applicant and mitigation provided is acceptable to DFI Roads.

Private Street Determination drawings have been submitted and accepted by DFI Roads.

A Transport Statement was submitted with the application and reviewed by DFI Roads. It is considered that the proposal complies with Policy AMP 2.

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

*Development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic.*

The parking standards require one space per teaching staff, one space per two ancillary staff, and one half of total staff provision for visitors for primary schools. The proposed development provides 101 parking spaces including three disabled parking spaces. The parking provision conforms with the requirements of the current parking standards with a surplus of 33 spaces. There are two additional bus services to be implemented for this

proposal due to the new location being less central and this will result in less usage by single cars and will assist in alleviating congestion issues suffered by all schools at pick up and drop off times.

There is cycle parking provision within the site. It is considered that the proposal complies with Policy AMP 7.

### **Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage**

Historic Environment Division was consulted and whilst has no objection in principle, suggests a number of conditions as there are a number of archaeological sites and monuments recorded in the landscape surrounding the proposed development site.

In addition, this application site is over 2 hectares in area and more often than not large development sites such as this are rarely archaeologically sterile, and given the known archaeology within the immediate area, there is the potential for previously unrecorded below-ground archaeological remains to be found during ground works for the proposal.

### **Planning Policy Statement (PPS) 15 – Planning and Flood Risk**

DFI Rivers was consulted on this application and had no objections subject to conditions.

#### **Policy FLD 1 - Development in Fluvial and Coastal Flood Plains**

The Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or the 1 to 200 coastal Plain.

#### **Policy FLD 2 - Protection of flood defence and drainage infrastructure**

An undesignated watercourse is located adjacent to the south-eastern boundary of the site. An adjacent working strip will be required however based on the proposed site layout, DFI Rivers has no reason to sustain an objection under policy FLD2 therefore Policy FLD 2 is satisfied.

#### **Policy FLD 3 - Development and Surface Water**

Dfi Rivers considered the submission of the Drainage Assessment and while not being responsible for the preparation of the Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.

As such DFI Rivers cannot sustain an objection to the proposed development from a drainage or flood risk perspective.

**Policy FLD 4 - Artificial Modification of watercourses & Policy FLD5 - Development in proximity to reservoirs** were not applicable to the proposal.

There is some surface water flooding predicted within the site boundary during a Q100 rainfall event (including climate change). This is a minor area located at the southeast of the site affecting an extremely minor part of the access. The application is supported by a proposed underground drainage system which is designed to discharge to an undesignated watercourse at the southeast of the site. Details of this are found within the Flood Risk and Drainage Assessment report and Drainage Proposal drawings.

### **Noise**

Environmental Health was content that noise impact from the proposal on surrounding residents was not deemed to be adverse for this proposal. Noise during the construction phase is to be mitigated against as set out in Outline CEMP with a condition is to be added to reflect this.

### **Pre-application Community Consultation Report**

There were a number of issues raised through engagement with the community pre-submission of the application. These are stated below as laid out in the PACC report submission.

- Issue with site location
- Traffic concerns
- Site condition
- Parking issues
- Design and layout
- Sustainability issues

These issues were subsequently addressed appropriately through the submission of this current proposal.

## **8. Consideration of Representations**

There were ten letters of objection from 10 separate addresses received and the following planning issues were raised, with clarification provided in italics:

- Query regarding gap between 9 and 10 Rowan Glen as to whether it is to be closed or left open - *there is to be continuous 2.4m mesh fencing bounding the site at this point.*
- strain on road network and impact on existing traffic issues - *DFI Roads is content with the proposal. Site is well served by public transport and cycling and walking is actively encouraged.*



- pollution from traffic - *Environmental Health is content with the proposal and the proposal encourages other modes of transport than private car. The site is already located on a busy road and was zoned for housing which would generate traffic also.*
- culverted stream - *there is to be no culverting of a water course for this proposal.*
- trees to be planted may overshadow - *the planting at the boundaries closest to the residential dwellings are to be largely ornamental shrubs with a small provision of interspersed trees at the Rowan Glen boundary and so overshadowing is unlikely. Any such issues can be addressed in future with the school.*
- queries about walkway from Rowallane Close to Rowan Glen - *this is a public right of way that is outside the red line of the application and will not be affected by the proposal.*
- Concern that there was limited scope and range of consultation in the PACC with elected representatives and wider community - *The level of advertisement and notification met with that which is required under Planning (Development Management) Regulations and its Temporary Modifications. The event location was deemed acceptable.*
- Concerns that responses to concerned residents whitewashed by reiterating the narrative on the process and parameters of surveys i.e. given a positive spin in a general way; *The PACC submitted, in the Council's judgement, presented the information in a fair and reasonable manner.*
- Concerns that there were small numbers involved in engagement; *the volume of responses to the community consultation is not within the control of the Council. Additionally the planning application was publicly advertised in the local press and on the council website and neighbour notified accordingly.*
- Concerns that figures show projections for cars accessing the site by parents for drop off is 300 with only 56 spaces for visitors - *Car parking spaces are provided based on DFI Parking Standards calculations. Applicants are not expected to provide a parking space for every vehicle entering the site. Internal configuration has been designed with child safety and efficient vehicular manoeuvrability in mind. The proposed layout proposes pick-up and drop-off points for cars and buses adjacent to the main entrance of the school. The system can hold 50no. vehicles at any given time and is considered acceptable for a school of this size. DFI Roads offered no objections to the submitted Traffic Statement and subsequent roads-related information.*
- Concerns that the Traffic Statement was undertaken in May 2022 when "traffic had returned to a more realistic level"- *The baseline traffic survey has been accepted by DFI Roads. In addition to this a COVID growth factor was applied to surveyed traffic to increase it as per Dfl guidelines at the time.*
- Concerns that the Traffic Statement highlights the uncertainties in estimating how pupils will travel - *DFI Roads have reviewed all of the Roads information and is content with the proposal.*

- Concerns that Bangor East traffic is already a big problem with school traffic, particularly, Gransha Road, Bexley Road and Cranley Road junctions - *DFI Roads stated no safety concerns at any of the junctions. Significant infrastructure is in place in the form of signalised traffic junctions with pedestrian crossing facilities, safety and existing collisions have been assessed. As previously stated, a Transport Assessment was submitted and deemed acceptable by DFI Roads.*

The following concerns are addressed by one response below in italics:

- Concerns that seven Junctions were monitored (two of which were roundabouts) but objector noted that the junction between Cranley Road and Gransha Road has not been included within the survey.
- Objector feels there is a wider issue concerning the traffic management issues in terms of slip lanes.
- The objector also has concerns that the Traffic Statement forecasts saturation and congestion problems within the forecast period (page 42 of Traffic Statement refers) and school traffic is clearly a significant factor and therefore adding more into the mix is not acceptable.
- Concerns regarding the assumptions and estimates used in the Traffic Statement as robust and suitable.
- Concerns that the proposal will bring yet another significant traffic burden to an already over developed area;

*The assumptions and estimates in the Traffic statement are considered acceptable by DFI Roads. There are no concerns highlighted by DFI Roads regarding safety regardless of the mode of transport. The surrounding road, footway and cycleway network are of an acceptable standard with signalised pedestrian / cycle crossing points. A Roads Safety Audit has been completed and accepted in relation to the access and assessed by DFI Roads which is content with the proposal. The school traffic is existing and already on the surrounding road network and committed development has been assessed and included in the modelling. Traffic modelling demonstrating there is capacity has been carried out. DFI Roads has accepted the Transport Assessment, approach and results. It should also be noted that the site was zoned in dBMAP for housing on the basis that at maximum density it could facilitate 145 dwellings with the existing road infrastructure.*

- Objectors stated that safety is mentioned and alludes to only three accidents occurring in the vicinity of the proposed entrance in a 3-year period (2016-2018). Objector stated that this is very limiting and should detail accidents within the wider road network - *The extent of collisions analysis would extend as far as is reasonable or extended at the request of DFI Roads. A Roads Safety Audit has also been completed and accepted in relation to the access and traffic modelling*

*demonstrating there is capacity. DFI Roads has accepted the Transport Assessment, approach and results.*

- Objector stated that a lot of weight is given to sustainable travel and also what Sustrans recommends and feels that a lot of the content on this aspect of the Traffic Survey is idealistic and ticks the boxes, but the reality would be very different - *The Traffic Statement in support of this application in relation to anticipated traffic generated by the proposal. It has modelled surrounding junctions and completed a sensitivity analysis of the road network (taking into account committed developments in the surrounding area) to project the likely traffic generation as a result of the proposed school. It concluded that on balance the proposed development has a marginal increase on the proposed area of traffic. In short, the surrounding road network can facilitate for proposed school development at the Balloo Road site. The traffic survey (July 2022) and subsequent roads related submissions in Feb 23, June 23 and Jan 24 have been assessed by DFI roads and the proposal has been considered acceptable in terms of traffic and road safety.*
- Other matters raised included how some children in city would not be able to access the new site as easily due to the change in location and were outwith assessment of planning application. Those who currently walk may have to explore less favourable options.

There were a number of high level strategic concerns raised in the representations some of which were addressed above with regard to forward planning into the future of the school and appropriate affordable travel solutions for the area in general; as well as road and traffic issues for the overall area that cannot be addressed through this application.

## 9. Conclusion

The proposal has been considered having regard to the Development Plan, SPPS, prevailing planning policies and guidance, and all the material considerations including responses from statutory and non-statutory consultees. On balance it is considered that the proposal will not cause any significant adverse impact on the character of the area, nor will it result in any significant loss of amenity for surrounding residents. The proposal will bring significant community benefit and given that the loss of housing land will have negligible impact on the overall housing allocation and availability, it is not considered that the proposal will significantly prejudice the implementation of Draft BMAP's objectives regarding housing provision.

## 10. Recommendation

**Grant Planning Permission**

## 11. Planning Conditions

1. The development hereby permitted must be begun within five years from the date of this permission.

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

2. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. S4-P2 published 11/01/2024.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980 as amended

3. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
No development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number S4-P6 published 11/01/24. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

4. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. S4-P6 published 11/01/2024 prior to the commencement of the 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 prior to commencement of development, 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.

5. The gradient(s) of the access road 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 user.

6. The use of the development hereby permitted, shall not commence until the footway has been completed in accordance with details submitted to and

approved in writing by Planning Service on drawing No: S4-P6 published 11/01/2024

Reason: To ensure the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

7. The development hereby permitted shall not be adopted until any (highway structure/retaining wall/culvert) requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance CG300 of the Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with CG300 of the Design Manual for Roads and Bridges.

8. The development hereby permitted shall not be occupied until a Street Lighting scheme design has been submitted and approved by the DFI Roads Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

9. The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the DFI Roads Street Lighting Section. (These works will be carried out entirely at the developer's expense.)

Reason: To ensure the provision of a satisfactory street lighting system, for road safety and convenience of traffic and pedestrians.

10. Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with Policy FLD 3 & Annex D of PPS 15, to be agreed in writing with the Council, which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161 under the Water and Sewerage Services Act (Northern Ireland) 2016, in a 1 in 100 year event.

Reason: In order to safeguard against surface water flood risk

11. 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 the 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.

12. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 11.

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

13. 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 11. These measures shall be implemented and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing to the 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.

14. In the event that unexpected contamination is encountered during the approved development of this site, the development shall cease and a written report detailing the nature of this contamination and its proposed management must be submitted to Ards and North Down Borough Council for approval. This investigation and risk assessment must be undertaken in accordance with current best practice. Once agreed, the development shall be constructed in accordance with the proposed management.

Reason: Protection of human health.

15. No construction works shall commence on site until the final Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. It must outline the methods to be employed to minimise any noise and dust impacts associated with the construction operations demonstrating the use of 'best practicable means'. The plan must pay due regard to BS 5228:2009+A1:2014 Code of Practice for Noise and Vibration on Construction and Open Sites. Once agreed, development shall be undertaken in strict accordance with the CEMP

Reason: To protect the amenity of neighbouring dwellings with respect to noise, and dust

16. Once a contractor has been appointed, the final Construction Environmental Management Plan (CEMP) should be submitted to the Council for consultation with NIEA Water Management Unit, at least 4 weeks prior to the commencement of construction to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment. Once agreed, the development shall be undertaken in strict accordance with the CEMP.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

17. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Council. The CEMP shall include the following:
- Construction methodology and timings of works;
  - Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction materials, any refuelling, storage of oil/fuel, concrete mixing and washing areas and the watercourses or surface drains present on or adjacent to the site;
  - Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
  - Final details of the habitat recreation works for the Lowland Meadow (Northern Ireland Priority Habitat)
  - Details of mitigation measures to minimise impacts on protected and priority species

Reason: To protect Northern Ireland priority habitats and species, ensure implementation of mitigation measures identified within the Outline CEMP and to prevent likely significant effects on the Outer Ards SPA/ASSI.

18. If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance.

In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for Use.

19. After completing all remediation works required under Condition 18 and prior to commencement of use of the development, a verification report shall be submitted in writing and agreed with the Council. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at:  
<https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>

The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

20. Throughout the construction phase, a clearly defined buffer of at least 10 metres must be maintained between the open watercourse/storm drain at the south east of the approved area and the location of any machinery refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil, etc.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

21. No development shall take place on-site until the foul sewerage network engineering solution to mitigate the downstream foul capacity issue has been agreed with NI Water. The development shall not be commenced until the developer has delivered the solution as per the requirements set out in the agreement entered into with NI Water.

Reason: To prevent pollution and to ensure public safety. To ensure compliance with the Water and Sewerage Services (Northern Ireland) Order 2006 and Sewerage Services Act (Northern Ireland) 2016; and to ensure the project will not have an adverse effect on the integrity of any European site.

22. No development, including ground preparation or vegetation clearance, shall take place until a final Landscape, Planting and Management Plan has been submitted to and approved in writing by the Council. The approved Plan shall be implemented in accordance with approved details and all works on site shall conform to the approved Plan, unless otherwise agreed in writing by the Council. The Plan shall include the following:

- a. Details of the retention of mature trees and hedgerows on the site;
- b. Details of the protection of retained trees and hedgerows by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition, and construction – Recommendations;
- c. Planting Schedule to include details of new planting with a greater proportion of native species of trees/shrub;
- d. Details of the aftercare of all planting on the site;
- e. Clear aims and objectives of proposed lowland meadow habitat creation and management;
- f. Detailed methodology and prescriptions of lowland meadow habitat creation and management measures, including timescales, and with defined criteria for the success of the measures;
- g. Detailed species list of native wildflowers and grasses to be used in the lowland meadow creation;
- h. Details of the suitably qualified and experienced ecologist or specialist in grassland restoration and recreation employed to produce the creation and management plan for lowland meadow.

Reason: To ensure a high level of visual and residential amenity and to provide a high standard of landscaping and planting.



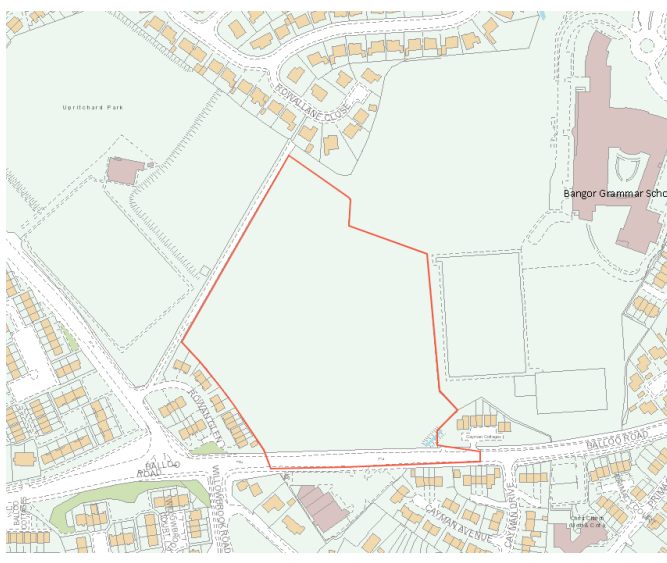
**Informatives****The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992**

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department for Infrastructure to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose.

Developers are advised to check all other informatives, advice or guidance provided by consultees, where relevant, on the Planning Portal.

Site Location

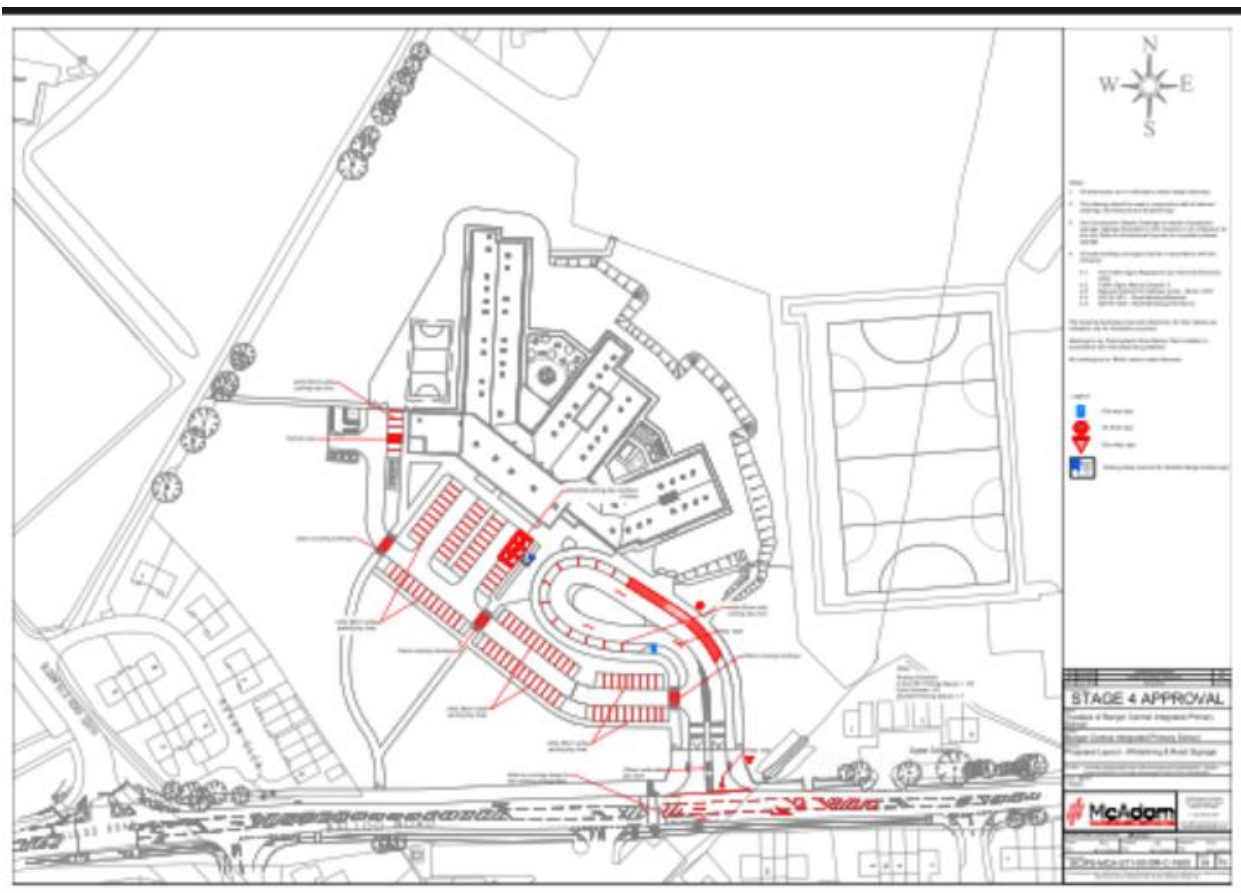


Existing Site



Proposed site layout





Site levels



### Proposed Elevations





Ground Floor Plan



### Fencing Layout



### Landscaping Plan



Details of entrance

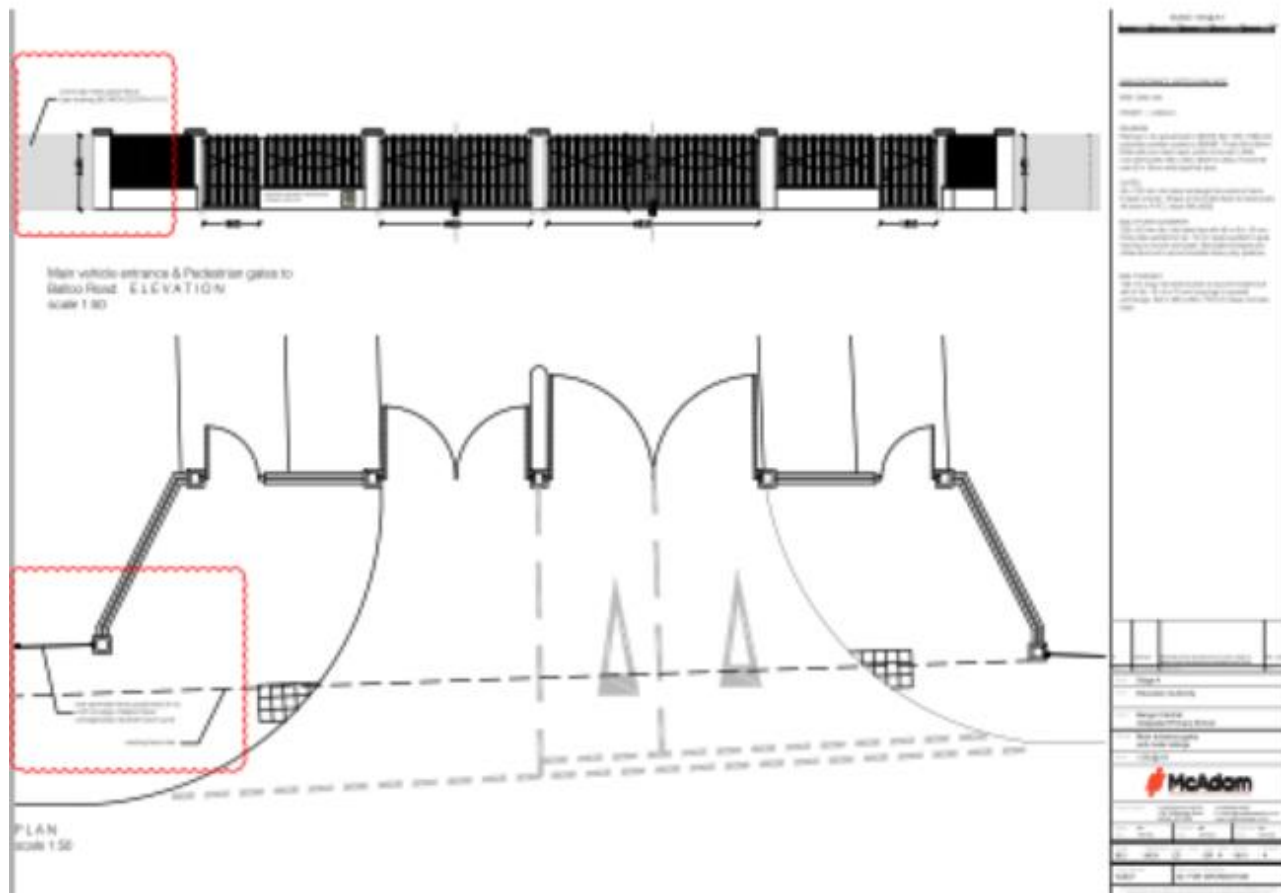


Photo of right of way (unaffected by proposal)



Photo of site looking Towards Rowan Glen



Photo of part of site






## ITEM 4.3

## Ards and North Down Borough Council

Application Ref	LA06/2022/0823/F
Proposal	Erection of dwelling and conversion of three existing outbuildings for incidental usage (in substitution for planning application LA06/2017/0376/F).
Location	25m East of Seaview Farm, 1 Ballyvester Road, Donaghadee
Committee Interest	<p>A Local development application 'called-in' to Planning Committee from the delegated list by a member of that Committee – Cllr McCollum:</p> <ol style="list-style-type: none"> <li>1. The barn has not been used agriculturally for over 20 years and is seen by local residents as a landmark building when approaching Donaghadee.</li> <li>2. It would be contradictory to integrate it into the landscape as, presently it sits in full view and is a landmark building. The proposal is to build on the same footprint, height and similar elevations, like for like.</li> <li>3. The application is compatible with CTY2, CTY2a and many points in CTY4.</li> <li>4. The site itself is of historical interest as there are two armoury boxes from WW2, also two stone buildings and the shed which have all been there for over 70 years and haven't been used as farm buildings for at least 20 years.</li> <li>5. The surrounding area is now built up with residential housing.</li> <li>6. The site sits on a T-junction of main road with a bus stop right outside.</li> <li>7. There has been a bio-diversity list provided that has not been issued on the planning portal.</li> <li>8. The site has a previous planning application already passed, however it involves the armoury boxes being removed. The applicant states that the current planning application is much more sympathetic and would be a huge enhancement to the surrounding area, while keeping the integrity of all the buildings.</li> </ol> <p>The applicant states that there are two very weak reasons on CTY3 to object to this proposal, however there are very many</p>

	<p>strong reasons for approval under CTY2, CTY2a and CTY4 to support application. The application has had no objections and all departments have come back positively.</p> <p>On the above grounds, it is appropriate to be called in and considered by the Planning Committee.</p>
Validated	25/08/2022
Summary	<ul style="list-style-type: none"> <li>• The proposed replacement dwelling comprises an existing agricultural shed which has a concrete base and a steel frame structure with concrete rendered block walls and corrugated tin wall sheeting above with a round roof in corrugated tin.</li> <li>• This shed is not a non-listed vernacular building and does not meet any of the policy requirements under policy CTY 3 of PPS 21 – see case officer report for further details and photographs of shed.</li> <li>• The previous planning approval on the site, LA06/2017/0376/F was granted permission on 18 October 2018 for “Sympathetic conversion, adaption and re-use of existing vernacular outbuilding to create a dwelling house.”</li> <li>• In this application it is proposed to retain this existing non-listed outbuilding for storage purposes only incidental to the proposed replacement dwelling.</li> <li>• The principle of retaining the outbuilding for storage purposes incidental to the proposed dwelling would be acceptable if the principle of a replacement dwelling was acceptable and compliant with Policy CTY3, however in this case it is not.</li> <li>• Policy CTY 4 is not applicable as it relates to the conversion and reuse of an existing building however this proposes the replacement of an agricultural building as a dwellinghouse.</li> <li>• The proposal fails to comply with policies CTY 13 and CTY 14 of PPS 21 in that it cannot be visually integrated into the surrounding landscape, is unduly prominent, lacks long established natural boundaries and relies upon new landscaping for integration.</li> <li>• Dfl Roads have no objections to the proposal and HED welcomes the retention of the Home Guard stores.</li> <li>• No letters of representation have been received in respect of the proposal.</li> </ul>
Recommendation	<b>Refusal</b>
Attachment	Item 4.3a – Case Officer Report

<b>Development Management Case Officer Report</b>			
<b>Reference:</b>	LA06/2022/0823/F	<b>DEA:</b> Bangor East & Donaghadee	
<b>Proposal:</b>	Erection of dwelling and conversion of three existing outbuildings for incidental usage (in substitution for planning application LA06/2017/0376/F)		
<b>Location:</b>	25m East of Seaview Farm, 1 Ballyvester Road, Donaghadee		
<b>Applicant:</b>	Chris and Jill Horn		
<b>Date valid:</b>	25.08.2022	<b>EIA Required:</b>	<b>Screening</b> No
<b>Date last advertised:</b>	15.09.2022	<b>Date last notified:</b>	<b>neighbour</b> 01.09.2022
<b>Letters of Support: 0</b>		<b>Letters of Objection: 0</b>	<b>Petitions: 0</b>
<b>Consultations – synopsis of responses:</b>			
DFI Roads	No objections.		
NI Water	No objections.		
HED (Historic Monuments)	Content that the proposal is satisfactory to SPSS and PPS6 archaeological policy requirements.		
NIEA	Marine Conservation Advice is content that there should be no adverse impacts on marine conservation due to the existing dwellings and road between the proposal site and the marine environment, provided standing advice for development that may have an effect on the water environment is adhered to.		
SES	Having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site.		
<b>Summary of main issues considered:</b>			
<ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Design, integration and impact on rural character</li> <li>• Access and parking</li> </ul>			
<b>Recommendation: Grant Planning Permission</b>			
<b>Report Agreed by Authorised Officer</b>			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal <a href="https://epicpublic.planningni.gov.uk/publicaccess/">https://epicpublic.planningni.gov.uk/publicaccess/</a>			

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## 1. Site and Surrounding Area

The site is located on the western side of Millisle Road close to the junction with Ballyvester Road and is to the south of Donaghadee. The site occupies a roadside position and includes a disused steel framed agricultural building and a linear, vernacular stone outbuilding. The site was once used as the farm yard and buildings associated with the adjacent farm at 1 Ballyvester Road known as Seaview Farm. The steel framed building is in a poor state of repair and does not appear to be in use at present. The site is accessed off Millisle Road and the site is relatively flat throughout.

The area is within the countryside as defined within the Ards and Down Area Plan 2015. The area is rural in character with agricultural fields, however there are a number of dwellings in close proximity to the site. The settlement limit for Donaghadee is nearby to the north of the site.

## 2. Site Location Plan



Figure 1 Site location plan

## 3. Relevant Planning History

### On site

LA06/2017/0376/F - Sympathetic conversion, adaption and re-use of existing vernacular outbuilding to create a dwelling house – Full permission granted 18.10.2018.

The stone outbuilding located within and adjacent to the southern boundary of the site, was granted full permission to be converted and adapted for residential purposes.

This permission expired on 18.10.2023 and following a site visit, it does not appear that development has commenced on site and a CLOPUD application has not been

submitted to certify that the works can be completed in accordance with the permission granted under LA06/2017/0376/F.

The current application subject of this report is for the 'erection of dwelling and conversion of three existing outbuildings for incidental usage (in substitution for planning application LA06/2017/0376/F)'. The application is seeking the existing outbuildings to be used as storage purposes associated with the proposed new dwelling, in substitution of the permission granted to be used as a stand-alone residential unit approved under LA06/2017/0376/F.



Figure 2 Photographs of the existing stone outbuilding

#### 4. Planning Assessment

**The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:**

- Ards and Down Area Plan 2015 (ADAP)
- The Strategic Planning Policy Statement for Northern Ireland (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 21: Sustainable Development in the Countryside

Planning Guidance:

- Building on Tradition: A Sustainable Design Guide for the NI Countryside

#### Principle of Development

The Ards and Down Area Plan 2015 sets out the land use proposals that will be used to guide development within the area. The site is located outside any settlement and within the countryside as designated in the Ards and Down Area Plan 2015 and does not contain any designation or zoning affecting the site. It is silent in respect of proposals of the subject nature.

Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 21. Policy CTY1 of PPS 21 lists a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This includes replacement dwellings in accordance with Policy CTY 3. The relevant criteria will be considered in the assessment below.

Policy CTY 3 of PPS 21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. It adds that buildings designed and used for agricultural purposes, such as sheds or stores and buildings of a temporary construction will not however be eligible for replacement under this policy. There is no dispute that the structure to be replaced was last used as an agricultural building, as part of the adjacent farm complex known as Seaview Farm at 1 Ballyvester Road. The Design and Access Statement states that the building 'was at one time part of the neighbouring Seaview Farm'. The subject building is a steel framed shed and is approximately 14m long by 7m wide. It has a concrete base and a steel frame structure with concrete rendered block walls and corrugated tin wall sheeting above with a round roof in corrugated tin – see photographs below. On this basis it is considered that the building was designed and used for agricultural purposes and it is not eligible for replacement under Policy CTY3.



Figure 3 Photographs of the structure to be replaced

The applicant argues that the building meets Policy CTY3 paragraph 3 where it states that favourable consideration will be given to the replacement of a redundant non – residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. It is considered that as the proposal fails paragraph 2 of Policy CTY3 as stated above, this criterion regarding a redundant non-residential building is not applicable in this assessment for a replacement dwelling.

Even though the proposal is unacceptable in principle it is important to assess the proposal against all applicable policies.

Policy CTY 3 of PPS 21 states that a replacement dwelling will only be permitted where all of five stated criteria are met – see below.

#### All Replacement Cases

In addition to the above, proposals for a replacement dwelling will only be permitted where all the following criteria are met:

- the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits;
- the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building;
- the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness;
- all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and
- access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

For the purposes of this policy 'curtilage' will mean the immediate, usually defined and enclosed area surrounding an existing or former dwelling house.

- (a) The proposed dwelling is to be sited within the established curtilage.
- (b) The overall size of the proposed dwelling would be integrated into the surrounding landscape and would not have a visual impact significantly greater than the existing building. The steel framed shed is to be demolished and the proposed dwelling constructed on its footprint and to the same scale and form as the existing building. The proposed dwelling will appear as the same dimensions as the existing building. The proposed dwelling will not have a visual impact that is significantly greater than the existing building.
- (c) The design of the propose dwelling is of a high quality appropriate to its setting. The materials of the existing building are to be replicated in the proposed dwelling using corrugated metal to the roof and upper parts of the walls with smooth render to the lower ground walls. The proposed dwelling will have a similar scale and design as the existing shed and will appear as a contemporary dwelling with traditional rural design features and will appear similar to rural sheds commonly found in the countryside setting.
- (d) All necessary services are available and can be provided without significant adverse impact on the environment or character.
- (e) Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic. DFI Roads has no objections to the proposal.



Figure 4 Plan showing site layout



Figure 5 Plan showing proposed front elevation

The proposal also includes the use of the existing stone outbuildings to be used as incidental buildings to the proposed dwelling to be used for storage purposes. Policy CTY 3 states that 'the retention and sympathetic refurbishment, with adaptation if necessary, of non-listed vernacular dwellings in the countryside will be encouraged in preference to their replacement, where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated building group'. In this case the outbuilding has already been confirmed as a non-listed vernacular building worthy of retention through the previous planning permission granted for conversion to residential use under LA06/2017/0376/F. The principle of retaining the outbuilding for storage purposes incidental to the proposed dwelling would be acceptable if the principle of a replacement dwelling was acceptable and compliant with Policy CTY3, however in this case it is not, as discussed earlier in this report.

Policy CTY4 of PPS21 is not applicable as the existing outbuilding was last used in association with the previous farming activities and the proposed use set out in this application is for storage purposes in association with the proposed new dwelling and therefore Policy CTY4 is not applicable.

### Design and Integration

Policy CTY 13 'Integration and design of buildings in the Countryside' states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It



is considered that the proposed dwelling would be a prominent feature in the landscape when travelling in both directions on Millisle Road as the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The site would rely primarily on the use of new landscaping for integration of which no details have been included in the application. Criteria (a) (b) and (c) of Policy CTY 13 of PPS 21 have not been met.

### **Impact on Rural Character**

Policy CTY 14 of PPS 21 'Rural Character' also says that a new building will be unacceptable where (a) it is unduly prominent in the landscape. As above it is considered under Policy CTY 13 that the proposed development would be an unduly prominent feature in the landscape and therefore it also fails Policy CTY 14.

### **Residential Amenity**

The proposed dwelling will have no unacceptable adverse impacts on residential amenity. The existing dwelling at 1 Ballyvester Road is the closest dwelling to the site and due to it sitting on a much higher level than the proposed development – see Figure 6 below, it is considered that there will be no unacceptable adverse impacts caused to the residential amenity of No.1.



Figure 6 Photograph showing the proposed site and 1 Ballyvester Road to the rear.

### **Access and Roads Safety**

Millisle Road is not a protected route. DfI Roads was consulted and offers no objections. It is considered that there is sufficient space within each plot for the parking of more than 2 cars. It is therefore considered that the proposal complies with policies AMP 2 and AMP 7 of PPS 3 and will not prejudice road safety or significantly inconvenience the flow of traffic.

### **Designated Sites and Natural Heritage**

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The site is more than 100m from the coastline and has a public road and a number of dwellings in between the site and the coastline. SES was consulted regarding the proposal and concluded that the proposal would not be likely to have a significant effect on the features, conservation

objectives or status of any of these sites. A biodiversity checklist was completed. A PEA was submitted. The PEA report states that the site is of low ecological value and the Bat Roost Potential Survey and Dusk Survey submitted in 2017 for the previous application for the conversion of the stone outbuildings, concluded there are no bats associated with the stone outbuildings. An updated Bat Roost Potential check in 2022 revealed deterioration in the buildings and therefore the bat roost potential is low to negligible. The adjacent trees will provide a foraging edge. The site was also inspected for the presence of other habitats or features with the potential to support protected or priority species and no evidence was identified. It was not deemed necessary to consult with NIEA NED given the outcome of the ecologist’s report. On this basis it has been demonstrated that the proposal is not likely to impact any protected species or priority species or habitats. It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2.

**HED**

Historic Environment Division (Historic Monuments) welcomes the retention of the Home Guard Stores, and the restoration of the stone-built cottage marked on the 1st Edition Ordnance Survey map as per policies BH 2 and BH 15 of PPS 6.

**5. Representations**

No representations have been received.

**6. Recommendation**

**Refuse Planning Permission**

**7. Refusal Reasons**


1. The proposal is contrary to the SPPS and Policies CTY1 and CY3 of Planning Policy Statement 21 – Sustainable Development in the Countryside in that the building to be replaced has been designed and used for agricultural purposes.
2. The proposal is contrary to SPPS and Policy CTY 13 and CTY14 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the proposed development is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and is considered to be a prominent feature in the landscape. The new building would rely primarily on the use of new landscaping for integration into the landscape and result in a detrimental impact on rural character.

<b>Case Officer Signature:</b>		<b>Date:</b>	
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## ITEM 4.4

## Ards and North Down Borough Council

Application Ref	LA06/2023/1791F
Proposal	Replacement dwelling with a detached garage
Location	64 Ballyholme Esplanade, Bangor
Committee Interest	The proposal attracted more than 6 objections.
Validated	12 <sup>th</sup> May 2023
Summary	<ul style="list-style-type: none"> <li>• Site lies within the settlement limit of Bangor and within a proposed ATC.</li> <li>• There were 9 letters of objection from 9 separate addresses and three letters of support.</li> <li>• All consultees were content however NIEA gave advice on climate change and coastal erosion.</li> <li>• Existing dwelling to be replaced makes no significant contribution to character and appearance of area</li> <li>• No significant loss of residential amenity will be suffered.</li> <li>• Design acceptable for the character of area after changes.</li> </ul>
Recommendation	<b>Grant Planning Permission</b>
Attachment	Item 4.4a – Case Officer Report

<b>Development Management Case Officer Report</b>		 <b>Ards and North Down</b> Borough Council	
<b>Reference:</b>	LA06/2023/1791/F	<b>DEA:</b> Bangor East & Donaghadee	
<b>Proposal:</b>	Replacement dwelling with a detached garage		
<b>Location:</b>	64 Ballyholme Esplanade, Bangor		
<b>Applicant:</b>	Brian and Louise Parkes		
<b>Date valid:</b>	12/05/2023	<b>EIA Screening Required:</b>	No
<b>Date last advertised:</b>	25/01/2024	<b>Date last neighbour notified:</b>	16/01/2024
<b>Letters of Support: 3 letters of support.</b>	<b>Letters of Objection: 9 objections from 9 separate addresses.</b>	<b>Petitions: 0</b>	
<b>Consultations – synopsis of responses:</b>			
Dfl Roads	No objection.		
Environmental Health	No objection.		
NI Water	No objection.		
Shared Environmental Services (SES)	No objection.		
DAERA Marine and Fisheries Division	Further consideration should be given to the risks associated with climate change including sea level rise and coastal erosion		
DAERA Water Management Unit	No objection.		
DAERA Natural Environmental Division (NED)	No objection.		
<b>Summary of main issues considered:</b>			
<ul style="list-style-type: none"> <li>• Principle of development.</li> <li>• Visual impact, design and impact on the character of the established residential area, including any impact on the proposed ATC.</li> <li>• Impact on Residential Amenity.</li> </ul>			
<b>Recommendation: Grant Planning Permission</b>			
<b>Report Agreed by Authorised Officer</b>			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Northern Ireland Public Register ( <a href="http://planningsystemni.gov.uk">planningsystemni.gov.uk</a> )			

### 1. Site and Surrounding Area

The site consists of a two-storey detached dwelling with a detached garage. The dwelling is located within a row of two-storey detached and semi-detached dwellings. The dwelling is set on slightly higher ground than the levels of Ballyholme Esplanade. There is an existing vehicular access to the dwelling and garage from Ballyholme Esplanade. There is no distinct style of dwelling within the immediate vicinity. The existing dwelling design is unique and is not replicated anywhere else on Ballyholme Esplanade. The area is predominately residential with a variety of house types with mature gardens and on-site parking. Ballyholme beach and promenade are located to the front of the dwelling. The site lies within the settlement limit of Bangor and within the Proposed Bangor East Area of Townscape Character. The site is adjacent to the Outer Ards Ramsar, ASSI and SPA.



Figure 1 Photographs of the existing dwelling



## 2. Site Location Plan



Figure 2 Site location plan

## 3. Relevant Planning History

No relevant planning history on the site.

## 4. Planning Assessment

The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:

- NDAAP and DRAFT BMAP 2015.
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement & Parking
- Planning Policy Statement 6 Addendum (PPS6A): Areas of Townscape Character
- Planning Policy Statement 7: Quality Residential Environments
- Planning Policy Statement 7 Addendum (PPS7A): – Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 12: Housing in Settlements

Relevant supplementary planning guidance for this application is as follows:

Creating Places  
 DCAN 8: Housing in Existing Urban Areas  
 DCAN 15: Vehicular Standards  
 Parking Standards

## **Principle of Development**

Regional planning policies of relevance are set out in the SPPS and other retained policies. Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In respect of the proposed development, there is no conflict or change in policy direction between the provisions of the SPPS and the retained policies contained in PPS3, PPS6A, PPS7, PPS7A and PPS12 therefore these remain the applicable policy documents to consider the development under.

The application site is within the settlement limit of Bangor as defined in both the North Down and Ards Area Plan 1984-1995 and the Draft Belfast Metropolitan Area Plan 2015. NDAAP currently acts as the LDP for this area, despite its end date, with dBMAP remaining a material consideration where applicable.

The NDAAP at section 13.7 states that new development should be carefully designed to respect the scale and character of existing buildings, using sympathetic building materials and should respect existing street patterns, landmarks, topographical and other features which contribute to the character of each town.

In dBMAP the site is within the proposed Bangor East ATC (BR14). The text for the draft ATC identifies multiple key features of the ATC. The impact of development on the proposed ATC and the compliance or otherwise with the provisions of the LDP and the weight to be given to dBMAP will be assessed in detail in the consideration below. The matter of the applicability of the Addendum to Planning Policy Statement 6 – Areas of Townscape Character (PPS6A) and the related provisions of the SPPS will also be considered below.

As the site is currently in residential use, the principle of a replacement dwelling is acceptable in the context of the LDP subject to assessment of the potential impact on the proposed ATC and compliance with the relevant regional planning policies.

## **Design, Visual Impact and Impact on the Character of the Established Residential Area and on the overall appearance of the ATC**

The application seeks the demolition of the existing dwelling and the erection of a replacement dwelling sited within the established residential curtilage of 64 Ballyholme Esplanade as shown on the proposed site layout plan in Figure 3 below.



Figure 3 Proposed Site layout

Paragraph 4.26 of the SPPS states that design is an important material consideration in the assessment of all proposals. It goes on to state that particular weight should be given to the impact of development on existing buildings, especially listed buildings, monuments in state care and scheduled monuments, and on the character of areas recognised for their landscape or townscape value, including ATCs. Paragraph 6.21 of the SPPS states that in managing development within ATCs designated through the LDP process the council should only permit new development where this will maintain or enhance the overall character of the area and respect its built form. Paragraph 6.22 goes on to state that the demolition of an unlisted building in an ATC should only be permitted where the building makes no material contribution to the distinctive character of the area and subject to appropriate arrangements for the redevelopment of the site. Notwithstanding this, the policies within APPS6 and the related provisions of the SPPS refer to designated ATCs. No reference is made to draft/proposed ATCs, which do not have the same status or legal standing as a designated ATC. Therefore, Policies ATC1 and ATC2 of APPS6 and the aforementioned provisions of the SPPS are not applicable to the consideration of the proposed development.

Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The policy goes on to state that in ATC's housing proposals will be required to maintain or enhance their distinctive character and appearance. Again, as the policy refers to designated ATCs, but no reference is made to draft ATCs, this element of Policy QD1 is not applicable to the development. Notwithstanding these conclusions, the potential impact of the development on the proposed ATC remains a material consideration.

The Planning Appeals Commission considered objections to the proposed ATC



designation within its report on the BMAP public inquiry and recommended no change to the proposed ATC. Therefore, it is likely, that if and when Draft BMAP is lawfully adopted, a Bangor East Area of Townscape Character designation will be included.

Consequently, the proposed ATC designation in draft BMAP is a material consideration relevant to this application. The Commission also considered objections to the general policy (UE3) for the control of development in ATCs which is contained in draft BMAP. It is recommended by the PAC that Policy UE3 be deleted and that a detailed character analysis be undertaken and a design guide produced for each individual ATC. As yet these design guides have not been published. It would be wrong to make any assumptions as to whether these recommendations will be reflected in any lawfully adopted BMAP or as to whether the text relating to the key features of Bangor East ATC will be repeated. As of now, it is unclear how the area will be characterised in any lawfully adopted BMAP.

However, the impact of the proposal on the overall appearance of the proposed ATC remains a material consideration and can be objectively assessed. This approach has been adopted by the Planning Appeals Commission in a number of appeal decisions, for example:

2021/A0227 - Demolition of existing dwelling and erection of 4 no. 2 bed apartments at 115 Station Road, Craigavad, Holywood (decision dated 29.01.2024);

2020/A0099 – 17 Apartments, Seacliff Rd, Bangor;

2018/A0093 – dwelling and garage at 1 Farnham Park, Bangor.

Case law (South Lakeland District Council –v- Secretary of State for the Environment (1992)) established that it is the effect on the character/appearance of the Conservation Area/Area of Townscape Character (ATC) as a whole to which attention must be directed and that preserving the character or appearance of a Conservation Area or ATC can be achieved by a development which leaves this unharmed (the ‘no harm’ test).

The proposed Bangor East ATC covers a large area of the town adjacent to Ballyholme Bay. Within this area there is a wide variety of built forms. In the immediate area, the built form is characterised predominantly by large detached and semi-detached family homes as shown in the images in figures below. The site is located at the northern edge of the proposed designation as indicated on the map below. Draft BMAP does not divide the proposed ATC into separate character areas, therefore it is the impact on the proposed ATC as a whole which must be considered.



Figure 4 Extract from DBMAP – Proposed Bangor East ATC

With regard to the proposed demolition, while the existing building fits comfortably within its context by way of its size and form, it is not considered to make any material contribution to the established built form or appearance of the area. It has no particular design merits and makes little, if any, contribution to the appearance of the proposed ATC (see images in figure 5 below). The building is also not included within any of the key features of the ATC as identified in Draft BMAP and shown in Figure 6 below.



Figure 5 View of site and surrounding context from Esplanade

Designation BR 14	Area of Townscape Character Bangor East
<p>An Area of Townscape Character is designated at Bangor East as identified on Map No. 3a – Bangor, Map No. 3i - Bangor Town Centre and on clarification Map No. 3i Bangor East Area of Townscape Character.</p> <p>Key features of the area, which will be taken into account when assessing development proposals, are as follows: -</p> <p><b>Ballyholme / Ward Avenue (including Ballyholme Road, Ballyholme Esplanade, Ward Avenue and Groomsport Road)</b></p> <ul style="list-style-type: none"> <li>• Fine terraces and Edwardian detached villas along Ballyholme Road, Ballyholme Esplanade and Ward Avenue, set within their own gardens;</li> <li>• Four pairs of semi-detached residences, namely Dufferin and Hamilton Villas (1880), located towards the east end of the strand, near Glenganagh House; and</li> <li>• Open spaces at Kingsland leisure area and Ballyholme Park.</li> </ul> <p><b>Groomsport Road / Shandon Drive</b></p> <ul style="list-style-type: none"> <li>• Good quality pre First World War and inter-war two storey semi-detached and detached housing along the roads leading from Ballyholme Esplanade to Groomsport Road;</li> <li>• Baylands residential area which includes several Modern Movement houses; and</li> <li>• Edwardian detached dwellings (often faced in pebbledash) in the vicinity of Shandon Drive and College Avenue area, set in mature gardens with front boundary hedges, with good views out across Ballyholme Bay.</li> </ul>	

Figure 6 - Extract from Draft BMAP - Key features of Bangor East ATC

The dwelling to be demolished is not deemed to be a building of character and does not contribute to the character of the proposed ATC. It dates back to approximately 1970's and does not have any specific historic or architectural features. It is considered that the existing dwelling does not exhibit any elements that make a positive contribution to the proposed ATC and has no specific detailing of character to contribute to the character of the proposed ATC. It is considered that the demolition of the building will cause no harm to the overall appearance of the proposed ATC.

Turning to the development of the proposed replacement dwelling itself, paragraph 4.27 of the SPSS states that where the design of proposed development is consistent with relevant LDP policies and/or supplementary design guidance, planning authorities should not refuse permission on design grounds, unless there are exceptional circumstances. It goes on to state that planning authorities will reject poor designs, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings, or not in accordance with the LDP or local design guidance.

Criterion (a) of Policy QD1 of PPS7 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. Criterion (g) requires that the design of the development draws upon the best local traditions of form, materials and detailing. The provisions of this policy must also be considered in conjunction with policy LC1 of PPS7 Addendum – Safeguarding the Character of Established Residential Areas. The addendum provides additional planning policies on the protection of local character, environmental quality and residential amenity within established residential areas, villages and smaller settlements.

A Design and Access Statement has been submitted by the agent setting out the design principles and how the proposal will respect the established built form of the area. However, the design of the original scheme submitted with the application, was considered to be unacceptable by the Council. The design of the original proposal did not respect the built form of the area, specifically the flat roof design was out of context with the surrounding dwellings which are predominantly 2 storey with pitched roofs visible from the Esplanade (see original and current plans in Figures 7 and 8 below). Amendments were then received on the 16 January 2024 to address these concerns. These amendments included an overall re design of the dwelling to include a pitched roof.



Figure 7 Original and Amended Proposals

As can be seen from the plans above, several amendments have been made. The flat roof has been amended and replaced with a pitched roof which will sit comfortably in context with the surrounding dwellings. The roof will be dark grey in colour zinc which will reflect the dark coloured roofs in the area. The wall will be a combination of off white render and light beige coloured brick which will reflect similar coloured external walls in the area. The fenestration has also been simplified and arranged on the elevations to more closely reflect that of the surrounding properties. Figure 8 below shows the existing and proposed contextual elevations of the site and adjacent dwellings viewed from the Esplanade. It is evident from these, that the amended proposal for the replacement dwelling is sympathetic to the established built form by way of its height, scale, massing and design.



Figure 8 Existing and proposed contextual street elevations

The proposed finishes include off white render and light beige coloured brick to the walls on the front elevation. Timber rainscreen cladding will be to the single storey gym and garage to the rear of the dwelling. Both the gym and the garage will have a flat roof. The main public views will be the front elevation, where the visible materials will be the light beige brick at ground level, the off-white render at first floor level and the dark grey zinc roof. The timber rainscreen cladding on the garage which is set beyond the rear elevation of the dwelling will have limited public views due to the set-back position. It is considered that the neutral colours will integrate into the streetscape and will not detract from the character and appearance of the area. Given the mix of finishes in the area, the proposed materials will not be out of keeping. Given the location of the site within the row, there will be limited public views of the gable elevations. The proposed dwelling will be sited on the footprint of the existing dwelling and will respect the established building line. The proposed dwelling will have an increased ridge height from the existing dwelling of approximately 1.8m however the proposed ridge height will be no higher than the ridge heights of adjacent dwellings in the row as Figure 9 shows below. It is considered that the proposal represents good design. A balcony is proposed on the front elevation of the dwelling however given it is a small area of 7m x 2m it is not considered to be significant enough to have any impact on the character of the area. The scale, massing and design and overall appearance of the proposed dwelling will not detract in any way from the visual amenity or character of the area. The ratio of built form to garden is acceptable and there is an adequate area of private amenity space that is in line with the recommendations set out in Creating Places. Given the application is for a replacement dwelling, this will not lead to an increase in the housing density of the area. The existing boundary treatments are to be retained and the existing hardstanding areas serving the driveway will remain in situ.

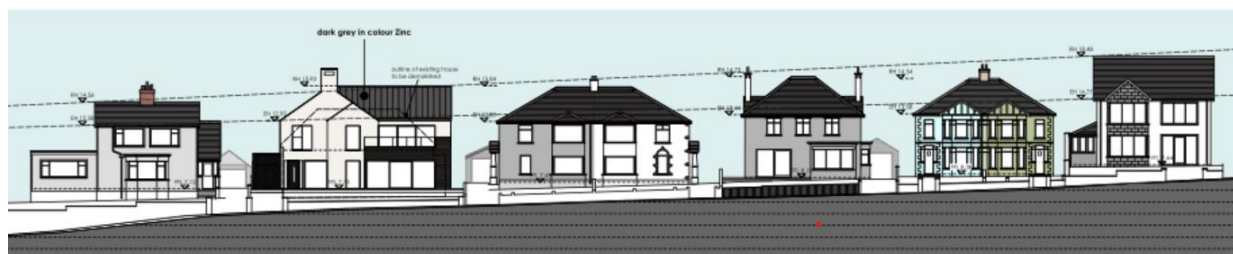


Figure 9 Proposed ridge height will be no higher than those existing in the row

Therefore, taking all of these factors into account, the proposed development is acceptable and meets the tests of part (a) of Policy QD1 of PPS7 and also Policy LC1 (part a) of the Addendum to PPS7. Whilst dBMAP is only to be afforded limited weight it is considered that by reason of its layout, scale, massing and overall design the proposed development would not detrimentally impact the appearance of the overall character of the area and the proposed ATC.

### Impact on Residential Amenity

The only properties that could be potentially impacted upon in terms of a loss of amenity are the adjacent dwellings at 63 and 65 Ballyholme Esplanade. In terms of any potential unacceptable adverse effects on these adjacent dwellings, it is considered that there are none as set out below.

63 Ballyholme Esplanade

The western elevation of the proposed dwelling (adjacent to 63 Ballyholme Esplanade) has no windows on the ground floor and only one window on the first floor which is for an ensuite which will be conditioned to be fitted with opaque glazing. No unacceptable loss of privacy will occur. The proposed dwelling is set 1m from the dividing boundary. No.63 has a lean to single storey garage attached to their facing gable elevation – see Figure 10 below.



Figure 10 Photograph showing the existing gable elevation to 63 Ballyholme Esplanade.

The separation distance between the western gable elevation of the proposed dwelling and the two-storey gable elevation of No.63 is 4m. It is considered that this is an adequate distance for this gable-to-gable relationship for the two 2 storey dwellings to ensure there will not be any unacceptable overshadowing

caused. No.63 sits on a more slightly increased ground level than the site so this will also help prevent unacceptable overshadowing or overdominance impacts. The proposed dwelling will sit beyond the position of the front elevation of the existing dwelling by 0.8m however given this is not a significant distance, it is still generally respectful of the established building line with No.63 and will not result in any dominant impact by way of the outlook from the main front elevation of No.63.

65 Ballyholme Esplanade

The eastern elevation of the proposed dwelling (adjacent to 65 Ballyholme Esplanade) has a corner window to the front of the dwelling on the ground floor. There is a glazed feature to serve the entrance area that extends to double height – see Figure 11 below. It will not cause any unacceptable overlooking as the first-floor area is set back from the windows – see Figure 12. On this basis it is considered that no unacceptable loss of privacy will occur.



Figure 11 Proposed plan of the eastern elevation

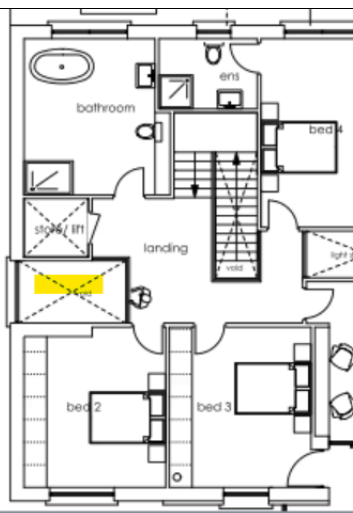


Figure 12 Proposed first floor plan showing void area where the double height glazing is highlighted in yellow.



Figure 13 Photograph of the site and the adjacent dwelling at 65 Ballyholme Esplanade.

The proposed dwelling is positioned 2.5m from the dividing boundary to allow the driveway along the side of the dwelling to access the garage beyond. The adjacent dwelling at No.65 also has a driveway adjacent to access a garage beyond. It is considered that this separation distance for this gable-to-gable relationship for the two 2 storey dwellings is acceptable to ensure there will not be any unacceptable overshadowing caused. The proposed dwelling will not sit beyond the position of the front elevation of the existing dwelling on this side and therefore it is still respectful of the established building line with No.65 and will not result in any dominant impact by way of the outlook from the main front elevation of No.65.

The proposed dwelling includes a balcony to the front elevation of the property. As this is to the front of the dwelling it will not cause any unacceptable loss of privacy to neighbouring properties. The existing boundary treatment, which includes a fence and a hedgerow will be retained and will provide an adequate degree of screening between the existing and proposed properties. A patio area is proposed at ground level, and it is not considered that the new patio will result in any overlooking towards the neighbouring properties as the proposed gym and detached garage will provide screening to the east and the existing garage at No.63 will provide screening to the west.

In summary, taking account of all the above factors, it is considered that the proposed dwelling will be located a sufficient distance from the existing dwellings to ensure that

no unacceptable degree of dominance or overshadowing will occur and there will be no unacceptable adverse impacts on residential amenity. Given that there is an existing dwelling, it is not considered that the proposed dwelling will result in any additional degree of impacts towards the neighbouring properties. It is therefore considered that the proposal complies with part (h) of Policy QD 1 of PPS 7, and all relevant guidance.

### **Amenity Space**

Policy QD1 (c) of PPS 7 states that adequate provision should be made for private open space. The proposed dwelling has an adequate area of private amenity space in the form of a private patio area and a large rear garden to the rear of the dwelling. There is also garden area to the front of the dwelling. It is considered the proposal is in compliance with the guidance as set out in the Creating Places document that requires a minimum of 70sqm of private amenity area per dwelling as the proposed private amenity space is in excess of 70sqm. The proposal is in line with part (c) of Policy QD1 of PPS7.

### **Access, Roads Safety and Car Parking**

Following consultation with DfI Roads, it offers no objections. Ballyholme Esplanade is not a protected route. On this basis it is considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic. In terms of parking provision, the site layout shows parking for 2 cars to the front of the dwelling and 1 space within the proposed garage, providing a total of 3 parking spaces. The Parking Standards document advises that for a 4 bed-detached dwelling, 2.75 in-curtilage spaces are required and as this dwelling provides 4 bedrooms, it is considered that the 3 in-curtilage parking spaces are fully compatible with policy requirements. It is therefore considered that the proposal complies with Policies AMP 2 and AMP 7 of PPS 3, and part (f) of Policy QD1 of PPS 7.

### **Security from Crime**

The layout has been designed to deter crime and promote safety as the proposed dwelling has windows facing towards the front and rear of the site. It is therefore considered that the proposal complies with part (i) of Policy QD1 of PPS 7.

### **Local Neighbourhood Facilities**

As the proposal is for a replacement dwelling there is no need to provide local neighbourhood facilities as part of the development. The site is within the settlement limit with access to shops and services. It is therefore considered that the proposal complies with part (d) of Policy QD1 of PPS 7.

### **Designated Sites and Natural Heritage**

Policy NH1 of PPS 2 relates to European and Ramsar sites. The potential impact of this proposal on Special Areas of Conservation, Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). Having considered the nature, scale, timing, duration and location of the project Shared Environmental Services



(SES) concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site as there are no viable pathways for environmental effects from the proposal to any European site or mobile site feature.

Policy NH 2 of PPS 2 states that planning permission will only be granted for a development proposal that is not likely to harm a species protected by law. To this end, the NI Biodiversity Checklist has been used to identify whether the proposal is likely to adversely affect certain aspects of biodiversity including protected species. A checklist was submitted and it has concluded that no further ecological survey work is required. On this basis it was not necessary to consult Natural Environment Division (NED) of NIEA. It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2.

It is acknowledged, given the coastal location there is a moderate risk of coastal erosion as advised by NIEA. However, weight is given to the distance of the proposed dwelling from the coast (approximately 30m), and the proposal is for a replacement dwelling at a similar location. Taking these into consideration, it is considered that the proposal will not be significantly affected by the effects of coastal erosion. NED and SES were consulted and offered no objections to the proposal subject to conditions.

## 5. Representations

I have read in full all representations submitted.

### Letters of support

Number of representations of support received – 3 in total – in relation to the original proposal.

Issues raised include innovative design, modernist homes, nautical inspired architecture is welcomed in the area and can sit amongst period properties. Places should not stand still regarding design and architecture in our landscapes.

### Letters of objection

Number of objections received – 9 objections (this does not include 1 anonymous objection which does not count) from 9 different addresses, received as follows:

- 9 objections to the original proposal (9 separate addresses), submitted in June, July and December 2023
- 1 objection received since latest submission (1 address) submitted in February 2024.

Issues raised in submitted representations are summarised below:

Issues raised in relation to original submission:

- Design and materials out of character with area including proposed ATC.
- Overdevelopment of the site adds to out of keeping with area.
- Loss of light and overshadowing to No.65.

Issues raised in relation to latest submission:

- Balcony out of keeping with the area.

The main concerns raised in relation to the impact of the development on the character of the area, and impact on residential amenity have been resolved through the submission of the amended scheme. The issue regarding the proposed balcony has been considered in the main report and is not deemed to result in any significant loss of residential amenity of adjacent residents.

**6. Recommendation**

**Grant Planning Permission**

**7. Conditions**

- 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 first-floor gable windows highlighted green on drawing 06, shall comprise of obscure glazing. The obscure glazing must be fitted prior to the dwelling hereby approved being occupied and will be retained in perpetuity thereafter.

Reason: To protect the private amenity of the neighbouring properties.

**Informative**

This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees, where relevant, on the Portal.

<b>Case Officer Signature:</b>		<b>Date:</b>	
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**Photographs**



Photograph of the dwelling to be replaced



Photograph of the existing dwelling within the existing row of dwellings

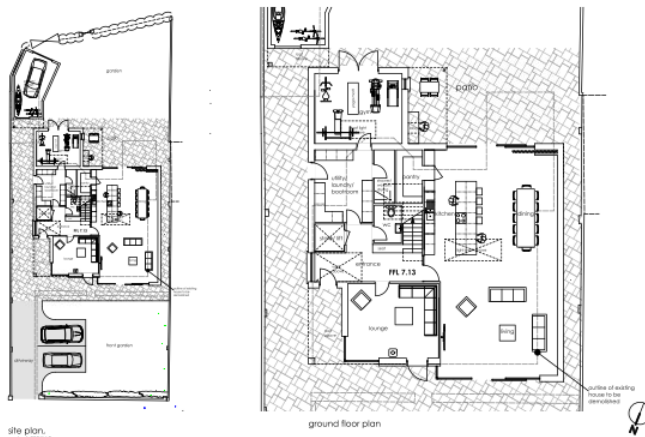


Photograph of the existing dwelling within the existing row of dwellings

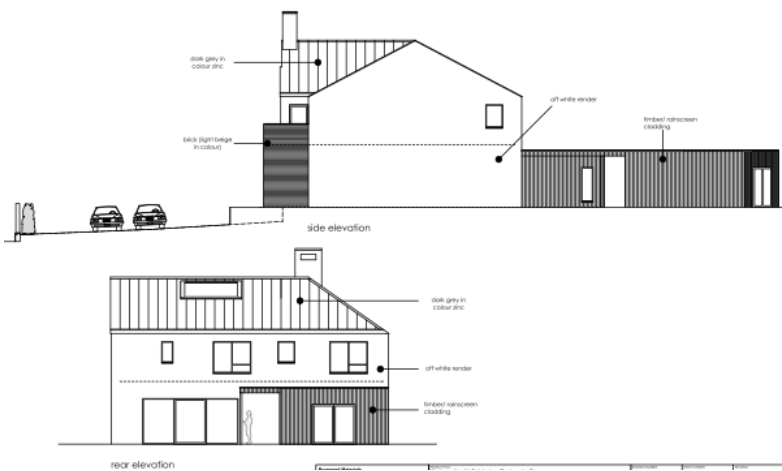
### Plans



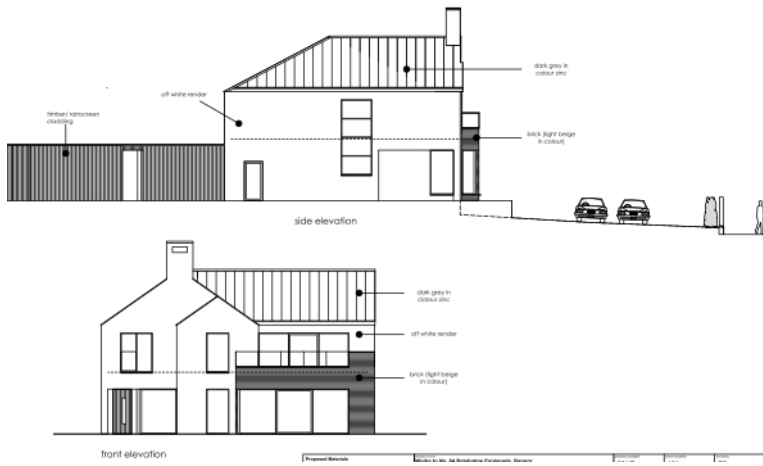
Site location plan



Proposed site layout



Proposed side and rear elevations




Proposed side and front elevations

**ITEM 4.5****Ards and North Down Borough Council**

Application Ref	LA06/2020/0322/F
Proposal	Development of 16 No. dwellings and garages, with new access to High Bangor Road and associated landscaping and ancillary works
Location	Lands at High Bangor Road, Donaghadee - Opposite Rocklyn Avenue (Hadlow Development) and to the North and North-West of Donaghadee Rugby Club Playing Fields.
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to officers' recommendation
Validated	17/04/2020
Summary	<ul style="list-style-type: none"> <li>• Site is located inside the settlement limit of Donaghadee and adjacent to similar housing developments.</li> <li>• The proposed layout has all 16 dwellings fronting onto the internal road layout, with in-curtilage parking spaces and respecting the surrounding character of the area.</li> <li>• The proposal meets all the relevant criteria under policy QD1 of PPS 7.</li> <li>• The proposal complies with policy LC1 of the Addendum to PPS 7 in that the proposed density is in keeping with adjacent sites respecting surrounding character.</li> <li>• Dfl Roads offers no objection to the proposal with compliance with policies AMP 2, AMP 3 and AMP 7 of PPS 3 – Access, Movement and Parking.</li> <li>• NED is content with the proposal subject to conditions – compliance with PPS 2.</li> <li>• A negative condition will be attached to any approval regarding sewerage disposal.</li> <li>• Dfl Rivers accepts drainage assessment.</li> </ul>

	<ul style="list-style-type: none"> <li>• It is considered that the proposal complies with policies FLD 1, FLD 2 and FLD 3 of the Revised PPS 15 (Flood Risk).</li> <li>• 12 letters of objection have been received from 9 separate addresses. These are assessed in detail in the case officer report.</li> </ul>
<p>Recommendation</p>	<p><b>Approval</b></p>
<p>Attachment</p>	<p>Item 4.5a – Case Officer Report</p>

Development Management Case Officer Report		 <b>Ards and North Down</b> Borough Council	
<b>Reference:</b>	LA06/2020/0322/F	<b>DEA:</b> Bangor East & Donaghadee	
<b>Proposal:</b>	Development of 16 No. dwellings and garages, with new access to High Bangor Road and associated landscaping and ancillary works.		
<b>Location:</b>	Lands at High Bangor Road, Donaghadee - Opposite Rocklyn Avenue (Hadlow Development) and to the North and North-West of Donaghadee Rugby Club Playing Fields		
<b>Applicant:</b>	Mr Nick Day		
<b>Date valid:</b>	17.04.2020	<b>EIA Screening Required:</b>	Yes
<b>Date last advertised:</b>	22.04.2021	<b>Date last neighbour notified:</b>	08.01.2024
<b>Letters of Support:</b> 0	<b>Letters of Objection:</b> 12 from 9 separate addresses	<b>Petitions:</b> 0	
<b>Consultations – synopsis of responses:</b>			
Dfl Roads	No objections subject to conditions		
NI Water	Refusal as capacity issues at foul sewer		
NIEA Water Management Unit	Concerns impact on water environment if no capacity at foul sewer but if approval requested condition relating to the submission of CEMP		
NIEA Natural Environment Division	Content subject to conditions		
Environmental Health	No objection subject to conditions relating to contamination		
Dfl Rivers	No objections as development outside floodplain		
Shared Environmental Service	Content subject to conditions		
<b>Summary of main issues considered:</b>			
<ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Design and impact on character and appearance of the area</li> <li>• Impact on residential amenity</li> <li>• Impact on natural environment</li> <li>• Access and parking</li> <li>• Sewage and Flooding</li> </ul>			



**Recommendation: Grant Planning Permission****Report Agreed by Authorised Officer**

Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal

**1. Site and Surrounding Area**

The site is located at High Bangor Road, Donaghadee. The site is currently agricultural land which slopes slightly downwards from the road towards a watercourse along the southern/eastern boundaries. The site is well defined by hedging along the boundaries with some trees and the watercourse along the southern/eastern boundaries.

The site is located opposite a recently constructed housing development, and to the north of the rugby club and agricultural land. A new development of 7 dwellings is located immediately to the west of the site.

The area is within the settlement limit of Donaghadee. The area within the settlement limit is predominantly residential. Beyond the settlement limit is agricultural land.

**2. Site Location Plan****3. Relevant Planning History**

No relevant site history. Several housing developments have been approved surrounding the site.

X/2007/1146/F - Lands at and to the North of 41 High Bangor Road former carpet factory – Donaghadee – 199 dwellings – Permission Granted 21.04.2011

X/2013/0311/F - Lands at and to the North of 41 High Bangor Road \_Former carpet factory\_ Donaghadee - Residential development of 30 dwellings with associated garages\_ carparking and landscaping \_change of house types to previous approval X/2007/1146/F – Permission Granted 21.10.2013

X/2014/0316/F - Lands at and to the North of 41 High Bangor Road \_former carpet factory\_ Donaghadee - Residential development of 162 Dwellings with associated garages and car parking and landscaping \_amendment to previous approval X/2007/1146/F\_ incorporating change of house types – Permission Granted 09.07.2015

LA06/2016/1093/F - Site south of former carpet factory 200m west of no. 40 High Bangor Road and 100m north-west of Donaghadee Rugby/Football Club Donaghadee - Proposed residential development comprising 7 detached houses and detached garages with associated car-parking and landscaping\_ including right-hand turning lane \_change of road markings only – Permission Granted

The history of the area demonstrates the predominant residential character of the surrounding area.

#### 4. Planning Assessment

**The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:**

- North Down and Ards Area Plan 1984-1995
- Belfast Metropolitan Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2 - Natural Heritage
- Planning Policy Statement 3 - Access, Movement and Parking
- Planning Policy Statement 7 - Quality Residential Environments
- Planning Policy Statement 12 - Housing in Settlements
- Planning Policy Statement 15 – Revised Planning and Flood Risk

Planning Guidance:

- Creating Places
- DCAN 8: Housing in Existing Urban Areas
- Parking Standards

#### **Principle of Development**

The application site is located within the settlement development limit of Donaghadee as designated in the Ards and Down Area Plan 2015. There is no specific zoning. The proposal is therefore considered to be in conformity with the plan provided it complies with the relevant regional planning policies.

Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 7 - Quality Residential Environments and PPS 3 - Access, Movement and Parking.

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

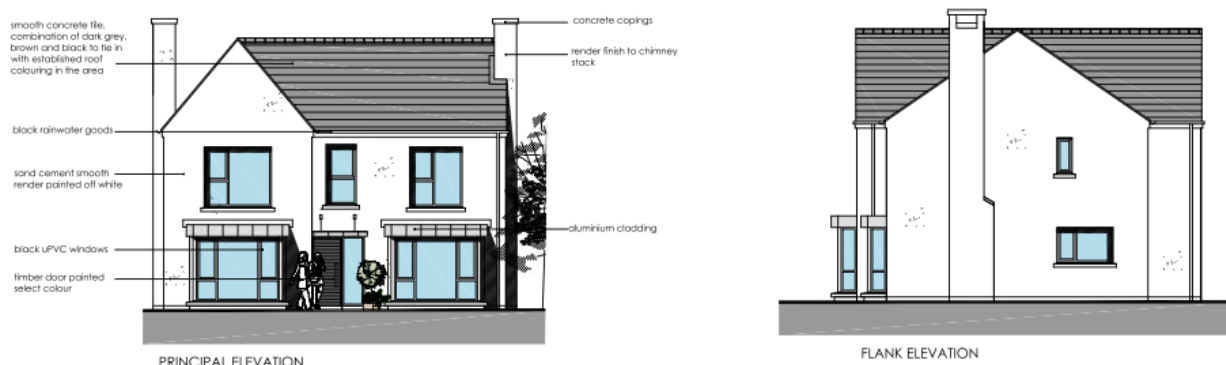
As the site is within the settlement limit and adjacent to similar housing developments, the principle of development on this site is considered acceptable.

#### **Design, Visual Impact, and Impact on Character of the Area**

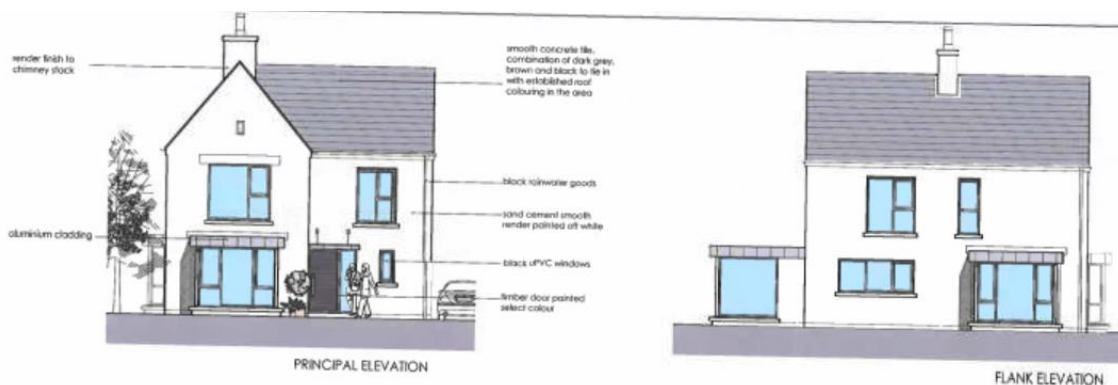
Policy QD1 of PPS 7 seeks to achieve residential developments which promote quality and sustainability in their design and layout, and which respect the character, appearance, and residential amenity of the local area.

The proposal for 16 dwellings will not damage the quality of the local area. The site is within the settlement limit of Donaghadee and adjacent to similar housing developments.

The layout, scale and massing of the proposed dwellings will respect the topography of the site and the character of the area. All house types will be detached, two storey and finished in smooth render with pitched concrete tiled roofs in black, brown or grey to match the finishes within the surrounding area. The dwellings will be different house types and sizes to create visual interest within the development. The garages will be finished in the same materials as the dwellings.



Example House type A



Example of House type B

The layout of the development has been designed so all dwellings will front onto the internal road layout with incurtilage parking spaces which respects the pattern of development in the area. The dwellings along the front of the site will be set back from the main High Bangor Road with an internal road and landscaping between. These dwellings will be built at a similar level to the road and will have frontage onto the High Bangor Road to maintain the character of the area. Dwellings located on corner sites within the development have been designed to be double fronted to respect the road layout.



Proposed site layout

The landscaping plan indicates that several trees will be retained within the site and existing hedgerows to be retained and augmented where possible to maintain the character of the site and aid integration. New hedging and trees will be provided within the site to soften the visual appearance and garden areas will be grassed to create quality amenity space for future residents. A landscaped area with grass, trees and hedging will be provided along the front of the site to help screen and soften the visual impact of the development and new road layout from public views along High Bangor Road. A landscape buffer will also be provided along the watercourse and the southern boundaries to clearly mark the distinction of the settlement limit and aid integration.

The density of the proposed development is not considered as significantly higher than the surrounding residential area. The site will provide 12 dwellings per hectare (16 dwellings on a 1.3 hectare site). The adjacent site at Montgomery Meadows has 7 dwellings on a 0.65 hectare site which is 11 dwellings per hectare. This demonstrates that the proposal is in keeping with the character of the surrounding area and it is considered that the density on site will not erode the character of the area as the form, scale, massing and layout of the new development will respect that of adjacent housing and will create a quality residential environment.

The proposal is therefore considered to comply with parts (a) and (g) of Policy QD1 of PPS 7, policy LC1 of the Addendum to PPS 7 and all relevant guidance.

### **Amenity Space**

Sufficient amenity space will be provided within the development. The size of plot for each dwelling is adequate to ensure that sufficient provision is made for private amenity space in rear gardens with the average space standard for the development as a whole providing greater than 70m<sup>2</sup> amenity space per dwelling as recommended in *Creating Places*. The supporting statement provided with the proposal states that 'the houses will all have access to good sized private gardens, which range from 106 m<sup>2</sup> to nearly 700m<sup>2</sup>.'

The rear garden areas will be screened by fencing and landscaping and dwellings

along the road layout will have amenity space screened by 1.8m high rendered walls to create privacy.

It is therefore considered that the proposal complies with part (c) of Policy QD1 of PPS 7 and all relevant guidance.

### **Impact on Residential Amenity**

The proposal will have no adverse impact on adjacent dwellings and will cause no significant overlooking or overshadowing. The nearest dwellings to the site are located at nos. 6 and 7 Montgomery Meadows to the west of the site. The proposed dwelling on site 1 will be located perpendicular to No. 7 Montgomery Meadows and will back onto its rear amenity space. There will be at least 10m separation distance between the proposed dwelling and the adjoining boundary which is the recommended distance within Creating Places to ensure there are no unacceptable adverse impacts on residential amenity from overlooking or overshadowing. Due to the orientation of the dwelling on site 1 it will look towards the rear amenity space of No. 7 and there will be no opposing windows on ground or first floor to prevent any unacceptable adverse overlooking. There is a ditch between No. 7 and the proposed site, trees and fencing will be added along the adjoining boundary and No. 7 has an existing fence along its boundaries to protect residential amenity.

The proposed dwellings on sites 2 and 3 will back onto Nos. 6 and 7 Montgomery Meadows. There will be over 30m separation distance between the proposed and existing dwellings to ensure there are no unacceptable adverse impacts from overlooking or overshadowing on their residential amenity. Existing trees and hedging will also be retained along the adjoining boundaries to help screen the dwellings and respect amenity.

There are no residential properties to the south of the site, only agricultural land. There are residential properties on the opposite side of the road at Rocklyn Lane and Avenue which are over 20m north of the site. The proposal will have no adverse impact on their residential amenity due to the separation distance of the road and the proposed dwellings are set back from the road with a landscaped area between.

It is therefore considered that the proposal complies with part (h) of Policy QD 1 of PPS 7 and all relevant guidance.

### **Access, Roads Safety and Car Parking**

The proposal will create a new access onto High Bangor Road which is a protected route.

It is considered that the proposal complies with the Clarification of Policy AMP 3 as the road is classified as 'Other Protected Routes – Within Settlement Limits'. Access to the site cannot reasonably be taken from an adjacent minor road as there are no other roads that serve the site and the adjacent road and turning head at Montgomery Meadows to the west of the site contains land that is outside the ownership of the applicant. This approach is backed in appeal reference 2019/A0154 where the commissioner stated that 'this is private land, outside the appellant's control. No adjacent minor road exists, and I do not consider that AMP3, in referring to 'an adjacent minor road' intends this to mean a private road.'

It has also been demonstrated to the Council via consultation with DfI Roads that the nature and level of access onto the Protected Route will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points and DfI Roads offers no objections to the proposal.

DfI Roads was consulted and agreed Private Street Determination drawings so the access and road within the site is up to standard and will be adopted.

A Transport Assessment was submitted which details that 'from the TRICS Data survey investigations, the peak periods of traffic travelling to and from the proposed development are estimated to be in the region of 7-9 vehicles per peak hour. This represents a very small increase of traffic on the local highway network, i.e. High Bangor Road, and is unlikely to have any significant impact in terms of highway capacity or the possible increase of accidents.'

The site is accessible to the town of Donaghadee. A new 2.0m footway across the entire site frontage will be provided which leads towards Donaghadee Town Centre and the site has public transport links to encourage alternatives to the private car.

Each dwelling will be provided with two incurtilage parking spaces and a detached garage will be provided for each dwelling. Within Parking Standards, it sets out that for 16 dwellings with two incurtilage parking spaces, 48 spaces are required for the whole development. A parking plan was submitted which demonstrates the two spaces per dwelling and 16 visitor spaces will be provided throughout the site and therefore the parking meets current standards. The parking will be conditioned in any approval.

DfI Roads was consulted and offers no objections. It is therefore considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic. The proposal complies with Policies AMP 2, AMP 3 and AMP 7 of PPS 3 and the Clarification of AMP 3 of PPS 3, part (e) and (f) of Policy QD1 of PPS 7 and all relevant guidance.

### **Archaeology and Built Heritage**

There are no features of the archaeological and built heritage to protect and integrate into the overall design and layout of the development.

It is therefore considered that the proposal complies with part (b) of Policy QD1 of PPS 7 and all relevant guidance.

### **Security from Crime**

The layout has been designed to deter crime and promote safety as the proposed dwellings will front onto the road and rear amenity space will be protected by landscaping and fencing. It is therefore considered that the proposal complies with part (i) of Policy QD1 of PPS 7 and all relevant guidance.

### **Local Neighbourhood Facilities**

As the proposal is for 16 dwellings there is no need to provide local neighbourhood facilities as part of the development. The site is within the settlement limit of Donaghadee with access to shops, services, education etc. It is therefore considered

that the proposal complies with part (d) of Policy QD1 of PPS 7 and all relevant guidance.

### **Designated Sites and Natural Heritage**

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Ards and North Down Borough Council which is the competent authority responsible for authorising the project. Following an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation. This conclusion is subject to mitigation measures being conditioned in any approval.

Conditions will be added to any approval that a Construction Method Statement shall be submitted and agreed in writing with the Council before any works occur on site and that consent to discharge, or the method of sewage disposal has been agreed in writing with Northern Ireland Water to ensure the project will not have an adverse effect on the integrity of any European site.

A Biodiversity Checklist, Bat Survey, Outdoor Lighting Report and Outline Construction Environmental Management Plan were submitted, and Natural Environment Division (NED) was consulted.

NED commented that it 'has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, is content with the proposal, subject to recommended conditions.'

A condition will be added that no development shall commence until a final Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. This will ensure protection of the adjacent watercourse, and watercourses and designated sites downstream.

Other conditions will be added that the existing mature trees and hedgerow along the site boundaries shall be retained, additional planting of hedgerow and trees shall be undertaken as indicated on the approved landscaping plan and all existing trees shown as being retained shall be protected by appropriate fencing in order to protect biodiversity within the site, including protected species.

NED has also requested a condition that all external lighting shall be implemented in accordance with the drawings and the submitted Outdoor Lighting Report to minimise the impact of the proposal on bats and other wildlife and that a suitable buffer of at least 5m must be maintained to the watercourse to protect priority habitats adjacent to the area of the application, designated sites downstream of the application, and maintain the biodiversity of the site.

These conditions will be added to any approval therefore it is considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2 and will have no adverse impact on the natural environment.

## Sewage Issues

NI Water was consulted and indicated potential network capacity issues at the foul sewer and the recommendation that the applicant submits an application to NI Water for a Wastewater Impact Assessment to see if an alternative drainage or treatment solution can be agreed.

The applicant has indicated on the submitted P1 form that surface water and foul sewage will be disposed of via public mains.

NI Water has advised that a high-level assessment has indicated potential network capacity issues. This establishes significant risks of detrimental effect to the environment and detrimental impact on existing properties. For this reason, NI Water is recommending connections to the public sewerage system are curtailed. The applicant is advised to consult directly with NI Water ([InfrastructurePlanning@niwater.com](mailto:InfrastructurePlanning@niwater.com)) to ascertain whether any necessary alternative drainage /treatment solutions can be agreed.

I am satisfied that the above capacity issues can be dealt with by attaching a negative condition stipulating that no development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority. The condition will also require that evidence of this consent shall be submitted to the Council prior to the commencement of any development.

The applicant will be able to liaise with the relevant authorities outside of the planning process to finalise the details of the proposed solution. If the applicant is unable to deliver the required solution, then he/she will be unable to implement the permission. If a private treatment plant solution is proposed as an alternative to resolve the issue, a separate planning application for this would be required.

The applicant has indicated that their engineer remains in formal discussions with the NI Water Solutions Team.

## Flooding

There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. An undesignated watercourse bounds the southern side of the site therefore DfI Rivers was consulted. The applicant submitted a Drainage Assessment and Flood Risk Assessment.

Under Policy FLD1 - Development in Fluvial and coastal Flood Plains – DfI Rivers Flood Maps (NI) does not indicate a floodplain associated with the undesignated watercourse that bounds the southern site boundary. This is due to the fact that the minor watercourse falls below the threshold in terms of catchment area for River Modelling. Following consultation with DfI Rivers it commented that it 'has reviewed the Flood Risk Assessment by Flood Risk Consulting dated March 2021, and comments as follows: DfI Rivers PAMU, while not being responsible for the preparation of the Flood Risk Assessment accepts its logic and has no reason to disagree with its conclusions... The site layout plan, indicates that the proposed development is taking place on elevated ground and out of the floodplain, therefore,



Revised PPS 15 FLD1 is satisfied.'

Policy FLD2 relates to protection of flood defence and drainage infrastructure – There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. An undesignated watercourse bounds the southern side of the site. The site may be affected by undesignated watercourses of which Dfl Rivers has no record. Dfl Rivers commented that the site layout shows a 5 meter working strip adjacent to the undesignated watercourse therefore FLD2 is satisfied.

Under Policy FLD3 - Development and Surface Water – Dfl Rivers has reviewed the Drainage Assessment Addendum by TJK Consulting dated March 2021, and comments as follows; 'Dfl Rivers, while not being responsible for the preparation of the Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.

The DA states in paragraph 6.4.3.4 (page 22) that the issue of out-of-sewer flood risk could be addressed by attenuating the 1 in 100 year event within the proposed drainage network. If this was achieved it would satisfy the requirement under PPS 15 FLD 3 to provide adequate measures to mitigate the flood risk from the development to elsewhere. However, this proposal exceeds the design standards required under 'Sewers for Adoption, Northern Ireland' (SfA) and consequently there is no guarantee that NIW will adopt this theoretical design. In addition, there is no requirement under SfA for NIW to consider flood risk from out of-sewer flooding beyond the development under consideration, and therefore no guarantee that this form of flood risk will be considered outside the planning process. Consequently Dfl Rivers requests that the drainage assessment is resubmitted to demonstrate how out-of-sewer flooding will be managed if the proposed drainage network is designed and constructed in accordance with SfA, or that any potential planning permission is subject to a negative condition that requires the submission and agreement of a final drainage assessment prior to the commencement of development to safeguard against flood risk to the development and from the development to elsewhere.

As the network capacity issue has not been agreed with NI Water this condition will be added to any approval to ensure that no development can take place on-site until the final drainage and solutions to the capacity issues have been agreed with the relevant bodies and evidence is submitted to the Council to discharge any relevant conditions. This will prevent any harm arising from the proposed development in terms of flood risk.

Policy FLD4 - Artificial Modification of watercourses and Policy FLD5 - Development in Proximity to Reservoirs – are not applicable to this site.

It is therefore considered that the proposal will comply with PPS 15 and will not cause flooding to the site or elsewhere.

## **5. Representations**

12 letters of objection were received from nine separate addresses. The main issues of concern are:

- *Impact on wildlife*

A Biodiversity checklist and several ecological reports were submitted in consultation with Natural Environment Division (NED). NED is content with the proposal subject to conditions being included on any approval which will ensure the proposal will have no adverse impact on natural heritage interests.

- *Impact on sewage system, backup of sewage in area, environmental damage from lack of sewage infrastructure.*

As discussed previously in the report, NI Water has indicated sewer capacity issues with the proposed development therefore a negative condition will be added to any approval that no development shall commence on site until evidence that a solution has been agreed with the relevant body has been submitted to the Council. This will ensure there is no environmental impact.

- *Impact on rural views*

The site is undeveloped land within the settlement limit of Donaghadee. Residential development is directed to the settlement limit to protect the countryside therefore the proposal for housing on the site is acceptable. The rural land beyond the settlement limit will remain. Loss of a view is not a material planning consideration.

- *Loss of space around Donaghadee / Donaghadee losing its charm, sense of community. Impact on Donaghadee's infrastructure from all recent housing developments. No plans for additional schools, health centres. Impact on sports facilities. Existing health centre under pressure.*

The site is undeveloped land within the settlement limit of Donaghadee and therefore is not considered as a loss of space around Donaghadee and is suitable for residential development. Some of the recent housing developments are on land zoned for housing within the development plan and the impact on infrastructure and services was considered during the plan making process. Any objections to the draft plan would have been considered at public enquiry stage before the Ards and Down Area Plan 2015 was adopted. It is considered that as this proposal is only for 16 dwellings within the settlement limit where residential development is directed that there will be no unacceptable adverse impacts on existing infrastructure and services. Health care services are a wider issue that goes beyond the remit of a planning application.

- *Impact on value of property*

This is not considered as material to the determination of this proposal as the value of property can fluctuate as a result of many factors that are outside the remit of the planning process.

- *Third party ownership of land other side of fence at Montgomery Meadows and will not allow development on it.*

The agent has confirmed that they believe the redline to be correct and within the ownership of the applicant.

- *Impact on traffic from cumulative impact with other developments in the area. Lack of parking in town centre. Road safety. Lack of bus services.*

DfI roads was consulted in relation to road safety and impact of the proposal on the existing road network and offers no objections. Lack of town centre parking is outside the remit of this planning application. Bus services are outside the control of the Council's Planning Department.

- *Flooding, impact on drainage*

DfI Rivers was consulted and offers no objection subject to a condition being added to any permission. Flooding and drainage issues have been considered previously in the report.

- *Impact of construction on area and adjacent dwellings. Noise impact.*

Whilst it is accepted that noise and dust can be a feature of any construction, the developer will be expected to take all reasonable steps to minimise disturbance, and this is controlled by best practice measures outside of the planning process. It is considered that the construction will only be for a temporary period. Environmental Health was consulted in relation to noise etc. and offers no objections.

## 6. Recommendation

### Grant Planning Permission

## 7. Conditions

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 Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 38C.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

3. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

No development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No. 38C. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

4. No dwelling shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling

5. No dwelling shall be occupied until provision has been made within its curtilage for the parking of private cars at the rate of 2 spaces. All parking areas shall be permanently retained thereafter and used for no other purpose other than the parking of vehicles.

Reason: To ensure adequate (in-curtilage) parking in the interests of road safety and the convenience of road users

6. The development hereby permitted shall not be commenced until any highway structure/ retaining structure requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance with CG300 of Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with CG300 of Design Manual for Roads and Bridges.

7. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 and evidence of this is submitted to the Council.

Reason: To ensure no adverse effect on the water environment or on the integrity of any European site as a result of sewage disposal.

8. A Construction Method Statement (CMS) shall be submitted to and agreed in writing by the Council prior to the commencement of any development activity on site, including ground preparation or vegetation clearance. The CMS shall reflect all the proposed mitigation measures, including a clearly defined 5m buffer zone. The CMS shall be implemented in accordance with the approved

details and all works on site shall conform to the approved CMS.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

9. No development activity, including ground preparation or vegetation clearance, shall commence until a final Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. The final CEMP shall include pollution prevention measures to be implemented in accordance with the measures noted within the submitted Outline CEMP date stamped 9th November 2022 by the Council. The CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP.

Reason: To ensure protection of the adjacent watercourse, and watercourses and designated sites downstream.

10. A suitable buffer of at least 5m to the watercourse on site as indicated on Drawing Number 37D shall be permanently maintained and protected from development.

Reason: To protect priority habitats adjacent to the area of the application, designated sites downstream of the application, and maintain the biodiversity of the site.

11. All hard and soft landscape works shall be carried out in accordance with Drawing No. 37D and the relevant British Standard 5837: 2012 or other recognised Codes of Practice. Prior to the occupation of any dwelling hereby approved, a Landscape Phasing Plan (to include timings for implementation of all new landscaping) shall be submitted to and agreed in writing with the Council. All landscaping shall be undertaken in accordance with the timings agreed in the approved phasing plan.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

12. The management and maintenance of the approved landscaping shall be permanently carried out in accordance with the Landscape Management Plan dated 08 January 2024.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

13. The long-term management and maintenance of the open space as indicated on Drawing No. 37D, shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, must be submitted to and agreed in writing with the Council prior to the

occupation of any dwelling hereby approved.

Reason: To ensure the provision and maintenance of public open space within the site.

14. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

15. The existing mature trees and hedgerow along the site boundaries as indicated on Drawing No. 37D shall be permanently retained, and additional planting of hedgerow and trees shall be undertaken as indicated on Drawing No. 37D. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Council. Any existing trees or planting indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying, shall be replaced during the next planting season (October to March inclusive) with other trees or plants of a location, species and size to be first approved in writing by the Council.

Reason: To protect biodiversity within the site, including protected species.

16. No works shall commence on site (including site clearance) unless a Tree Protection Plan ("TPP") to BS5837:2012 (or any standard that reproduces or replaces this standard) has been submitted to and approved in writing by the Council. The TPP shall detail the methods of tree/hedge protection and clearly detail the position and specifications for the erection of tree protective fencing and a programme for its implementation. The works shall not be carried out unless in accordance with the approved details and the measures specified by the TPP shall remain in place until the completion of the construction.

Reason: To safeguard existing tree(s) in the interests of visual amenity and biodiversity. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

17. All external lighting shall be implemented in accordance with the drawings and specifications included in the Outdoor Lighting Report, by David J Bowman and Associates Ltd., dated 12 February 2021.

Reason: To minimise the impact of the proposal on bats and other wildlife.

18. If during the development works, new contamination and risks are encountered which have not previously been identified, works shall cease, and the Council

shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be submitted to and agreed in writing by the Council and subsequently implemented to its satisfaction.

Reason: Protection of environmental receptors and human health to ensure the site is suitable for use.

19. After completing all remediation works under Condition 18 and prior to occupation of any part of the development, a verification report shall be submitted to and agreed in writing by the Council. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. The verification report shall present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors and human health to ensure the site is suitable for use.

**Informatives:**

This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees, where relevant, on the Portal.

Aerial Image of Site

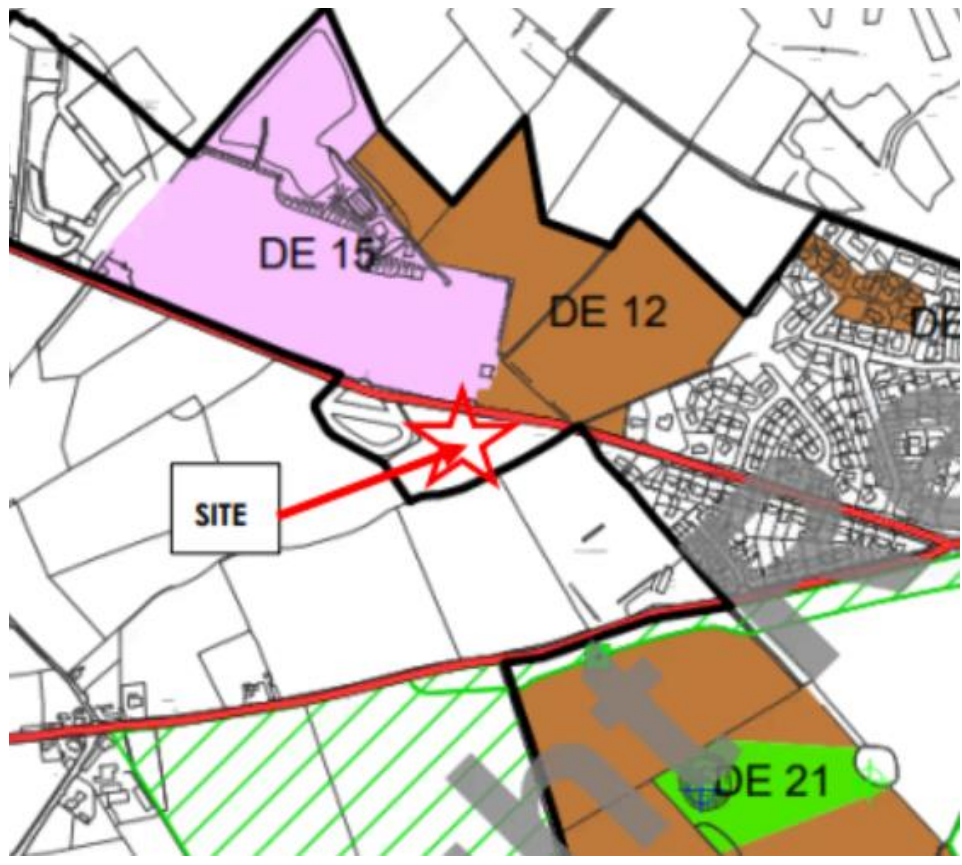


Site Layout



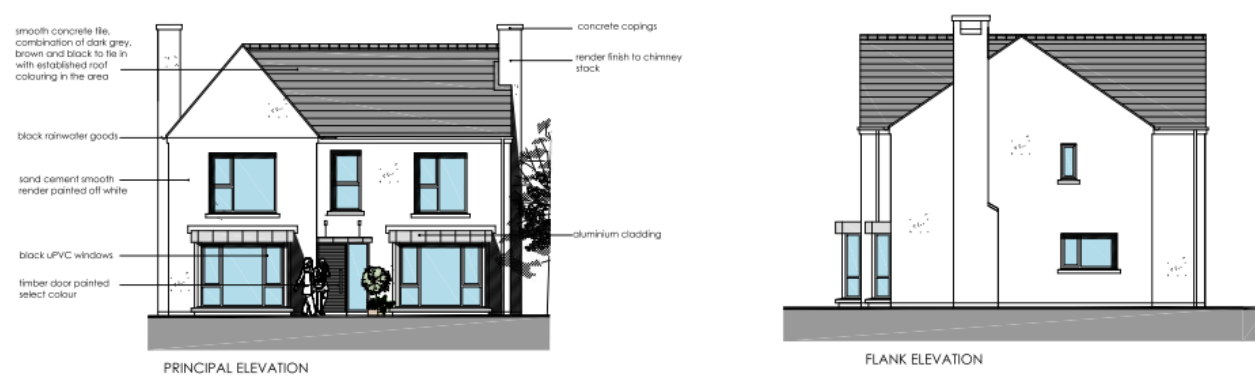


Extract from Ards and Down Area Plan 2015 showing site within settlement limit of Donaghadee

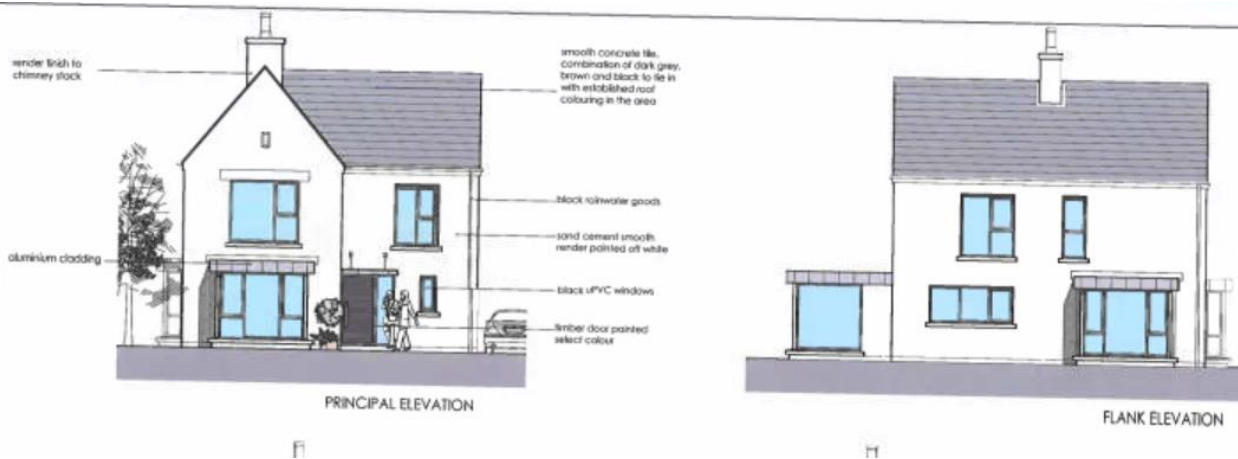


### Proposed Elevations

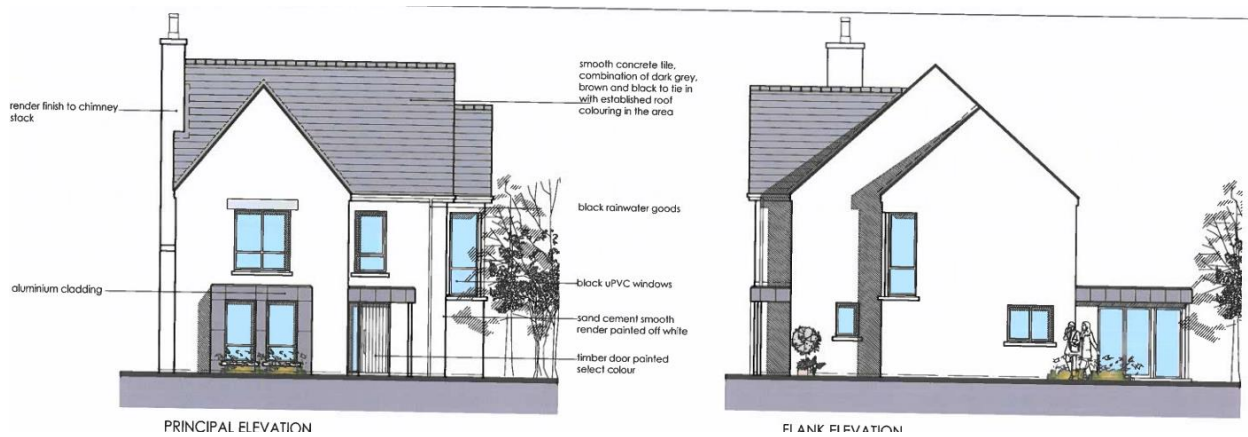
#### House type A



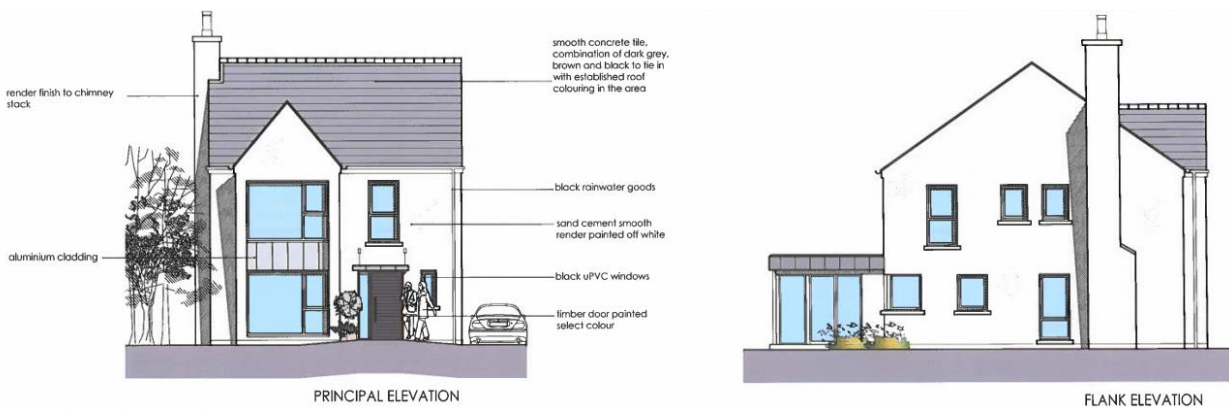
### House type B



### House type C



### House type D



Photos of the site

View of site looking west along High Bangor Road



View of site from High Bangor Road looking south/ south-west



View of site looking from Rockyln Avenue towards the south




View of site from Montgomery Meadows looking eastwards



## ITEM 4.6

## Ards and North Down Borough Council

Application Ref	LA06/2022/1286/F
Proposal	Erection of 2no. dwellings and garages and associated site works and landscaping
Location	28 and 30 Bryansburn Road, Bangor
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to officers' recommendation.
Validated	12/01/2023
Summary	<ul style="list-style-type: none"> <li>• Proposal amended in December 2023.</li> <li>• Located within the settlement limits of Bangor in line with NDAAP 1984 and draft BMAP 2015.</li> <li>• The site is located within the draft Bangor West ATC as identified in draft BMAP 2015.</li> <li>• The proposal complies with the policy criteria outline in policy QD1 of PPS 7 and policy LC1 of APPS 7.</li> <li>• The layout, scale, massing and overall design of the proposed development does not detrimentally impact the appearance of the overall character of the area.</li> <li>• Proposal complies with policies AMP 2 and AMP 7 of PPS 3 'Access, Movement and Parking'.</li> <li>• Proposal meets requirements of policies NH1, NH2 and NH 5 of PPS 2 'Natural Heritage'.</li> <li>• Negative condition will be applied re sewerage disposal should application be approved.</li> <li>• 12 letters of objection received from 7 separate addresses. 11 of those objections from 7 separate addresses received prior to amended proposal. Since December 2023 one further letter of objection received however not from a new address.</li> <li>• Objections assessed in detail in case officer's report.</li> </ul>
Recommendation	<b>Approval</b>
Attachment	Item 4.6a – Case Officer Report

Development Management Case Officer Report		 <b>Ards and North Down</b> Borough Council	
<b>Reference:</b>	LA06/2022/1286/F	<b>DEA:</b> Bangor West	
<b>Proposal:</b>	Erection of 2no. dwellings and garages and associated site works and landscaping		
<b>Location:</b>	28 and 30 Bryansburn Road, Bangor		
<b>Applicant:</b>	Down Country Homes Ltd		
<b>Date valid:</b>	20/12/2022	<b>EIA Screening Required:</b>	No
<b>Date last advertised:</b>	07/12/2023	<b>Date last neighbour notified:</b>	28/11/2023
<b>Letters of Support: 0</b>	<b>Letters of Objection: 12</b> from 7 separate addresses	<b>Petitions: 0</b>	
<b>Consultations – synopsis of responses:</b>			
DFI Roads		No objections.	
NI Water		Refusal based on potential network capacity issues. A negative condition can be included.	
Environmental Health Department		No objections.	
<b>Summary of main issues considered:</b>			
<ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Impact on character and appearance of the area</li> <li>• Impact on residential amenity</li> <li>• Access and parking requirements</li> </ul>			
<p>All material considerations have been assessed and the proposal, in my professional planning opinion, will not cause demonstrable harm to interests of acknowledged importance and therefore <b>APPROVAL</b> is recommended.</p>			
<b>Recommendation: Grant Planning Permission</b>			
<b>Report Agreed by Authorised Officer</b>			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Northern Ireland Public Register ( <a href="http://planningsystemni.gov.uk">planningsystemni.gov.uk</a> )			

### 1. Site and Surrounding Area

The application site is located within the Development Limits of Bangor, as identified in the Draft Belfast Metropolitan Area Plan (dBMAP) 2015. The site lies to the west of Bangor Town Centre. The application site is part of the rear garden areas associated with 28 and 30 Bryansburn Road which are both 2 storey semi-detached dwellings. The site has an area of approximately 0.16ha. It is bound by 28-30 Bryansburn Road to the south, the dwelling of 10 Bryansburn Gardens to the west, the rear garden of 26 Bryansburn Road to the east and Nos. 1, 3, 5 and 7 Farnham Park to the north. The boundaries comprise existing hedgerow on all sides with the exception of the southern boundary which consists of a close boarded timber fence. Most of the boundary vegetation is within the boundaries of adjoining properties and not within the application site. The site is relatively flat throughout.

The surrounding area is residential and includes a mix of house types and designs with similar plot sizes and layouts. A care home exists directly opposite the site at 32 Bryansburn Road. The application site is within the proposed Bangor West Area of Townscape Character (ATC:BR15).

### 2. Site Location Plan

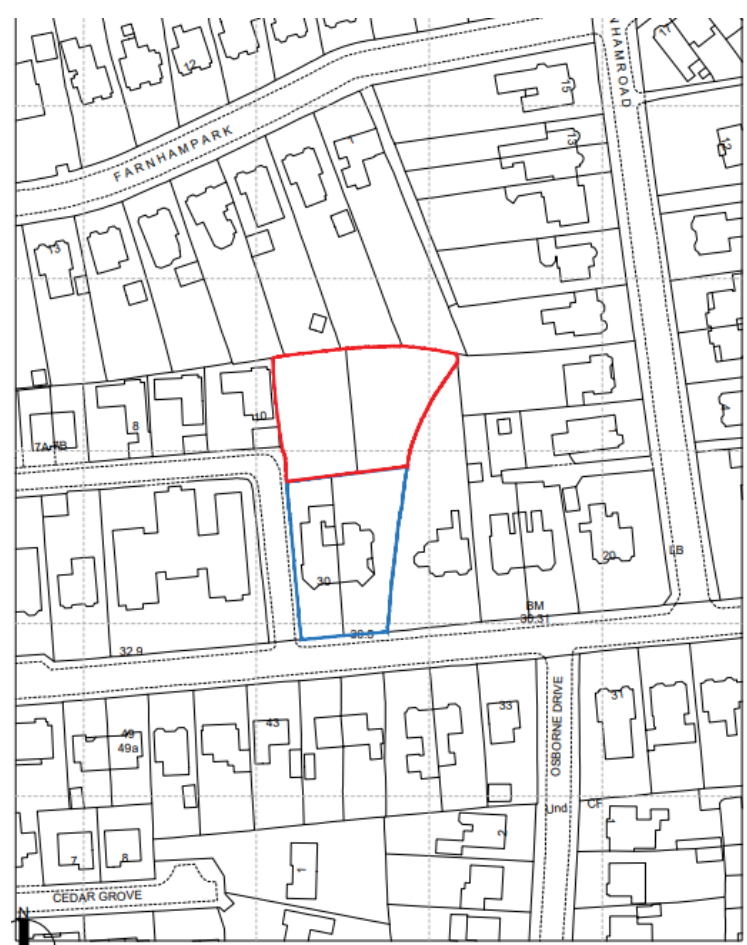


Figure 1 Site location plan

### 3. Relevant Planning History

There is no record of previous applications on the site.

LA06/2022/0062/PAD

Option 1: 3 new dwellings to permit refurbishment of existing properties.

Option 2: 3 new dwellings and replacement of existing buildings with 7 apartments

Advice was given that 3 new dwellings would be deemed as overdevelopment of the site and that the demolition of the existing properties would be unacceptable as they contribute to the character and appearance of the proposed ATC. The existing trees are to be included in any new scheme with protective measures during construction as these contribute to the character and appearance of the proposed ATC.

In the surrounding area there has been several recent planning approvals for residential development of 2no.dwellings:

- LA06/2018/0490/F was granted for 2no.dwellings at 12 Farnham Road.
- LA06/2019/0711/F was granted for 2no.dwellings at 21 Downshire Road.

There are also numerous other approvals for single dwellings in the surrounding local area to the site.

#### Adjacent To the site

W/2008/0484/O - 26 Bryansburn Road - Development of 1 no. residential dwelling to rear of family home. Building to be used as home to elderly couple, in order to be close to family with grandchildren. Outline permission refused. 21.11.2008.

Permission was refused for this application over 15 years ago and in that time numerous applications have been approved for similar developments in the surrounding area, including the recent examples given above (LA06/2018/0490/F and LA06/2019/0711/F) which must be taken into consideration.

### 4. Planning Assessment

The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:

- North Down & Ards Area Plan 1984 - 1995 (NDAAP)
- Draft Belfast Metropolitan Area Plan 2015 (dBMAP)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS2)
- Planning Policy Statement 3: Access, Movement & Parking (PPS3)
- Planning Policy Statement 7: Quality Residential Environments (PPS7)
- Planning Policy Statement 7: Addendum - Safeguarding the Character of Established Residential Areas (Addendum to PPS7)
- Planning Policy Statement 12: Housing in Settlements (PPS12)



Planning guidance includes:

- Creating Places
- DCAN 15: Vehicular Access Standards

### **Principle of Development**

#### **Compliance with the development plan**

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6(4) states that where regard is to be had to the development plan, the determination must be made in accordance with the area plan unless material considerations indicate otherwise. The site is located within the development limits of Bangor under the NDAAP and within the development limits of Bangor under dBMAP and a proposed ATC.

The adopted Belfast Metropolitan Area Plan 2015 (BMAP) has been quashed as a result of a judgment in the Court of Appeal delivered on 18 May 2017. As a consequence of this, the North Down and Ards Area Plan 1984-1995 (NDAAP) is now the statutory development plan for the area with draft BMAP (dBMAP) remaining a material consideration.

Under Residential Development the NDAAP specifies that the Council will have regard to local conditions including the nature and character of surrounding development, traffic and servicing considerations, as well as the details of any submitted scheme, when determining the appropriateness of a particular density. The plan goes on to state that the Council should ensure the maintenance of an acceptable level of amenity in residential areas and to avoid the creation of monotonous areas of housing by insisting upon a high standard of design. There are no specific policies relating to Bryansburn Road.

As Draft BMAP remains a material consideration, having reviewed the PAC Report there were a number of objections that referred to the Bangor West ATC but no specific or relevant objections to Bryansburn Road.

The draft plan identifies an extensive list of key features found within the proposed ATC. Those key features most relevant to the development site include the following:

- Late Victorian, Edwardian and inter-war suburbs of high quality detached and semi-detached houses on generous plots with well landscaped gardens, hedges and trees.

The draft Plan also requires that proposals will be assessed against key design criteria 2a, 2b, 2c and 3a and 3b as contained in Policy UE3 of the draft Plan as follows:

- New dwellings shall be detached or semi-detached.
- The size, plot ratio of footprint to open space in new development shall be compatible with those of the historic character and appearance in the immediate neighbourhood.

- All new or replacement structures on a site shall be located so that the relationship between the existing buildings and the site boundary is retained.
- Development shall not include the removal of trees and areas of soft landscaping between the building line and the boundary of the road or footway.
- Development shall not include removal of front garden areas and/or traditional front boundary structures.

The Planning Appeals Commission considered a general objection to all proposed ATC designations within the then North Down district in its report on the BMAP public inquiry. The Commission recommended no change to the plan in this respect. It is therefore likely, if, and when Draft BMAP is lawfully adopted, a Bangor West ATC designation will be included. The proposed ATC designation is therefore a material consideration.

The Commission also considered objections to the general policy for the control of development in ATCs which is contained in draft BMAP. The Commission recommended that Policy UE3 be deleted, and that detailed character analysis be undertaken, with a design guide produced for each ATC. It would therefore be wrong to make any assumptions as to whether these recommendations will be reflected in any lawfully adopted BMAP or as to whether the text detailing the key features of the Bangor West ATC will be repeated. As it stands, it is unclear how the area will be characterised in any lawfully adopted BMAP. In the absence of such character appraisals the impact of the proposal on the overall appearance of the proposed ATC can still be objectively assessed in the context of the surrounding built form.

### **Principle of Development**

The application site is located within the Settlement Development Limits of Bangor. Full planning permission is sought for the erection of 2no.detached dwellings and garages in the garden area associated with 28 and 30 Bryansburn Road. The principle of development is acceptable, provided all relevant statutory requirements are met.

### **The Strategic Planning Policy Statement for Northern Ireland (SPPS)**

The SPPS is material to all decisions on individual planning applications. Its guiding principle in determining planning applications is that sustainable development should be permitted having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS also promotes good design and seeks to make more efficient use of urban land without town cramming. This proposal for 2no.dwellings and garages is considered to be in line with this and will not result in town cramming in that 2no.residential units will not result in a significant increase in density.

### **Policy Context**

The policies within APPS6 and the related provisions of the SPPS refer to ATCs. No reference is made to draft ATCs, which do not have the same status or legal standing as a designated ATC. It is therefore considered that Policy ATC2 of APPS6 and the aforementioned provisions of the SPPS are not applicable to the consideration of the proposed dwellings. Policy QD1 of PPS7 states that in Conservation Areas and Areas

of Townscape Character housing proposals will be required to maintain or enhance their distinctive character and appearance. Again, as the policy refers to ATCs, but no reference is made to draft ATCs, it is considered that this element of Policy QD1 is not applicable to the assessment of the proposed dwellings. However, the potential impact of the development on the proposed ATC remains a material consideration.

### **Visual Impact, Character and Design Considerations including any potential impact on the proposed ATC**

Criterion (a) of Policy QD1 of PPS7 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. In this case it is considered that the overall appearance and consequent visual impact of the proposed dwellings is acceptable given its design and compatibility with the surrounding design context. It is also considered that the resulting visual impact would also conserve and enhance the proposed ATC designation.

No objections were submitted in respect of the proposed ATC designation in Draft BMAP and it is therefore likely, if and when Draft BMAP is lawfully adopted, this proposed ATC designation will be included. The proposed ATC designation remains a material consideration, though as it stands, it is unclear how the area will be characterised in any lawfully adopted BMAP.

A Design and Access Statement has been provided by the applicant. This document sets out the design and access considerations for the proposed development.

Criterion (a) of Policy QD1 of PPS7 requires that the development respects the surrounding context and is appropriate to the character of the area. There are many examples of Victorian, Edwardian and Inter War high quality detached and semi-detached dwellings on generous plots with well landscaped gardens, trees and hedgerows however there are also examples of more modern dwellings scattered throughout the area. Bryansburn Road extends for approximately three quarters of a mile from east to west and there are a variety of house types ranging from single storey to three-storey detached and semi-detached properties that represent a mix of designs and include a variety of external materials. The properties adjacent to the application site in Bryansburn Gardens are 2 storey detached and semi-detached dwellings including rendered/red brick finishes and do not have any specific historic or architectural features.



Figure 2 Existing dwellings on Bryansburn Gardens

The proposal is comparable to existing properties along Bryansburn Gardens. The proposed buildings include two detached two-storey dwellings and two detached single storey garages. The proposed design, including the height, scale and massing are similar to adjoining and neighbouring properties. The proposed layout, building line, and plot size are also comparable to existing properties in the area, particularly the properties adjacent to the west of the site from Nos.8, 9 and 10 Bryansburn Gardens – see Figure 3 below.



Figure 3 Proposed site layout

The proposed dwellings are to be sited to broadly respect the front building line of the adjacent dwellings on Bryansburn Gardens. From views on Bryansburn Gardens, the extent of the proposed buildings would be apparent, but this is a limited view and one that is not deemed critical as the site is on a corner and there is no through traffic on Bryansburn Gardens as it is a dead end. It is considered that the proposed dwellings would not give rise to harmful effects on the character of the area due to the proposed dwellings siting and location relative to the surrounding built development. The proposal will respect the established built form of the area, particularly given the 6no. semi-detached dwellings close to the site at 5a, 5b, 6a, 6b, 7a and 7b Bryansburn Gardens – see Figure 4 below.



Figure 4 Photograph of the 6no.semi-detached dwellings on Bryansburn Gardens with the application site located at the end of the row.



Figure 5 Photograph of the residential home located opposite the site on Bryansburn Gardens.

It is acknowledged that the land within the site was previously used as garden areas for Nos.28 and 30 however it now has been fenced off from the dwellings and no longer used as gardens. No archaeological features are identified. There are no protected trees in this area. No trees are required to be removed to accommodate the proposed development however it is noted that a number of trees were removed from the site prior to the submission of this application. As the trees are not protected and the site is not within a conservation area, consent is not required from the Council to fell or remove trees. The existing hedgerows on the eastern and western boundaries (with the exception of the access point) will be retained and additional landscaping has been proposed as per the Landscaping Plan which includes birch trees, rowan and mountain ash trees, hazel and cherry trees.

The proposal is considered to be of a density and character which respects the area. Density is generally considered to be a calculation of dwellings per hectare. The density of the proposed development will equate to approximately 12.5 dwellings per hectare. The majority of the development in the immediate context of the site is of a similar or

even higher density; for example, the three adjacent dwellings at 8, 9 and 10 Bryansburn Gardens equates to a density of 21 dwellings per hectare and the dwellings at 5a, 5b, 6a, 6b, 7a and 7b Bryansburn Gardens equates to a density of 46 dwellings per hectare. Nos.33 to 51 Bryansburn Road (10 dwellings) equates to 18.5 dwellings per hectare. There are also numerous other examples of higher density development within the wider residential area including the care home located across the road from the site. It is therefore not considered that the density of the proposed development is significantly higher than that found in the area. In the immediate and surrounding area there are examples of existing properties with a similar layout to that proposed in the site layout plan such as 8, 9 and 10 Bryansburn Gardens. I am content that there are no concerns with regards to the proposed density in relation to the established residential area along Bryansburn Gardens and Bryansburn Road.

Therefore, taking all of these factors into account, the proposed development is acceptable and meets the tests of part (a) of Policy QD1 of PPS7 and also Policy LC1 (part a) of the Addendum to PPS7. Whilst dBMAP is only to be afforded limited weight it is considered that by reason of its layout, scale, massing and overall design the proposed development would not detrimentally impact the appearance of the overall character of the area and the proposed ATC.

### **Amenity Space**

The indicative layout shows that adequate provision is made for private amenity space for both the existing dwellings at 28 and 30 Bryansburn Road and the proposed dwellings. The layout shows the existing dwelling at 28 Bryansburn Road will have approximately 320sqm and 30 Bryansburn Road will have approximately 105sqm retained for private amenity space. The proposed dwelling at Plot 1 will have amenity space of approximately 296sqm and Plot 2 will have amenity space of approximately 425sqm. This does not include areas of parking and circulation areas. This provision is well in excess of the minimum 40sqm recommended in the Creating Places Guidelines. The amenity space is positioned to the front of the proposed dwellings however a buffer of hedging is proposed to ensure the garden areas are enclosed to provide privacy. The detached garages are also located to the front of each dwelling and this is already the case at adjacent properties at 8, 9 and 10 Bryansburn Road. I consider that the site layout is comparable with the existing properties in the surrounding area. The private amenity space of the proposed dwellings are comparable with adjacent neighbouring properties. The proposal is not at odds with part (c) of Policy QD1 of PPS7.

### **Impact on Residential Amenity**

The proposed dwellings and garages will have no unacceptable adverse impacts on residential amenity. The proposed dwellings and garages will be located on a site which is adjacent to properties to the north at 1, 3, 5 and 7 Farnham Park, 1,3 and 5 Farnham Road to the east, 26, 28 and 30 Bryansburn Road to the south and 10 Bryansburn Gardens to the west of the site.

An amendment has been made to the scheme at the request of the Council to ensure that there will be no unacceptable adverse impact on the amenity of the adjacent residential properties by way of overlooking. The amendment made throughout the processing of the application was to remove the first-floor balconies on each of the proposed dwellings. This is to prevent any potentially unacceptable overlooking

towards the dwellings on Bryansburn Road, Farnham Road and Bryansburn Gardens. Re-neighbour notification letters were issued and the amended application was re-advertised in the local press. One objection has been submitted in relation to the amended plans relating to the principle of development on this site and that the amended plans have not resolved their concerns to the development on the site. There will be adequate separation distances between the proposed and existing dwellings in line with the recommended standards set out in Creating Places and the impact of the new dwellings upon each of the adjacent properties is assessed in turn below.

28 and 30 Bryansburn Road

The site layout shows the dwellings will front towards the Bryansburn Road and have parking, circulation space to the front of the dwellings as well a detached garage. There is also a proposed hedge along the southern boundary which would be consistent with the proposed ATC and affords further screening. This parking and screening provides an appropriate buffer and privacy relationship between the proposed dwellings and the existing dwellings at 28 and 30 Bryansburn Road. There is a separation distance of a minimum of 23m between the proposed dwellings and the rear elevation of 28 and 30 Bryansburn Road which also serves in the interests of amenity for both proposed and existing residents.

26 Bryansburn Road

In terms of any potential unacceptable impact to the residential amenity of 26 Bryansburn Road, there are none. The shortest separation distance between the site and the rear elevation of No.26 is 20m and this is compliant with the recommendation set out in Creating Places.

10 Bryansburn Gardens

In terms of any potential unacceptable impact to the residential amenity of 10 Bryansburn Gardens, there is none.



Figure 6 Proposed site layout showing adjacent dwelling 10 Bryansburn Gardens.



Figure 7 Photograph showing the dwelling at 10 Bryansburn Gardens in relation to the site.

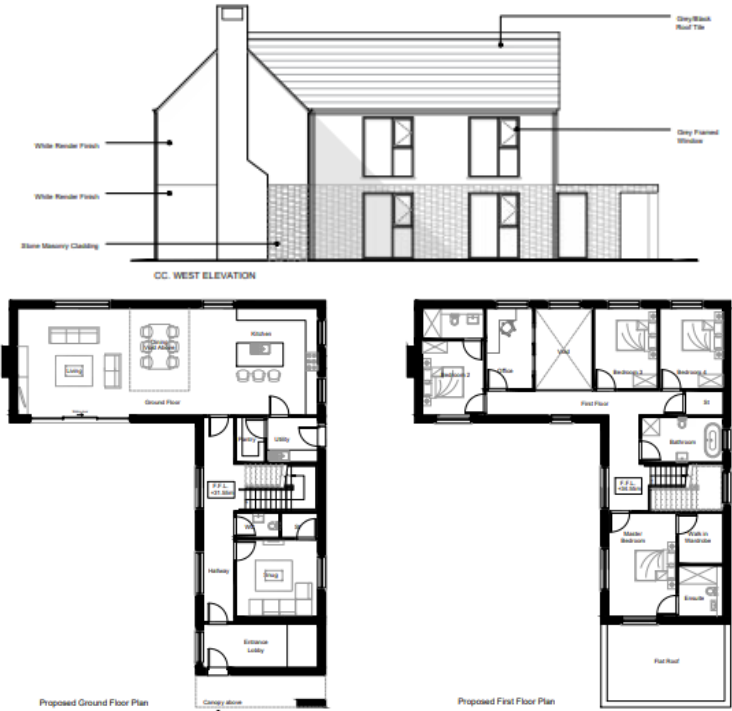


Figure 8 Western elevation and floor plans for proposed Dwelling1 adjacent to 10 Bryansburn Gardens

The proposed dwelling on Site 1 is to be positioned 2.5m from the dividing boundary with 10 Bryansburn Gardens. The closest part of the proposed dwelling is a gable end serving the large kitchen/dining/living room measuring 6m wide and 9m to the ridge. The proposed dwelling is positioned gable to gable with No.10 Bryansburn Gardens. There are no ground floor or first floor windows on this elevation facing No.10. The facing gable windows of No.10 as approved consist of ground floor windows for a kitchen, a stair landing glazed block (as described on the approved plans) and a small bedroom/office – see Figure 9 below.





Figure 9 Approved plans for 10 Bryansburn Gardens.

The furthest part of the proposed dwelling is 12m from the boundary with No.10 and 9m to the ridge and has 2no.hall windows on the ground and 1no.landing window and 1no.bedroom window on the first floor facing the dividing boundary – see Figure 8 above. The separation distance of 12m is considered to be acceptable as it will face the side gable elevation of No.10.

In relation to potential overlooking, it is considered that there would be no unacceptable adverse impact from the proposed dwelling towards No. 10. The existing boundary treatment, which includes a hedgerow will be retained and will provide an adequate degree of screening between the existing windows and the new dwelling. A patio area is proposed at the ground level, in the inner front corner, with access from the side and front. It is not considered that the proposed patio will result in any unacceptable degree of overlooking towards the neighbouring properties.

With regard to the potential for loss of light and overshadowing to No.10, as stated previously the windows on the eastern gable elevation of No.10 facing the site consist of ground floor windows for a kitchen, a glazed block for the landing area and a glazed screen for a bedroom. There are 2no.velux windows in the roof serving a bathroom and an ensuite. The only part of the proposed dwelling that could cause a degree of overshadowing or overdominance is the closest part of the western elevation that serves the large kitchen/dining/living room measuring 6m wide and 9m to the ridge and is to be positioned 2.5m from the boundary. The only window on the eastern elevation of No.10 that could be affected is the bedroom/office however this room also has an external glazed door onto the patio which will allow another source of light to enter the room. The relationship between the proposed dwellings and No.10 (gable to gable) is very similar to the relationship between Nos.8, 9 and 10 – see Figure 10 below. This is therefore part of the established pattern of development within the area which is a material consideration. Overall, it is considered that any loss of light or overdominance caused to No.10 will not be of an unacceptable level.



Figure 10 Ariel image showing the layout of adjacent dwellings which will be replicated by the proposed dwellings.

#### 1, 3, 5 and 7 Farnham Park

In terms of any potential unacceptable impact to the residential amenity of Nos.1, 3, 5 and 7 Farnham Park, there are none. The proposed dwellings back onto these dwellings on Farnham Park. The separation distances achieve the minimum 20m back-to-back standard required by Creating Places paragraph 7.16 measured from the rear elevation of the proposed dwellings.

Dwelling 1 is positioned 1.5m at its shortest point and 2.7m at its furthest point from the dividing boundary hedge. The rear elevation of the dwelling at 5 Farnham Park is 40m away from its rear boundary and has a separation distance between the rear elevation of Dwelling 1 of between 40.5m and 42.7m.

Dwelling 2 is positioned 3m from the dividing boundary hedge at its shortest point and 4m at its furthest. The rear elevation of the dwelling at 3 Farnham Park is 44m away from its rear boundary and has a separation distance between the rear elevation of Dwelling 2 of between 47m and 48m.

The rear elevation of the dwelling at 1 Farnham Park has a separation distance between the rear elevation of Dwelling 2 of between 53m and 54m.

These separation distances together with the existing large mixed hedgerow and intervening trees on the northern boundary will ensure that the proposed dwellings will not have any unacceptable impact on the amenity of adjoining dwellings. The existing planting on the northern boundary is outside the application site and therefore will not be altered by the developer. The site boundaries on the applicant's side of the boundary are to be defined by a close boarded fence.

On this basis no adverse loss of amenity will be caused to the existing dwellings in Farnham Park as a direct result of the proposed dwellings.

#### 1, 3, 5 and 7 Farnham Road

In terms of any potential unacceptable impact to the residential amenity of Nos.1, 3, 5 and 7 Farnham Road, there are none. The proposed dwellings are positioned side on to the rear of the existing properties on Farnham Road.

Dwelling 2 is positioned 2m from the dividing boundary at its shortest point. The rear elevation of the dwelling at 1 Farnham Road is 42m away from its rear boundary and has a separation distance between the gable elevation of Dwelling 2 of 44m.

The rear elevation of the dwelling at 1 Farnham Road is 42m away from its rear boundary and has a separation distance between the gable elevation of Dwelling 2 of 44m.

The rear elevation of the dwelling at 3 Farnham Road is 37m away from its rear boundary and has a separation distance between the gable elevation of Dwelling 2 of 47m.

There is one bathroom window at first floor level on the eastern elevation of Dwelling 2 facing the existing dwellings and this is shown to be fitted with obscure glazing. There is also a landing window and as this is not shown to be fitted with obscure glazing, it is considered appropriate to condition this. The revised plans do not include any balconies and this will be conditioned to ensure the flat roof at the front of the dwelling will not be used as a terrace.

The rear elevation of the dwelling at 7 Farnham Road is 25m away from its rear boundary which sits at an angle to the site. It will not be overlooked as both the two gable windows on the first floor will be fitted with obscure glazing. Due to the angle of the proposed dwelling, 7 Farnham Road will not be overlooked by the bedroom windows at first floor level on the rear elevation.

On this basis no adverse loss of amenity will be caused to the existing dwellings on Farnham Park and Farnham Road as a direct result of the proposed dwellings.

The proposed internal residential layout has been designed to help safeguard the residential amenity of the proposed dwellings. It is considered that the proposed separation distances between the new dwellings, the location and orientation of windows, and the proposed intervening boundary features, will together ensure that there will be no unacceptable adverse impact on the residential amenity of proposed dwellings in terms of overlooking, loss of light, overshadowing, or dominance. It is therefore considered that the proposal complies with part (h) of Policy QD 1 of PPS 7, and all relevant guidance.

The proposal is not at odds with part (h) of Policy QD1 of PPS7.

### **Access, road safety and car parking**

The access is proposed to come off Bryansburn Gardens and will consist of a private shared drive to serve both of the proposed dwellings. Bryansburn Gardens is not a protected route. DfI Roads has been consulted and has offered no objections. In-curtilage parking has been provided in the form of 3 parking spaces in addition to the single garage. There is also ample room for parking within the existing dwellings at 28 and 30 Bryansburn Road. The application site is within walking distance of Bryansburn Road which is a public transport route and Bangor West railway station. The town centre of Bangor is approx. 1.2km to the southeast. It is therefore considered that the proposal complies with Policies AMP 2 and AMP 7 of PPS 3, and part (f) of Policy QD1 of PPS 7 and all relevant guidance.

### **Archaeology and Built Heritage**

There are no features of the archaeological and built heritage to protect and integrate into the overall design and layout of the development. It is therefore considered that the proposal complies with part (b) of Policy QD1 of PPS 7 and all relevant guidance.

### **Security from Crime**

The layout has been designed to deter crime and promote safety and the proposal complies with part (i) of Policy QD1 of PPS 7.

### **Designated Sites and Natural Heritage**

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites. A biodiversity checklist was submitted which demonstrates that the proposal is not likely to impact any protected species or priority species or habitats. It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2 and all relevant guidance.

### **Sewage Disposal**

The consultation response from NI Water indicates that whilst there is a public foul sewer within 20m of the proposed development boundary, it is unknown whether the receiving foul sewerage network has the capacity to serve the proposed development, without significant risk of environmental harm and public dis-amenity including pollution, flooding and detrimental impact on existing properties.

Due to this it is considered that the proposal can be conditioned that no development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority. Evidence of this consent shall be submitted to the Council prior to the commencement of any development. This will ensure that there is no adverse effect on the water environment.

## **5. Representations**

### Letters of objection

Number of objections received – 12 in total, from seven separate addresses, received as follows:

- 11 objections to the original proposal (7 separate addresses), submitted in January, February, March and June of 2023.
- 1 objection received since latest submission (1 address), submitted in December 2023.

I have read all the objections in full and the main issues of concern are set out below.

### Issues raised in relation to original submission:

- a. Not in keeping with the character of the area and the proposed ATC and is contrary to Policies PPS7 and the Addendum to PPS7.

*The issues regarding character of the area have been discussed in the main report. It is considered the proposed dwellings will not have a detrimental impact on the character of the area and is policy compliant with PPS7 and the Addendum to PPS7.*

- b. Proposed external white render finishes do not blend with rendered properties in Farnham Park and Farnham Road.

*The proposed dwellings will be viewed with the properties on Bryansburn Gardens and therefore it is important that the proposed dwellings are in keeping with the properties on Bryansburn Gardens rather than those on Farnham Park and Farnham Road where only glimpses of the proposed dwellings will be available.*

- c. Will be overdevelopment of the site.

*It is considered that the proposed development does not constitute overdevelopment of the site and it is comparable to properties on Bryansburn Gardens where there are semi-detached and detached dwellings. A residential care home is directly opposite the site on Bryansburn Gardens together with an apartment building at 15 Bryansburn Gardens. Given the variety of house types and other forms of accommodation, the proposed 2no.dwellings will not look out of place in Bryansburn Gardens and will not appear as overdevelopment.*

- d. Will impact residential amenity of nearby properties including loss of privacy from first floor windows, including landing window and balconies. Contrary to the Human Rights Act.

*Issues regarding residential amenity of nearby properties has been discussed in the main body of the report. The Human Rights Act is not a material consideration in the planning process.*

- e. Will cause a dominating impact.

*It is considered that there are adequate separation distances between the proposed dwellings and existing dwellings so as not to cause a dominating impact.*

- f. Will set an undesirable precedent for back land development. Previous applications for similar developments have been refused.

*Similar developments have previously been granted permission. Each application is assessed on its own merits.*

- g. Protection of valuable open space and will impact on wildlife.

*A biodiversity checklist was submitted and it finds that no further surveys are required. There will be no protected species or protected habitats impacted upon as a direct result of the proposed development. This would not be considered open space under PPS8.*

- h. Proposed dwellings not adequate amenity space.

*It is considered that the proposed amenity space is in line with the recommendations set out in Creating Places. This has been discussed in the main report.*

- i. Increased traffic onto Bryansburn Gardens.

*DfI Roads has been consulted regarding this application and is satisfied that the existing road infrastructure can accommodate the additional traffic generated from this development. It has stated it has no objections to the proposed development in terms of road safety. There is no protected route adjacent to the application site.*

- j. Site liable to flooding and may have an impact on surrounding properties regarding surface water.

*NI Water has indicated that there is a public surface water sewer within 20m of the proposed development boundary which can adequately service these proposals.*

- k. Conditions should be included on any approval:

Field drains required to eliminate flood risk to adjoining properties. – *NI Water will advise the applicant of what is necessary to prevent excess surface water traversing onto adjoining properties.*

Obscure glazing to all upper floor windows facing Farnham Road. – *A condition will be included to ensure the windows on this elevation are fitted with obscure glazing.*

Muted colour of render or red brick to match neighbouring dwellings. - *It is considered that the proposed white render is acceptable in this location.*

No balconies facing Farnham Road. - *The balconies have been removed from the scheme.*

Retain trees. – *There are no trees within the site to be retained.*

Construction operating hours. - *This is not considered a material consideration for this planning application and the hours of operation are to be decided by the developer.*

#### Issues raised in relation to latest submission

The sole objection submitted in relation to the most recent plans from the occupiers of 5 Farnham Park, re-iterates their original objections which include those set out above. The objection states that the amended plans do not resolve their concerns including the unacceptable impact to trees, ecology and biodiversity, character including the proposed ATC designation, siting and boundary issues, development plan policies, planning history and setting an unwanted precedent for back land development and ultimately still object to the principle of the proposed development on this site.

## **6. Recommendation**

### **Grant Planning Permission**

## **7. Conditions**

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. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority. Evidence of this consent shall be submitted to the Council prior to the commencement of any development.

Reason: To ensure no adverse effect on the water environment.

3. All hard and soft landscape works shall be carried out in accordance with the approved Drawing 06 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within 6 months following the occupation of the last dwelling hereby permitted.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

4. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place unless the Council gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscaping.

5. The first-floor side windows highlighted green on Drawing 10A shall comprise of obscure glazing. The obscure glazing must be fitted prior to the residential units hereby approved being occupied and permanently retained thereafter.

Reason: To protect the private amenity of the neighbouring properties.

6. The flat roof area above the lower level accommodation as shown in green on Drawings 08A and 10A will not be used as a balcony or terrace.

Reason: To safeguard the amenities of neighbouring occupiers.

7. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing 03A prior to the commencement of any development hereby permitted.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

8. The area within the visibility splays and any forward sight line shall be cleared prior to the commencement of the construction of the development hereby approved 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.

9. The access gradient to the dwellings hereby permitted shall not exceed 4% (1 in 25) over the first 10 m outside the road boundary. Where the vehicular access crosses 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.

**Informative**

This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees, where relevant, on the Portal.

<b>Case Officer Signature:</b>		<b>Date:</b>	
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**LA06/2022/1286/F**  
**Photographs**



Photograph of the site



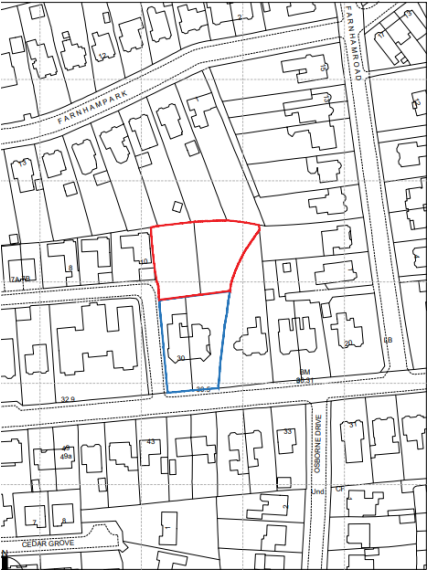
Photograph of the site



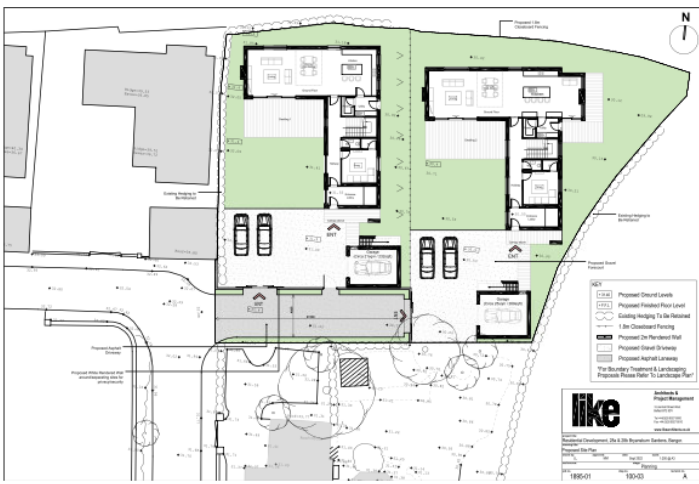
Photograph of the residential care home directly across from the site on Bryansburn Gardens



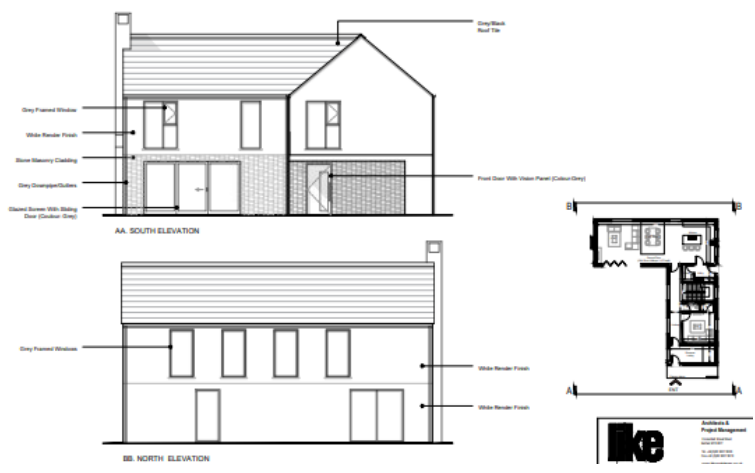
Photograph of the existing semi-detached dwellings in Bryansburn Gardens



Site location plan



Proposed site layout plan



Proposed north and south elevation for Dwelling 1




Proposed floor plans for Dwelling 1

## ITEM 4.7

## Ards and North Down Borough Council

Application Ref	LA06/2024/0041/A
Proposal	Static Village Entrance Signage
Location	45 Metres South of 108 Shore Road, Kircubbin
Committee Interest	An application made by the Council
Validated	16/01/2024
Summary	<ul style="list-style-type: none"> <li>• Application site is located approx. 93m northeast of the settlement limits of Kircubbin, within a Local Landscape Policy Area (LLPA) and within Strangford and Lecale Area of Outstanding Natural Beauty.</li> <li>• The sign is small in nature, non-illuminated, will have no adverse impact on the character of the surrounding area or prejudice road/public safety.</li> <li>• The sign will state '<i>Welcome to Kircubbin, Haven on the Lough, Ards Peninsula</i>' and is proposed to be finished in the branding and marketing colours of the Council.</li> <li>• The sign meets the requirements of the ADAP 2015, the SPPS and PPS 17 – Control of Outdoor Advertisements.</li> </ul>
Recommendation	<b>Consent</b>
Attachment	Item 4.7a – Case Officer Report

<b>Development Management Case Officer Report</b>			 <b>Ards and North Down</b> Borough Council
<b>Reference:</b>	LA06/2024/0041/A	<b>DEA:</b> Ards Peninsula	
<b>Proposal:</b>	Static Village Entrance Signage		
<b>Location:</b>	45 Metres South of 108 Shore Road, Kircubbin.		
<b>Applicant:</b>	Brendan George, Ards and North Down Borough Council		
<b>Date valid:</b>	16/01/2024	<b>EIA Screening Required:</b>	No
<b>Date last advertised:</b>	N/A	<b>Date last neighbour notified:</b>	N/A
<b>Letters of Support : 0</b>		<b>Letters of Objection: 0</b>	<b>Petitions: 0</b>
<b>Consultations – synopsis of responses:</b>			
DFI Roads		No objection	
<p><b>Summary of main issues considered:</b>                      The main issues to consider in the determination of this application are:</p> <ul style="list-style-type: none"> <li>• Amenity,</li> <li>• Design and Appearance,</li> <li>• Public Safety,</li> <li>• Local Landscape Policy Area.</li> </ul>			
<p><b>Recommendation: Grant Consent</b></p> <p><b>Report Agreed by Authorised Officer</b></p>			
<p>Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal: <a href="https://submissions.planningsystemni.gov.uk/app/applications">https://submissions.planningsystemni.gov.uk/app/applications</a></p>			

**1. Site and Surrounding Area**

The application site is located 45m south of No. 108 Shore Road, approx. 93m northeast of the designated settlement limit of Kircubbin as per the Ards and Down Area Plan 2015. The application site is located on the eastern side of the Shore Road.



Looking north towards application site

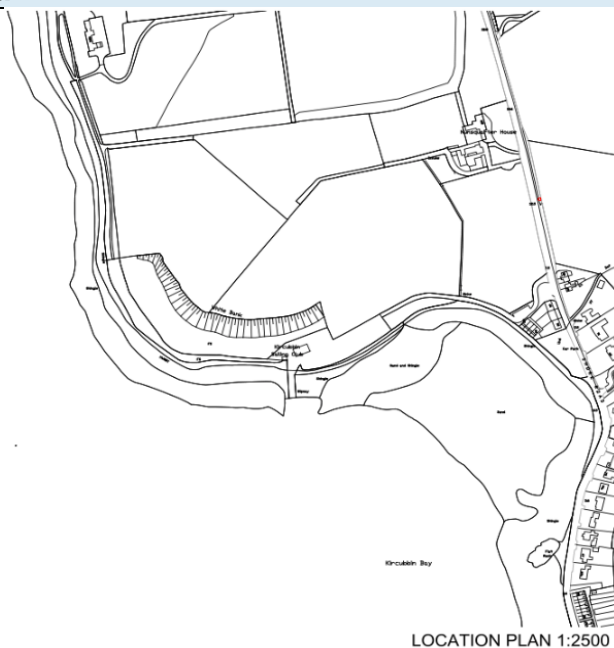
The application site is a grass verge, south of the existing road signs that demarcate the speed change of the road, and is located approx. 5m south of the existing bench.



Looking south towards bench and application site

The application site is located within a Local Landscape Policy Area (LLPA) and within Strangford and Lecale Area of Outstanding Natural Beauty.

**2. Site Location Plan**



### 3. Relevant Planning History

There is no planning history pertinent to the assessment of this application.

### 4. Planning Assessment

**The relevant planning policy framework, including supplementary planning guidance where relevant, for this application is as follows:**

- Ards and Down Area Plan 2015;
- Strategic Planning Policy Statement for Northern Ireland (SPPS);
- Planning Policy Statement 2: Natural Heritage;
- Planning Policy Statement 17: Control of Outdoor Advertisements;
- Planning Policy Statement 3: Access, Movement & Parking.

Planning Guidance:

- DCAN 15 Vehicular Access Standards.

#### Development Plan

Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the LDP, so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The Ards and Down Area Plan 2015 currently acts as the LDP for this area. Under the Ards and Down Area Plan 2015, the application site is located approx. 93m northeast of the settlement limits of Kircubbin, within a Local Landscape Policy Area (LLPA) and within Strangford and Lecale Area of Outstanding Natural Beauty.

Given the small nature of the proposed sign, there will be no adverse impact on the Landscape Wedge or upon the designated Area of Outstanding Natural Beauty. The sign is of a minor scale, with no illumination, and is similar in style and design to Council signage within the borough of Ards and North Down.

With reference to the above designations, it is considered the proposed development is in general conformity with the Plan subject to the specific policy considerations detailed below.

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

The SPPS sets the context for the control of outdoor advertisements (6.52), stating that advertising is a familiar feature of our environment that can contribute to a vibrant and competitive economy. The strategic policy recognises the potential impact of outdoor advertising on amenity. It therefore states there is a need to balance the business need with protection of the character and appearance of our settlements.

At a strategic level, objectives for the control of advertisements are to ensure they respect amenity and do not prejudice public safety (including road safety), and second, help everyone involved in display of adverts contribute positively to the appearance of

a well-cared-for and attractive environment and not lead to visual clutter and to control signage involving illumination.

The proposal meets the objectives of the SPPS in that it respects the amenity and does not prejudice public safety, with the signage consistent with the Council signage to demarcate settlements throughout the borough of Ards and North Down. The proposed signage is deemed to be acceptable within the local context in which it is to be located and is deemed to be of an appropriate scale so as to preserve the character of the surrounding area.

Until the Council has adopted complete Plan Strategy existing planning policies, along with SPPS, are to be applied. The provisions of PPS 17: Control of Outdoor Advertisements are retained and are therefore material to this assessment.

The policy statement supplements the above context and sets out the main considerations to be taken into account in assessing applications of this nature.

### **Principle of Signage**

The principle of signage at this location is considered acceptable. Whilst the application site is located beyond the designated settlement limit of Kircubbin, the proposed signage is considered acceptable as it is located to demarcate the entrance to the settlement at a location close to the settlement limit that will not prejudice road safety, with the proposed signage consistent in terms of markings, colour and branding of Ards and North Down Borough Council.

The proposed signage is acknowledged as being located closer to the settlement limit than the existing 30mph speed sign which marks the entrance to Kircubbin when travelling from the north.



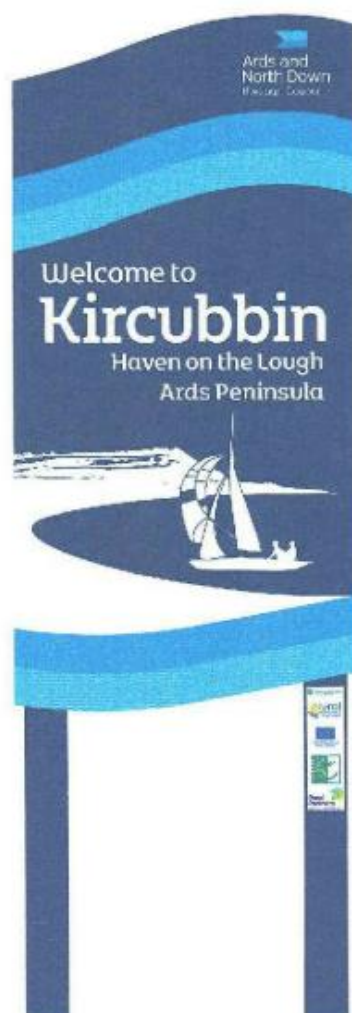
Existing 30mph speed sign on the entrance to Kircubbin from the north

Holistically considered the principle of signage is deemed to be acceptable.



### Amenity, Design and Appearance

The proposed signage marks the settlement of Kircubbin. The non-illuminated aluminium sign on aluminium tubes shall be 2.5m tall and 1m wide. The sign shall state 'Welcome to Kircubbin, Haven on the Lough, Ards Peninsula' and shall be finished in the branding and marketing colours of Ards and North Down Borough Council. This is consistent with signage demarcating settlements throughout the Ards and North Down Borough Council area.



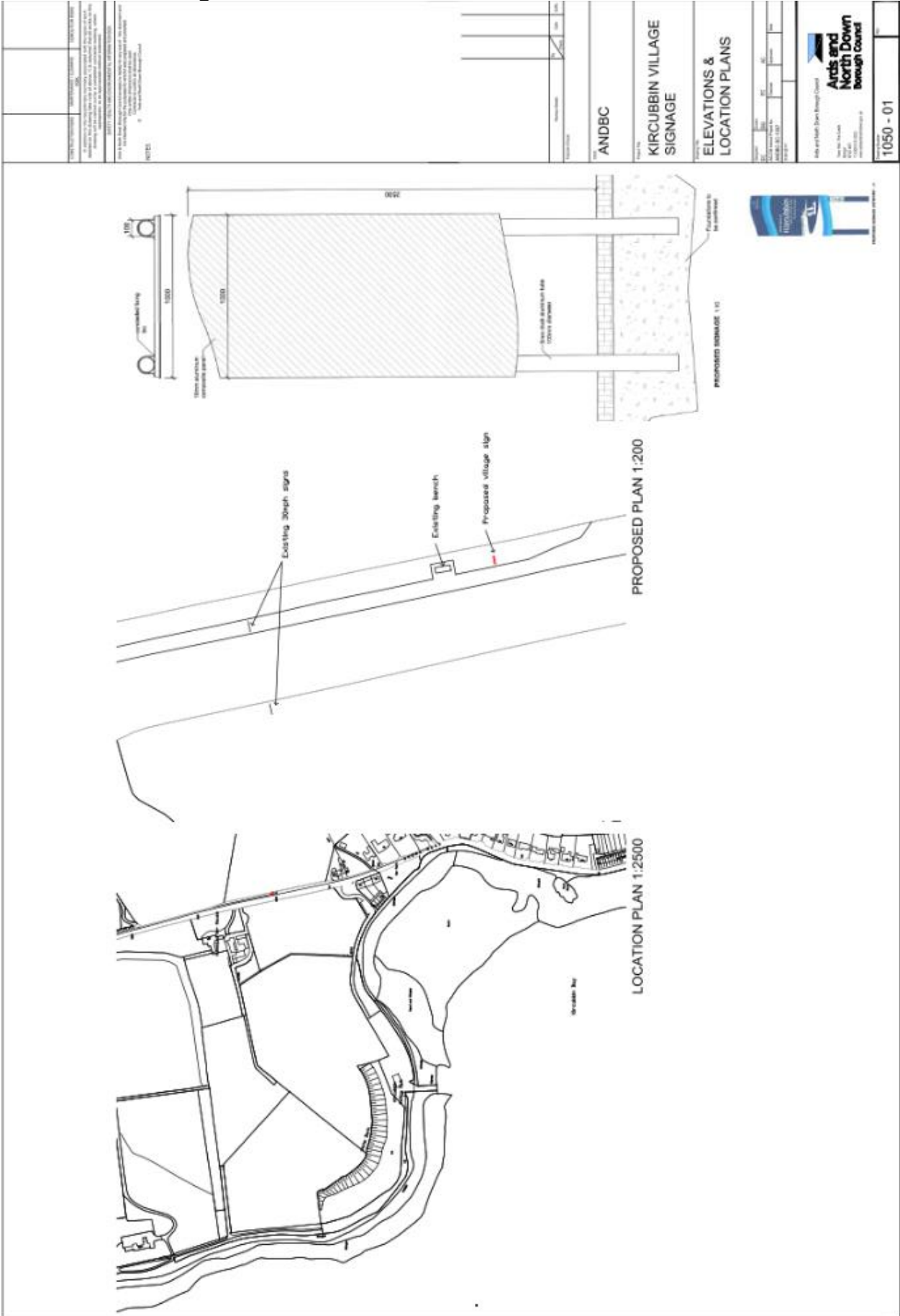
**PROPOSED SIGNAGE ARTWORK 1:20**

There is no additional proliferation of advertising signage within close proximity of the application signage, with only road signage within close proximity of the application site. Furthermore, the proposed aesthetics of the sign are considered to be acceptable as part of the settlement branding that is prevalent throughout the Ards and North Down Borough Council area. The signage shall have no detrimental impact upon the character and appearance of the surrounding area and shall not result in cluttering of signage or signage that will be overly dominant within the street scene. The 30mph road signage is the only signage within close proximity of the application site, with the proposed signage visually read with this signage.

The proposal is considered acceptable.

<p><b>Residential Amenity</b>                  The fixed sign has no illumination, and the closest neighbouring property of No. 108 Shore Road is located approx. 45m north of the proposed signage. Consequently, it is deemed that there shall be no detrimental impact upon residential amenity as a consequence of this application.</p> <p><b>Scale and Design</b>                  The design and scale of the signage is considered appropriate, with no detrimental impact upon the location site or surrounding area.</p> <p><b>Road Safety</b>                  As part of the assessment DFI Roads was consulted and has no objections to the proposal.</p> <p><b>Natural Heritage</b>                  Policy NH1 relates to European and Ramsar sites and states that planning permission will only be granted for a development proposal that, either individually, or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on those sites.</p> <p>The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The application signage shall not have a significant effect on the features, conservation objectives or status of any of these sites.</p> <p>Policy NH 2 of PPS 2 states that planning permission will only be granted for a development proposal that is not likely to harm a species protected by law. To this end, the NI Biodiversity Checklist has been used to identify whether the proposal is likely to adversely affect certain aspects of biodiversity including protected species and, given the scale of the proposed signage with no illumination, no concerns were identified.</p>
<p><b>5. Representations</b>                  No letters of representation pertaining to the signage have been received.</p>
<p><b>6. Recommendation</b></p>
<p><b>Grant Consent</b></p>
<p><b>7. Conditions</b>                  1. The signage hereby approved shall be erected in the positions shown on approved plans Drawing No. 01.</p> <p>Reason: In the interests of road safety and the convenience of road users.</p>
<p><b>Informative</b>                  This Notice relates solely to a planning decision and does not purport to convey any other approval or consent which may be required under the Building Regulations or any other statutory purpose. Developers are advised to check all other informatives, advice or guidance provided by consultees, where relevant, on the Portal.</p>

Submitted Drawing:



Site photos:





Unclassified

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**ITEM 5****Ards and North Down Borough Council**

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	05 March 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	30 January 2024
File Reference	
Legislation	
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	Department for Infrastructure (Dfi) (Planning) 'Call for Evidence on A Future Focused Review of the Strategic Planning Policy Statement (SPPS) on the issue of Climate Change'
Attachments	Item 5a: DFI Planning Item 5b: DFI Easy read version Item 5c: draft Response

**1.0 Background**

- 1.1 The Department for Infrastructure (Dfi) announced a consultation in the form of a 'Call for Evidence' in relation to the Strategic Planning Policy Statement on the issue of climate change. The associated questionnaire paper is appended at Item 5a and an easy read version at Item 5b. DFI indicates that the primary purpose of the Call for Evidence is to engage with stakeholders on the proposed areas of focus for a review of the SPPS and to invite the submission of evidence on the relevant factors that can assist with determining the best way forward.

Unclassified

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- 1.3 The consultation is open at present and runs until 5.00 pm on Thursday 28 March 2024.
- 1.4 The information gathered through the Call for Evidence will be considered by DFI. At the time of the launch by the Department, it was stated that it was envisaged that it would 'help inform any decision by a future Infrastructure Minister on a potential review of the SPPS and the options for it'.
- 1.5 Since the SPPS was published in September 2015, tackling Climate Change has become a legislative requirement and it is a priority consideration in the context of the work and functions of DfI in relation to water, transport and planning. Members shall be aware that DFI is also currently reviewing regional strategic planning policy for renewable and low carbon energy.

## **2.0 Detail**

- 2.1 The aim stated by DFI of the review is part of the process of gathering the necessary information to inform a potential focused review of the SPPS in relation to Climate Change and the options and scope for it.
- 2.2 DFI intends that the focus on the following policies in the SPPS as it considers these are the areas which are most impacted by, and are most relevant to, Climate Change:
  - The Purpose of Planning,
  - Furthering Sustainable Development,
  - The Core Planning Principles of the planning system,
  - Flood risk,
  - Transportation, and
  - Development in the countryside.
- 2.3 DFI states that it is also interested in any evidence on other policies in the SPPS that are also relevant in terms of Climate Change.

## **Next steps**

- 2.4 Responses to the Call for Evidence Paper are requested by e-mail to DFI by 5pm on 28 March 2024.
- 2.5 It is suggested to use the response form (at Item 5c) but other responses are welcome. The response shall indicate that is submitted ahead of the completion of the Council call in period.

## **RECOMMENDATION**

It is recommended that Council notes the Call for Evidence consultation document and agrees the response at Item 5c.



Department for  
**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

# **Future Focused Review of the Strategic Planning Policy Statement (SPPS) on the issue of Climate Change**

## **A Call for Evidence**

**Issued: 3 January 2024**

**Respond by: 28 March 2024**



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# 1. Introduction

- 1.1 The Department for Infrastructure (DfI) is responsible for the maintenance, development and planning of critical infrastructure in Northern Ireland. With its focus on water, transport, and planning, the Department seeks to manage and protect over £37bn of public assets that improve people's quality of life, reduce our impact on the planet by living sustainably and decarbonising key services, and build prosperity by driving inclusive productivity. Whilst this Call for Evidence is specifically focused on the Department's regional strategic planning policy (the Strategic Planning Policy Statement, SPPS) it is nonetheless set within this wider Departmental context.

## Water (Flood Risk Management)

- 1.2 DfI is responsible for, inter alia, the management of flood risk which includes the maintenance of our river and sea defences, construction of flood alleviation schemes, informing development decisions and developing flood maps. Approximately 5% of properties here are in areas at risk from flooding, which is set to increase by 33% to 59,800 when 2080 Climate Change projections are taken into consideration. DfI is also the lead government department for the strategic coordination of the emergency response to severe weather events, including flooding, emergency planning and processes, which are developed in conjunction with our multi-agency partners.

## Transport

- 1.3 In addition, the Department is responsible for the oversight and facilitation of surface transport in the region. The main tools for the delivery of the Department's transport vision are the development of transport strategy and policy and related transport plans, the management of the road network asset (including the promotion of road safety) and providing funding and sponsorship of Translink which delivers the public transport network.

## Planning

- 1.4 The Department is also responsible for the strategic direction and production of regional strategic policy for land use planning, planning legislation, processing a small number of regionally significant planning applications and those applications which may be 'called in'. It has a statutory consultee role for roads and rivers to provide specialist advice in relation to the consideration of planning applications by councils.
- 1.5 DfI also works together with councils in managing the two-tier planning system and has a statutory consultee and an oversight role in the preparation of local development plans (LDPs) which set out councils' long-term visions, objectives, and growth over the plan period. The Department, together with local government

and stakeholders, is also taking forward a Planning Improvement Programme (PIP) with the objective of improving the effectiveness and efficiency of the regional planning system.

- 1.6** There is no doubt that the operating environment, including a constrained resource budget for the delivery of the Department's functions, remains very challenging. By focusing on water, transport and planning the Department is clear on the current state of our infrastructure in these key areas, what we need to do, why we need to do it and how we will prioritise the finite public resources available to address the issues within each delivery area.

## Climate Change

- 1.7** In June 2022 the Climate Change Act (Northern Ireland) 2022 (CCA) came into force, setting a target of net zero greenhouse gas emissions by 2050, with interim targets for 2030 and 2040. These ambitious targets, set out in the CCA represent a decisive change in Northern Ireland's approach to the climate crisis, requiring an immediate step change in all our sectors' activities to achieve this. The Department for Agriculture, Environment and Rural Affairs (DAERA) launched a 16-week public consultation on 21 June 2023 on the related Carbon Budgets and sought views on the Climate Change Committee (CCC) advice report on 'The path to a Net Zero Northern Ireland'. The consultation closed on 11 October 2023. (<https://www.daera-ni.gov.uk/consultations/carbonbudget>).
- 1.8** DAERA also intends to consult on the first Climate Action Plan and the recent consultation on Carbon Budgets will help to inform that process. The legislation also requires DfI to put in place a transport sectoral plan and an infrastructure sectoral plan for combatting Climate Change. The infrastructure sectoral plan must include policies and proposals for planning and construction, while the transport sectoral plan must include policies and proposals for public and private transport. Significant cross public sector collaboration will continue to be required over the coming months to put in place the mechanisms which will ensure compliance with the CCA and support the delivery of the related strategies including those on Green Growth, Energy, Clean Air and Nature Recovery Strategies etc.

## Implications for the SPPS

- 1.9** It is widely recognised that the planning system has a key role to play in guiding, encouraging, and promoting a more sustainable and integrated approach to land use and infrastructure development and in looking for innovative and locally agreed solutions to the challenges we will continue to face in terms of Climate Change. Beyond the ongoing work to finalise the review of regional strategic planning policy on renewable and low carbon energy, it is important that the policy framework provided for by the Strategic Planning Policy Statement (the SPPS) is fit for purpose and suitably future proofed to appropriately support the Climate

Change agenda and related departmental priorities going forward.

- 1.10** It is within this context that the Department is undertaking a ‘Call for Evidence’ on a potential focused review of the [Strategic Planning Policy Statement](#) on the issue of Climate Change. The primary purpose of the Call for Evidence is to engage with stakeholders on the proposed areas of focus for a review of the SPPS and to invite the submission of evidence on the relevant factors that can assist with determining the best way forward.
- 1.11** The information gathered through the Call for Evidence will be considered by the Department and will help inform any decision by a future Infrastructure Minister on a review of the SPPS and the options for it. Should there be an absence of ministers, a decision on the way forward will be considered in light of the decision-making legislation in place at that time.

## 2. How to Respond

- 2.1** This Call for Evidence engagement is being facilitated by means of the Citizen Space Hub, which can be accessed via the following weblink:  
[www.infrastructure-ni.gov.uk/consultations/call-evidence-future-focused-review-SPPS-climate-change](http://www.infrastructure-ni.gov.uk/consultations/call-evidence-future-focused-review-SPPS-climate-change)
- 2.2** This is the primary means of responding to the consultation. However, respondents may also reply by e-mail to: [sppsteam@infrastructure-ni.gov.uk](mailto:sppsteam@infrastructure-ni.gov.uk)
- 2.3** When responding please provide the following information:
- your name,
  - contact details (preferably email),
  - the organisation you represent (if applicable), and
  - your main area of interest (Academic/NGOs; Business and Industry; Community/Resident/Voluntary Organisations; Environmental; Local Government; Professional Bodies; Individuals).
- 2.4** The consultation will run for **from 3 January 2024 to 28 March 2024**.
- 2.5** Responses must be submitted **by 5.00pm Thursday 28 March 2024**. Comments after this deadline will not be accepted.
- 2.6** **All responses to this Call for Evidence should be made electronically.**

## 3. Freedom of Information Act 2000: Confidentiality of Responses

- 3.1** The Department for Infrastructure (DfI) may publish a summary of responses following the closing date for receipt of comments. Your response, and all other responses to this publication, may be disclosed on request and/or made available on the DfI website (redacted). The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of responses as this will give you guidance on the legal position about any information given by you in response to this publication.
- 3.2** The Freedom of Information Act 2000 and Environmental Information Regulations 2004 give the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this publication, including information about your identity, should be made public or treated as confidential. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:
- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
  - the Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature; and
  - acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.
- 3.3** The information you provide in your response, excluding personal information, may be published, or disclosed in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR). Any personal information you provide will be handled in accordance with the UK-GDPR and will not be published. If you want the non-personal information that you provide to be treated as confidential, please tell us why, but be aware that, under the FOIA or EIR, we cannot guarantee confidentiality.

For information regarding your personal data, please refer to the DfI Privacy Notice at [www.infrastructure-ni.gov.uk/dfi-privacy](http://www.infrastructure-ni.gov.uk/dfi-privacy).

For further details on confidentiality, the FOIA and the EIR please refer to [www.ico.org.uk](http://www.ico.org.uk).

## 4. Background

- 4.1 The Strategic Planning Policy Statement (the SPPS) 'Planning for Sustainable Development' was published in September 2015, following Executive Committee agreement. It has a statutory basis under Part 1 of the Planning Act (Northern Ireland) 2011 and the SPPS is judged to be in general conformity with the Regional Development Strategy 2035 (the RDS).
- 4.2 The provisions of the SPPS apply to whole of Northern Ireland. They must be taken into account in the preparation of LDPs and are material to all decisions on individual planning applications and appeals.
- 4.3 Whilst the SPPS and the planning system has the objective of furthering sustainable development at its heart, there has been much contextual change in the period following its publication, particularly with regards to the wider efforts of government in seeking to address the challenges presented by a changing climate.
- 4.4 Since the SPPS was published in 2015, tackling Climate Change has become a legislative requirement and it is a priority consideration in the context of the work and functions of DfI, other departments and the wider public sector.

## 5. Why undertake a Call for Evidence?

### The Climate Emergency

- 5.1 As noted in the introduction, the Department has a vast and wide-ranging remit in relation to water, transport, and planning. Its responsibilities include:
  - regional strategic planning policy, legislation and promoting good place-making, including acting as the planning authority for regionally significant planning applications and overseeing the effectiveness of the two-tier planning process that came into effect in 2015;
  - policy and legislation for water, reservoirs and sewerage including discharging the Department's responsibilities, including as shareholder, for oversight of NI Water;
  - responsibility for rivers and drainage policy and legislation and for supporting the work of the Drainage Council;
  - the assessment and management of flood risk and lead department responsibilities for the emergency response to flooding and other severe weather incidents;

- almost all aspects of surface transport policy including public transport, promotion of active and sustainable travel, the development and implementation of a transport strategy and the provision, management, and maintenance of all public roads; and
- being a statutory consultee in the planning process in relation to rivers and roads matters.

**5.2** Within the context of the climate emergency and the CCA, the Department is looking at how its policies can contribute to emission reduction in our carbon budgets as we chart the path to net zero by 2050. The following departmental work streams are of particular relevance in the context of Climate Change.

### **Water (Flood Risk Management)**

**5.3** More frequent and extreme weather events are indicative of our changing climate. Such occurrences demonstrate dramatically just how vulnerable Northern Ireland's built and natural environment is to extremes of climate variables (e.g. temperature/heatwaves; wind/storms; precipitation/floods; and sea levels/surges). These events, particularly flooding events, present increased disruption to and stress on our infrastructure networks and services including drainage, sewerage, digital, energy, road and rail infrastructure, water resources and can impact on the economy, environment, and communities more widely, as evidenced by recent flooding events.

**5.4** The most effective method of managing flood risk is to mitigate, insofar as possible, the risk occurring in the first place. A key area of the Department's work is to advise council planning authorities in relation to flood risk for proposed new development. This is done through its role as a statutory consultee in the planning process, having regard to the SPPS.

### **Transport**

**5.5** Transport has been identified as a key sector that will be required to decarbonise by 2050 in order to help manage Climate Change. In response, the Department is developing a new 'Transport Strategy for Northern Ireland' (TSNI) which will set the new approach for the transport system as we embark on a transformative journey to net zero carbon emissions by 2050.

**5.6** This strategy is being developed around four high level strategic priorities for transport that will shape and influence the planning, design, and operation of the transport network, so that it is resilient and sustainable; supports green growth; is safe and healthy; and supports connected and inclusive communities.

**5.7** In addition, a suite of transport plans are being developed in an integrated manner with local councils in the development of their LDPs. These transport plans will

set out the framework for transport policy and investment decisions up until 2035. The plans will build on the priorities set out in the TSNI and describe the future development of our road, public transport, and active travel networks.

## Planning

- 5.8** Beyond the ongoing work to finalise the review of regional strategic planning policy for renewable and low carbon energy, it is important to consider the current policy framework provided for by the SPPS in relation to Climate Change and if this remains appropriate. This includes ensuring that the regional strategic planning policy framework keeps pace with changes to the context for, and approach to, the delivery of the Department's wider functions on water (flood risk) and transport.
- 5.9** Where appropriate, regional strategic planning policy can also lend support to the implementation of policy developed by other departments where there is a strong interface with the planning system. However, it would not be appropriate for DfI to assume lead policy development responsibility for matters that are the responsibility of other departments.
- 5.10** In order to deliver for the economy, communities and the environment, the Department is committed to ensuring that the planning system operates in an efficient and effective way and plays its part in assisting the wider efforts of government in addressing Climate Change.

## 6. Purpose and Scope

- 6.1** This Call for Evidence is part of the process of gathering the necessary information to inform a potential focused review of the SPPS in relation to Climate Change and the options and scope for any such review.
- 6.2** Should the outcome of this Call for Evidence lead to a decision to formally review the SPPS, such a focused review could seek to update and bring forward new and revised policy provisions on Climate Change on:
- The Purpose of Planning,
  - Furthering Sustainable Development (including Mitigating and Adapting to Climate Change and The Importance of Ecosystem Services), and
  - The Core Planning Principles of the two-tier planning system.
- 6.3** A focused review could also encompass a fresh look at the appropriateness of extant policy provisions on flood risk, transportation, and development in the countryside, given these are three key policy areas which are impacted by Climate Change (in addition to the review of regional strategic planning policy on



renewable and low carbon energy which is already being progressed).

- 6.4** The Department is particularly keen to hear views and gather evidence in respect of the above-mentioned matters. Nonetheless, there may be evidence in relation to other aspects of the SPPS that you may wish to comment on that might assist the Department with determining the appropriate way forward in addressing Climate Change within the SPPS.
- 6.5** The policy areas outlined in this CfE are considered to reflect how and where the Department can optimise the impact of any focused review of the SPPS in responding to the challenges of a changing climate.

## 7. The Purpose of Planning

- 7.1** The objective of the planning system, consistent with Part 1, Section 1 of the Planning Act (Northern Ireland) 2011, is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being. The SPPS states that this means the planning system should positively and proactively facilitate development that contributes to a more socially, economically, and environmentally sustainable Northern Ireland. Planning authorities<sup>1</sup> should therefore simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society.
- 7.2** For the existing policy provisions of 'The Purpose of Planning' please see paragraphs 2.1 – 2.4 of the [Strategic Planning Policy Statement](#)

**QUESTION 1: *Can you provide any evidence on how and why the Department should update, revise, and improve 'The Purpose of Planning' as contained within the SPPS so that it is fit for purpose and suitably future proofed to appropriately support the Climate Change agenda going forward? Please detail.***

## 8. Furthering Sustainable Development

- 8.1** The objective of furthering sustainable development lies at the heart of the SPPS and the planning system. The key guiding principles for planning in Northern Ireland are contained within the SPPS. It currently recognises the need to mitigate and adapt to Climate Change and the positive part the planning system plays in

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<sup>1</sup> Planning authorities can encompass district councils (in their role as local planning authorities), the Department for Infrastructure and the Planning Appeals Commission (PAC).

seeking to halt the loss of biodiversity and ecosystem services.

- 8.2** In addition, the SPPS seeks to ensure the planning system contributes to a reduction in energy and water usage and helps to reduce greenhouse gas emissions by continuing to support growth in renewable energy sources, as well as promoting development where it reduces the need for private motorised travel. The promotion of high quality and good design is also emphasised, and in terms of seeking to address the nature crisis, working towards the restoration of and halting the loss of biodiversity is noted, as is the conservation of soil and bog lands. In recognition of the challenges of Climate Change, managing development to safeguard against water pollution, flooding and securing improvements in water quality are also addressed.
- 8.3** Furthering sustainable development also means ensuring the planning system plays its part in supporting the Executive and wider government policy and strategies in efforts to address any existing or potential barriers to sustainable development.
- 8.4** The SPPS outlines that in formulating policies and plans and in determining planning applications, planning authorities should be guided by the precautionary approach that where there are significant risks of damage to the environment, its protection will generally be paramount unless there are imperative reasons of overriding public interest.

### **Mitigating and Adapting to Climate Change**

- 8.5** The SPPS currently recognises that a central challenge in furthering sustainable development is mitigating and adapting to Climate Change. It identifies a number of measures that the planning system can consider in this regard.

### **The Importance of Ecosystem Services**

- 8.6** The SPPS also stresses the importance of ecosystem services. It highlights the benefits that a good quality environment can provide not only in terms of economic performance but also by improving resilience to Climate Change. For example, trees and other green infrastructure provide important ecosystem services that reduce the effects of flooding and the urban heat island, a phenomenon that occurs when urban areas experience higher air temperatures than the surrounding rural area.
- 8.7** For the full 'Furthering Sustainable Development' text please see paragraphs 3.1 – 3.16 of the [Strategic Planning Policy Statement](#)

**QUESTION 2: *Can you provide any evidence on how and why the Department should update, revise, and improve 'Furthering Sustainable Development' (including Mitigating and Adapting to Climate Change and The Importance of Ecosystem Services) in order to better support the***

*Climate Change agenda? Please detail.*

## 9. Core Planning Principles

- 9.1 The SPPS supports 5 'Core Planning Principles' that are fundamental to the achievement of sustainable development, which are: 'Improving Health and Well-Being'; 'Creating and Enhancing Shared Space'; 'Supporting Sustainable Economic Growth'; 'Supporting Good Design and Positive Place-Making'; and 'Preserving and Improving the Built and Natural Environment'. Four of these are particularly relevant to Climate Change and are summarised below.

### Improving Health and Well-Being

- 9.2 The SPPS directs that when plan-making and decision-taking, planning authorities should contribute positively to health and well-being through actions, such as: encouraging and supporting quality, environmentally sustainable design; providing better connected communities with safe pedestrian environments; ensuring better integration between land-use planning and transport; and facilitating the protection and provision of green and blue infrastructure.
- 9.3 In addition, the value of networks of green infrastructure in providing a wide range of environmental benefits including flood water storage, urban cooling, improved air quality and habitats for wildlife are highlighted. It is recognised that green infrastructure should be designed and managed as a multifunctional resource capable of delivering on a wide range of environmental and quality of life benefits for communities. The SPPS also draws attention to the wide range of environment and amenity considerations, including air quality, which should be taken into account by planning authorities when proposing policies or managing development.

### Supporting Sustainable Economic Growth

- 9.4 The SPPS supports sustainable economic growth. Our environment is identified as an asset for economic growth in its own right and in line with the Department's vision for a 'sustainable future', the SPPS requires planning authorities to encourage proposals that make an important contribution to sustainable economic growth whilst also carefully balancing the protection and enhancement of the quality of the natural and built environment.

### Supporting Good Design and Positive Place-Making

- 9.5 Another core planning principle which encourages the need to mitigate and adapt to Climate Change is that of 'supporting good design and positive place-making'. The SPPS accepts that good design furthers sustainable development and encourages healthier living; promotes accessibility and inclusivity; and contributes to how safe places are and feel.

- 9.6** The SPPS recognises that design is not limited to the appearance of a building or place but that it should encompass how buildings and places function in use over the lifetime of a development. To assist in helping to tackle the impacts of Climate Change, it is stressed that ‘design’ should consider and address, for example, how a development can minimise energy, water usage and CO2 emissions. Landscape design and planting considerations are also outlined as an integral part of design which can contribute to biodiversity.

### **Preserving and Improving the Built and Natural Environment**

- 9.7** This core planning principle seeks to ensure that the environment is managed in a sustainable manner in order to safeguard our landscape and its heritage assets, preserving and improving the natural and built environment and halting the loss of biodiversity. An integrated approach to the management of the natural and cultural aspects of the landscape is advocated as is the important role of the planning system in conserving, protecting, and enhancing the environment whilst ensuring it remains responsive and adaptive to the everyday needs of society.
- 9.8** The SPPS considers that the importance of the environment, however, goes far beyond the immediate benefits it can provide with it being noted that safeguarding our unique landscape (including heritage assets) and biological diversity will also makes an important contribution to the protection of the wider global ecosystem.
- 9.9** For the full ‘Core Planning Principles’ text please see paragraphs 4.1 – 4.40 of the [Strategic Planning Policy Statement](#)

**QUESTION 3: *Can you provide any evidence on how and why the Department should update, revise, and improve the ‘Core Planning Principles’ in order to better support the Climate Change agenda? Please detail.***

## **10. Subject Policies**

- 10.1** The SPPS makes it clear that the objective of furthering sustainable development and the supporting core planning principles that give expression to it should be applied to both plan-making and decision-taking, along with the relevant subject policies. It is clarified that the SPPS should be read and applied as a whole (SPPS para 5.9). As set out at Part 6 above, the Department considers it appropriate to focus on the following three subject policies within the SPPS.

### **Flood Risk**

- 10.2** The Department is the competent authority for The Water Environment (Floods Directive) Regulations (Northern Ireland) 2009 and has overall responsibility for

flood risk management in the region (see para. 5.3). Flooding is recognised as one of the primary risks to people, property and the environment arising from a changing climate in Northern Ireland. As mentioned earlier in this document, we have experienced and should expect more frequent and extreme weather events. This is reinforced by the latest evidence by the Climate Change Committee (CCRA3 published 2021).

- 10.3** It is accepted that more needs to be done and in this regard the Department is progressing a number of initiatives. For example, existing 'Technical Flood Risk Guidance in relation to Allowances for Climate Change in Northern Ireland' (published 2019), is currently based on UK Climate Projections (UKCP09) information. This guidance is used for flood risk management and development planning purposes (primarily in respect of allowances for increased sea level rise, river flows and rainfall intensities) and assists DfI in its role as a statutory consultee in the planning system. However, 2018 UK Climate Projections (UKCP18) information is now available, and the Department is currently considering updates to the abovementioned guidance in this regard.
- 10.4** The Department also provides advice to councils on the drainage/flood risk aspects of emerging draft LDP documents. This advice is informed by a suite of flood maps, including Climate Change mapping developed by the Department and produced in accordance with the requirements of The Water Environment (Floods Directive) Regulations (Northern Ireland) 2009. These maps have been prepared for areas that have been determined by government to be at significant risk of flooding and were an important step in development of flood risk management plans for these areas. A key aim of the flood maps is to increase awareness among the general public, councils (including planning authorities) and other organisations, of the likelihood of flooding and to recommend that all stakeholders take appropriate action to manage flood risk.
- 10.5** Information relating to flood mapping and Climate Change can be found online at: [Flood Maps NI | Department for Infrastructure \(infrastructure-ni.gov.uk\)](https://www.infrastructure-ni.gov.uk/flood-maps-ni)
- 10.6** As Climate Change predictions indicate there is likely to be an increase in the existing floodplain outlines, developers should be aware of the available Climate Change flood mapping and the expected future changes. The Department's capital flood alleviation schemes are also designed with Climate Change factors taken into consideration.
- 10.7** The Department is also developing preparatory work towards the provision of legislation which will enable it to introduce future arrangements, if funded to do so, to encourage developers to use Sustainable Drainage Systems (SuDS) as the preferred drainage solution in new developments. These arrangements which would require further consultation in due course may propose to detail how SuDS can be approved as part of a potential approval process for developments and requirements for their ongoing long-term maintenance. SuDS can assist in the

management of flood and pollution risks from excess water and can benefit water quality, biodiversity, health, and public amenity.

- 10.8** It is therefore recognised that the SPPS and the planning system have an important role to play in supporting the wider efforts of government in supporting flood risk management. An established approach has been to prevent inappropriate new development in areas known to be at risk of flooding, or that may increase the flood risk elsewhere. The SPPS, therefore, currently provides that, in all but the most exceptional circumstances, new development is not located within the flood plains of rivers or the sea where it may be at risk or increase the risk of flooding in the locality.
- 10.9** The current definition of a flood plain contained in the SPPS does not include an allowance for Climate Change. Whilst DfI Rivers, in its role as statutory consultee, will continue to provide advice taking into account the latest information on flood risk (including for Climate Change) it is recognised that updating the definition of a flood plain in the SPPS can provide further policy backing to support decision making by planning authorities.
- 10.10** The SPPS also recognises that the planning system should help to mitigate and adapt to Climate Change by working with natural environmental processes, for example through promoting the development of green infrastructure and also the use of SuDS to reduce flood risk and improve water quality.
- 10.11** For the existing policy provisions in relation to 'Flood Risk' please see paragraphs 6.99 – 6.132 of the [Strategic Planning Policy Statement](#)

**QUESTION 4: *Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Flood Risk', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***

## **Transportation**

- 10.12** The Department is the roads authority for Northern Ireland with responsibility for almost all aspects of transport policy including public transport, promotion of active and sustainable travel, the development and implementation of a transport strategy, transport plans and the provision, management and maintenance of the road network as well as delivering wider transport projects. In addition, the Department is a statutory consultee in the planning process in relation to roads related matters.
- 10.13** As the second largest contributor to carbon emissions, the transport sector and particularly its surface transport, needs to play a critical role in responding to the climate emergency. The CCA places a clear responsibility on the Department to decarbonise the transportation sector. As previously mentioned, the Department

is currently bringing forward a Transport Strategy (TSNI) that will set out its new approach for the transport system up to 2035. The strategy aims to provide a clear framework for action which will facilitate implementation of a range of decarbonisation initiatives.

- 10.14** The planning system has an important role to play in supporting the priorities set out in the TSNI and the Department will aim to ensure that the regional strategic planning policies within the SPPS, planning guidance in [Living Places](#), and council LDPs continue to help improve connectivity, promote more sustainable transport patterns and support the decarbonisation of the transport sector.
- 10.15** Going forward, the planning system could potentially improve the alignment of transport planning in Northern Ireland with the climate targets outlined in the CCA and help support the 'Hierarchy in Reducing the Carbon Impact of Transport'. This hierarchy is focused on reducing the number and length of trips; increasing a shift of modes from the use of the private car to public transport and active travel; and a switch to more sustainable fuels.
- 10.16** Within this context the Department is focused on encouraging and prioritising low-carbon transport options, such as:
- Transport Demand Management: measures that help manage and reduce travel demand, such as flexible working arrangements, tele-commuting, and further promotion of cycling and walking for short-distance trips,
  - Active Travel Infrastructure: enhancing the focus on active travel (cycling and walking) by allocating more space for cycle paths, pedestrian zones, and implementing measures to improve safety and accessibility for non-motorised transport modes,
  - Sustainable Transport Networks: ensuring that transport planning focuses on developing sustainable transport networks that minimise carbon emissions, such as investing in efficient public transport systems, promoting shared mobility services, and integrating different modes of transport, and
  - Monitoring and Reporting: implementing monitoring mechanisms to regularly assess the progress and impact of transport-related Climate Change targets.
- 10.17** The SPPS was introduced in 2015 in the context of the 'Regional Transportation Strategy for Northern Ireland' for the period 2002-2012, and the subsequent document 'Ensuring a Sustainable Transport Future: A New Approach to Regional Transportation', published in March 2012.
- 10.18** In respect of transportation, the SPPS seeks to support a 'modal shift' by promoting sustainable forms of development that reduce the need for motorised transport and encourages opportunities for active travel and travel by public transport in preference to the private car.

- 10.19** It also recognises that the preparation of a LDP provides the opportunity to assess the transport needs, problems and opportunities within the plan area and that appropriate consideration be given to transportation issues in the allocation of land for future development, including appropriate integration between transport modes and land use. Policy specifies that LDPs should identify active travel networks and provide a range of infrastructure improvements to increase use of more sustainable modes.
- 10.20** Any review of the SPPS in relation to Climate Change should take account of the new approach for transport infrastructure planning and delivery of transport infrastructure services across Northern Ireland.
- 10.21** The planning system can play a positive role in supporting the decarbonisation of transportation. It can promote more sustainable transportation for a greener and more resilient future. The review provides the opportunity to ensure that the subject planning policy for transportation remains up to date and fit for purpose for plan-making and decision-taking. For example, it could consider how regional strategic planning policy can best support and integrate active travel infrastructure and use, deliver sustainable patterns of development that reduce the need to travel and encourage travel by greener modes of travel that minimise carbon emissions.
- 10.22** For the existing policy provisions in relation to 'Transportation' please see paragraphs 6.293 – 6.305 of the [Strategic Planning Policy Statement](#)

**QUESTION 5: *Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Transportation', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***

### **Development in the Countryside**

- 10.23** It is recognised that there are wide variations across Northern Ireland in terms of the economic, social and environmental characteristics of rural areas and that Northern Ireland is characterised by a distinct dispersed rural settlement pattern.
- 10.24** Given the declaration of a climate emergency and the challenges in delivering on the ambitions of the CCA, the Department is considering whether the current approach to new development in the countryside remains appropriate. The role and function of rural settlements and accessibility to existing services and infrastructure is also important.
- 10.25** The aim of the SPPS in relation to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities, consistent with the RDS. The policy approach is to cluster, consolidate, and group



new development with existing established buildings, and promote the re-use of previously used buildings.

- 10.26** The current policy provides a wide range of opportunities for development in the countryside including new dwellings in existing clusters; replacement dwellings; dwellings on farms; dwellings for non-agricultural business enterprises; infill development; the conversion and reuse of existing buildings; and a dwelling where there are personal and domestic circumstances. Additional opportunities are provided for a temporary caravan; social and affordable housing development; and non-residential development including farm diversification; agriculture and forestry development; and the conversion and reuse of existing buildings for non-residential use.
- 10.27** For the existing policy provisions in relation to ‘Development in the Countryside’ please see paragraphs 6.61 – 6.75 of the [Strategic Planning Policy Statement](#)

**QUESTION 6: *Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy ‘Development in the Countryside’, as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***

### **Other Matters**

- 10.28** As per paragraphs 6.4 and 6.5 above, the Department is particularly keen to hear views and gather evidence in response to Questions 1-6. However, the Department recognises that there may be comments/evidence in relation to other aspects of the SPPS that you may wish to comment on in relation to Climate Change that might assist the Department with determining the most appropriate way forward.

**QUESTION 7: *In light of the declared climate emergency and the requirements of The Climate Change Act (Northern Ireland) 2022, can you provide any other evidence on how and why the Department should update, revise, and improve the SPPS to better support the Climate Change agenda? Please detail.***

## 11. Summary of Questions

- 1) ***Can you provide any evidence on how and why the Department should update, revise, and improve 'The Purpose of Planning' as contained within the SPPS so that it is fit for purpose and suitably future proofed to appropriately support the Climate Change agenda going forward? Please detail.***
- 2) ***Can you provide any evidence on how and why the Department should update, revise, and improve 'Furthering Sustainable Development' (including Mitigating and Adapting to Climate Change and The Importance of Ecosystem Services) in order to better support the Climate Change agenda? Please detail.***
- 3) ***Can you provide any evidence on how and why the Department should update, revise, and improve the 'Core Planning Principles' in order to better support the Climate Change agenda? Please detail.***
- 4) ***Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Flood Risk', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***
- 5) ***Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Transportation', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***
- 6) ***Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Development in the Countryside', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***
- 7) ***In light of the declared climate emergency and the requirements of The Climate Change Act (Northern Ireland) 2022, can you provide any other evidence on how and why the Department should update, revise, and improve the SPPS to better support the Climate Change agenda? Please detail.***

## 12. Next Steps

- 12.1** Responses to this Call for Evidence should be made to the Department by:  
**5.00pm, Thursday 28 March 2024.**
- 12.2** The information gathered, as a result of this Call for Evidence will be considered by the Department and will help inform any potential focused review of the SPPS in relation to Climate Change.
- 12.3** Depending, in part, upon the evidence received, the consideration and scope of any potential review will be refined to focus on the key issues and/or if further research should be undertaken. Any necessary revisions to regional strategic planning policy will follow the normal policy development process and would involve the preparation of a draft policy proposal which would be subject to full public consultation.

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Department for  
**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

# **Future Focused Review of the Strategic Planning Policy Statement (SPPS) on the issue of Climate Change**

## **A Call for Evidence**

### **EASY READ**

**Issued: 3 January 2024**

**Respond by: 28 March 2024**

## How can I get a copy of this document in another format?

You can get a copy of this document in other formats, including:

- paper copy,
- large print,
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- other languages.

**PLEASE NOTE:** This is an 'Easy Read' version of the Call for Evidence. It contains a lot less detail than the full document. If you would like more detail, you may find the full version better suited to your needs. This can be accessed at: [www.infrastructure-ni.gov.uk/consultations/call-evidence-future-focused-review-SPPS-climate-change](http://www.infrastructure-ni.gov.uk/consultations/call-evidence-future-focused-review-SPPS-climate-change)

To get a copy of this document in another format, or tell us what you think, you can:

- **Telephone: 028 9054 0612** and talk to one of the Regional Planning and Policy team members. If you have a hearing difficulty, you can use the text relay prefix 18001.
- **Or E-mail: [SPPSteam@infrastructure-ni.gov.uk](mailto:SPPSteam@infrastructure-ni.gov.uk)**

## About us

We are the Department for Infrastructure.

## What do we do?

We have many wide-ranging responsibilities in relation to water, transport, and planning (including the making of regional planning policy).

We look after our water, rivers, roads, and transport infrastructure.

We manage over £37 billion of public assets that improve people's quality of life and help reduce our impact on the planet.

## Here are some of the main things we do.

### Water

- We help to reduce the risk of flooding by looking after our sea and river flood defences and by providing expert advice on flooding matters to decision makers, including planners in councils.
- We lead the emergency response to flooding and other severe weather incidents.
- We develop policy and legislation for water, reservoirs and sewerage and we fund and oversee Northern Ireland Water as a shareholder.
- We also bring forward rivers and drainage policy and legislation.

### Transport

- We are bringing forward a new transport strategy for Northern Ireland.
- We are responsible for the provision, management, and maintenance of all our public roads, and for the promotion of road safety and active and sustainable travel, including walking, wheeling, and cycling.
- We fund Translink which runs the buses and trains on the public transport network.

### Planning

- We make planning policy and planning legislation to guide local development plans and decisions on planning applications.
- We also take decisions on some large planning applications.
- We provide expert advice on roads, rivers, and sewerage issues to our local

councils.

- We are working with others to make the planning system better.

## **This is a Call for Evidence on:**

A potential review of the *Strategic Planning Policy Statement (the SPPS)* on the issue of *Climate Change*

### **What is the SPPS?**

The SPPS is our policy on how we should deal with important planning matters for different land uses and types of development across Northern Ireland.

This policy is used to guide councils in making their local development plans (LDPs) and for those that take decisions on planning applications and planning appeals. A LDP sets out the policies and proposals of councils to be used to decide development proposals for the long-term future development of their areas.

In June 2022 government introduced a new law called the Climate Change Act (Northern Ireland) 2022. This legislation sets an ambitious target of net zero greenhouse gas emissions by 2050, with interim targets for 2030 and 2040.

This means we need to make a big shift in Northern Ireland's approach to the climate crisis and will require an immediate change in all of our activities.

We are thinking about changing the SPPS in places to give it an improved focus on the issue of Climate Change.

You can look at the current SPPS here: [Strategic Planning Policy Statement](#)

## **Why are we doing a Call for Evidence?**

We are looking at how our policies can help improve how our planning system responds to the challenges of our changing climate now and into the future.

We want to reach out to everyone to get your views on the policy areas of the SPPS we think are most relevant in relation to Climate Change.

We want to gather information through the Call for Evidence consultation to help a future Infrastructure Minister decide on whether or not to review the SPPS and if so, where the focus should be.

If a decision is made in the future to review the SPPS, the information collected from this Call for Evidence will feed into the review and help us decide the best way to do it.

We want any review to take a fresh look at how suitable the policies in the SPPS are, and to update and develop new policies, if needed.

## What does the Call for Evidence cover – what are we asking about?

We want you to focus on the following policies in the SPPS as we think these are the areas which are most impacted by, and are most relevant to, Climate Change:

- The Purpose of Planning,
- Furthering Sustainable Development,
- The Core Planning Principles of the planning system,
- Flood risk,
- Transportation, and
- Development in the countryside.

We want to get your views and gather evidence on the policies mentioned above and how they might need to be updated because of Climate Change.

But we are also interested in any evidence on other policies in the SPPS that you may think are also relevant in terms of Climate Change.

## The Purpose of Planning

We are thinking whether we need to update the purpose of planning and give more focus to climate action so that the planning system can do more to help lessen and manage the impacts of a changing climate.

You can read the existing policy wording on 'The Purpose of Planning' by clicking on the following link and going to paragraphs 2.1 – 2.4.

### [Strategic Planning Policy Statement](#)

Please consider question 1 below and give us your views:

**QUESTION 1:** *Can you provide any evidence on how and why the Department should update, revise, and improve 'The Purpose of Planning' as contained within the SPPS so that it is fit for purpose and suitably future proofed to appropriately support the Climate Change agenda going forward? Please detail.*



## Furthering Sustainable Development

Furthering sustainable development can be described as doing things to help meet our needs now without compromising the ability of future generations to meet their needs. It is at the heart of the SPPS and the planning system.

The SPPS already gives us examples of how the planning system can play an important part in helping to slow down or address the worst impacts of Climate Change on communities, buildings and on our environment. We are thinking about whether we might need to improve this policy to make it better.

You can read the existing policy wording on 'Furthering Sustainable Development' by clicking on the link below and going to paragraphs 3.1 – 3.16.

### [Strategic Planning Policy Statement](#)

Please consider question 2 below and give us your views.

**QUESTION 2: *Can you provide any evidence on how and why the Department should update, revise, and improve 'Furthering Sustainable Development' (including Mitigating and Adapting to Climate Change and The Importance of Ecosystem Services) in order to better support the Climate Change agenda? Please detail.***

## Core Planning Principles

The SPPS has 5 'Core Planning Principles' that are very important for planning and for achieving sustainable development. Four of these principles are very relevant to Climate Change and you can read a short description of each below.

### Improving Health and Well-Being

The SPPS states that planning should influence health and well-being positively by encouraging better environmentally sustainable design; providing better connected communities with safe pedestrian areas; making sure planning and transport are more linked; and helping to provide and protect green infrastructure (such as parks, green spaces, and street trees) and blue infrastructure (such as ponds, streams, and lakes).

### Supporting Sustainable Economic Growth

The SPPS encourages sustainable economic growth whilst also trying to protect and make the natural and built environment better.

### Supporting Good Design and Positive Place-Making

This core planning principle also encourages the need to react to and reduce the

impacts of Climate Change. The SPPS accepts that good design can further sustainable development; encourage healthier living; promote accessibility and inclusivity; and contribute to how safe places are and feel.

## Preserving and Improving the Built and Natural Environment

This core planning principle tries to make sure that the environment is managed in a sustainable way to protect our landscape and its heritage assets; preserving and improving the natural and built environment; and, stopping the loss of biodiversity (that is the variety of plant and animal life in the world).

You can read the existing policy wording on the 'Core Planning Principles' by clicking on the link below and going to paragraphs 4.1 – 4.40.

### [Strategic Planning Policy Statement](#)

Please consider question 3 below and give us your views.

**QUESTION 3: *Can you provide any evidence on how and why the Department should update, revise, and improve the 'Core Planning Principles' in order to better support the Climate Change agenda? Please detail.***

The SPPS includes 18 subject policies on different planning policy topics. We are thinking about whether 3 of these subject policies may need to be reviewed to make them better, given Climate Change. These are the subject policies on Flood Risk, Transportation and Development in the Countryside.

## Flood Risk

Flooding is a big risk to people, property, and our environment. Our changing climate is making this an even bigger risk to us all. We have experienced and should expect more frequent and extreme weather conditions and events because of Climate Change.

The SPPS and the planning system have an important role to play in supporting flood risk management. Our current approach is to limit new development from being built in areas that flood or where a development may increase the risk of flooding elsewhere.

The SPPS, therefore, advises that new development should not be located within the flood plains (the area which may flood) of rivers or the sea.

We are thinking about whether we need to improve this subject policy to make it better, given the context of Climate Change.

You can read the existing policy wording on 'Flood Risk' by clicking on the link below and going to paragraphs 6.99 – 6.132.

### [Strategic Planning Policy Statement](#)

Please consider question 4 below and give us your views:

**QUESTION 4: *Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Flood Risk', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***

## Transportation

We are responsible for the network that allows people or goods to move around by road, train, or by ship, and for making transport policy, including planning policy on transport.

As the second largest contributor to carbon emissions, the transport sector and particularly surface transport, needs to play a key role in responding to the climate emergency.

The SPPS seeks to support a 'modal shift' by promoting sustainable forms of development that reduce the need for motorised transport and encourages opportunities for active travel (making journeys in physically active ways like cycling or walking) and travel by public transport in preference to the private car.

We are bringing forward a new Transport Strategy and think we should also consider changing our planning policy to ensure that it can support more walking, wheeling, cycling and use of our buses and trains.

We are thinking about whether we need to improve this subject policy to make it better, given the context of Climate Change.

You can read the existing policy wording on 'Transportation' by clicking on the link below and going to paragraphs 6.293 – 6.305.

### [Strategic Planning Policy Statement](#)

Please consider question 5 below and give us your views:

**QUESTION 5: *Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Transportation', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***

## Development in the Countryside

The aim of the SPPS regarding development in the countryside is to strike a balance between protection of the environment from the wrong type of development, while supporting and sustaining rural communities.

The current policy approach for development in the countryside is to cluster, consolidate, and group new development with existing established buildings, and

promote the re-use of previously used buildings. The SPPS provides a wide range of opportunities for housing, farming, and other types of development in the countryside.

We are thinking about whether we need to improve this subject policy to make it better, given the context of Climate Change.

You can read the existing policy wording on 'Development in the Countryside' by clicking on the link below and going to paragraphs 6.61 – 6.75.

### [Strategic Planning Policy Statement](#)

Please consider question 6 below and give us your views:

**QUESTION 6: *Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Development in the Countryside', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***

## Other Matters

We are happy to receive any comments or evidence you may have about other policies in the SPPS that you think are relevant to Climate Change, that might help us in deciding the best way forward or in improving or making new policy.

**QUESTION 7: *Can you provide any other evidence on how and why the Department should update, revise, and improve the SPPS to better support the Climate Change agenda? Please detail.***

## How to Respond

You can respond to the full consultation survey online through the [Citizen Space hub](#).

Or

Tell us what you think about it by:

- **Telephone: 028 9054 0612** and talk to one of the Regional Planning and Policy team members. If you have a hearing difficulty, you can use the text relay prefix **18001**.
- **Email: [sppsteam@infrastructure-ni.gov.uk](mailto:sppsteam@infrastructure-ni.gov.uk)**

When responding please provide the following information, if possible:

- your name,
- contact details (preferably email),
- the organisation you represent (if applicable), and
- your main area of interest.

The Call for Evidence will run **from Wednesday 3 January 2024 to Thursday 28 March 2024**.

**Please respond through Citizen Space if possible.**

**Please note, you can complete as few or as many questions as you want.**

You can get a copy of the full version of Call for Evidence via the following link:  
[www.infrastructure-ni.gov.uk/consultations/call-evidence-future-focused-review-SPPS-climate-change](http://www.infrastructure-ni.gov.uk/consultations/call-evidence-future-focused-review-SPPS-climate-change)

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**QUESTION 1:** *Can you provide any evidence on how and why the Department should update, revise, and improve 'The Purpose of Planning' as contained within the SPPS so that it is fit for purpose and suitably future proofed to appropriately support the Climate Change agenda going forward? Please detail*

**RESPONSE**

The purpose for planning sets out sustainable development within the core objective of the planning system. Since publication of the SPPS the Climate Change (NI) Act 2022 has been enacted and thus presents opportunity to update the SPPS with respect to climate adaptation. The [Climate Change Committee \(CCC\)](#) produces Climate Change Risk Assessments (CCRA3 being most up to date).

**QUESTION 2:** *Can you provide any evidence on how and why the Department should update, revise, and improve 'Furthering Sustainable Development' (including Mitigating and Adapting to Climate Change and The Importance of Ecosystem Services) in order to better support the Climate Change agenda? Please detail.*

**RESPONSE**

There is a range of evidence presented by the CCC reports.

With respect to the regional context, evidence- a Northern Ireland Climate Change Adaptation Programme (NICCAP2) was published for the 2019-2024 period.

**QUESTION 3:** *Can you provide any evidence on how and why the Department should update, revise, and improve the 'Core Planning Principles' in order to better support the Climate Change agenda? Please detail.*

**RESPONSE**

The Core Planning Principles remain appropriate in the main, but update could reflect current thinking and policy e.g. approaches on sustainable drainage and active travel.

**QUESTION 4:** *Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Flood Risk', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.*

**RESPONSE**

CCC Climate Change Risk Assessment (CCRA3)

**QUESTION 5:** *Can you provide any evidence on how and why the Department should*

***update, revise, and improve the subject policy 'Transportation', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***

**RESPONSE**

DFI own studies in relation to Local Transport Studies and the emerging Transport Plans and Strategy.

***QUESTION 6: Can you provide any evidence on how and why the Department should update, revise, and improve the subject policy 'Development in the Countryside', as set out in the SPPS, in order to better support the Climate Change agenda? Please detail.***

**RESPONSE**

Councils are bringing forward locally distinct planning policy, and it is acknowledged that settlements offer the more sustainable location as a focus for services, employment and transport links. It is not clear how evidence would be utilised for a regional approach with new operational planning policy for each local planning authority being set out in the Local Development Plans.

***QUESTION 7: Can you provide any other evidence on how and why the Department should update, revise, and improve the SPPS to better support the Climate Change agenda? Please detail.***

As stated, the Climate Change Committee is a source of evidence related to the climate change agenda.

Unclassified

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**ITEM 6****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 March 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	16 February 2024
File Reference	N/A
Legislation	Planning Act (NI) 2011
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input checked="" type="checkbox"/> If other, please add comment below: Not applicable
Subject	Update on Planning Appeals
Attachments	Item 6a - PAC Decision 2021/A0227 Item 6b - PAC Decision 2022/A0220

**Appeal Decisions**

1. The following appeal was upheld on 29 January 2024 following a hearing held on 16 November 2022, some 14 months earlier.

PAC Ref	2021/A0227
Application ref	LA06/2021/0413/F
Appellant	Mr James Morley
Subject of Appeal	The refusal of full planning permission for demolition of existing dwelling and erection of 4 no. 2 bed apartments
Location	115 Station Road, Craigavad, Holywood

The Council refused the above application on 22 February 2022 for the following reasons:



Not Applicable

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- 1) The proposal is contrary to Policy QD1 of PPS 7 – Quality Residential Environments in that the proposed development involves intensification of site usage within an Area of Townscape Character and it does not meet any of the exceptional circumstances, and would, if permitted, adversely affect the local character of the area.
- 2) The proposal is contrary to Policy QD1(a) of PPS 7 – Quality Residential Environments in that it would, if permitted, result in over development of the site and cause unacceptable damage to the local character and environmental quality of the established residential area by reason of its layout, scale, proportions, massing and appearance of the building which would be out of keeping with the character of the area and which consists mainly of large detached single houses within large curtilages. The proposed development would also create an unacceptable precedent and the potential cumulative impact of similar development would further detract from the environmental quality, residential amenity and established character of the surrounding area.
- 3) The proposal is contrary to Policy ATC 2 of the Addendum to PPS 6 – Areas of Townscape Character, in that the proposed development would not respect the built form of the area and would not maintain or enhance the overall character of the area by reason of its density, layout, scale, massing and appearance of the building.
- 4) The proposal is contrary to Policy LC 1 (a) of the Addendum to PPS 7 – Safeguarding the Character of Established Residential Areas, in that the proposed density on the site is significantly higher than that found in the established residential area.

The Commissioner noted that the Council had granted full planning permission in February 2021 for replacement of the in-situ dwelling with a larger replacement dwelling (ref. LA06/2018/1077/F). That building was notably larger than the in-situ dwelling and was of a modern design, with a 3-storey high element with front facing balcony at one end, sizeable window panels and a double garage emplacement in its front façade.

The Commissioner did not sustain the Council's first and third reasons for refusal on the basis that they refer to Areas of Townscape Character (ATC) whilst the appeal development is located within a draft ATC. Notwithstanding that position, he agreed that the potential impact of the appeal development on the proposed ATC remained a material consideration.

He continued that, as it is not known how any lawfully adopted BMAP will describe the overall character of the area to be designated, it is not possible to assess the impact of the appeal development on that character. However, regardless of the lack of a policy context, the impact of the appeal development on the proposed ATC remains a material consideration and can still be objectively assessed against the context of the surrounding built form.

## Not Applicable

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Whilst the previous approval does not constitute a fall-back in the conventional meaning of the term, the Commissioner considered that it provided a starting point to assessing the potential impacts of the appeal development versus what had previously been approved. Despite its size, it was not considered to read as unacceptably dominant or overbearing in the streetscene, nor would it present as overdevelopment of the site given its utilisation of the footprint for the previously approved dwelling.

Additionally, he determined that the proposed apartment building would not appear out of keeping with the character of the area given its position relative to existing built development. He determined that the appeal development would respect the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. The appeal development satisfies criterion (a) of Policy QD1 of PPS7, that policy read as a whole, as well as the related provisions of the SPPS. Likewise, it also accords with section 13.7 of the NDAAP.

As such the Council's second reason for refusal and related concerns of the Objectors were not sustained. For the same reasoning he considered that whilst dBMAP is only to be afforded limited weight in this appeal, the appeal building by reason of its layout, scale, massing and overall design would not fail to maintain or enhance the overall character of the proposed ATC. The Council's and Objectors' related concerns as to the proposed ATC were not sustained.

Whilst he accepted the density would be significantly higher than that found in the ERA (40 dwgs/ha compared to the ERA of 5.2/ha), he considered that these differences, when taken together with the "end of lane" location and position of the proposal as part of an anomalous, tighter group of buildings on smaller plots, would not render the appeal development disharmonious with, or result in unacceptable damage to the local character and environmental quality of the area. He also referenced that whilst over-development of the site had been raised as an issue, there was no suggestion that there would be insufficient amenity space for the appeal development, which is often an indicator of over-development or unacceptable density.

Whilst the Commissioner found that the proposed development does not comply with criterion (a) of Policy LC1, harm would be avoided for the reasons given earlier in his decision. In the specific circumstances of this case, which he opined were unlikely to recur, these considerations outweigh the policy failure. In addition, he was satisfied that the appeal development satisfies the essential thrust of Policy LC1 of APPS7 in the round, and therefore the Council's fourth reason for refusal was not sustained.

A copy of the appeal decision is appended to this report.

Not Applicable

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2. The following appeal was upheld on 26 January 2024.

PAC Ref	2022/A0220
Application ref	LA06/2021/1141/F
Appellant	Castlebawn, Newtownards Ltd
Subject of Appeal	The refusal of full planning permission for 'New car dealership including mobile structure for office use
Location	Site to rear of Tesco and adjacent to Translink Depot, A20 Relief Road, Newtownards

The Council refused this application on 07 March 2023 for the following reason:

- The proposal is contrary to Planning Policy Statement 3 Access, Movement and Parking, Clarification of Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route thereby prejudicing the free flow of traffic and conditions of general safety.

The above refusal reason was based on the consultation response from DFI Roads. In order to address the Council's sole reason for refusal the appellant provided amended drawings to Council after the submission of the statements of case at appeal stage, but prior to the hearing. These were then forwarded to the Commission. The drawings included changes to the access arrangements from the service road onto the appeal site. As the amendments overcame the reason for refusal, the Council then withdrew its objection to the proposal prior to the hearing, subject to the imposition of a number of conditions, which can be read in the attached PAC decision.

### **New Appeals Lodged**

3. As of the date of this report there have been no new appeals received.

Details of appeal decisions, new appeals and scheduled hearings can be viewed at [www.pacni.gov.uk](http://www.pacni.gov.uk).

### **RECOMMENDATION**

It is recommended that Council notes the report and attachments.



# Appeal Decision

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<b>Appeal Reference:</b>	2021/A0227.
<b>Appeal by:</b>	Mr James Morley.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Demolition of existing dwelling and erection of 4 no. 2 bed apartments.
<b>Location:</b>	115 Station Road, Craigavad, Holywood.
<b>Planning Authority:</b>	Ards and North Down Borough Council.
<b>Application Reference:</b>	LA06/2021/0413/F.
<b>Procedure:</b>	Hearing on 16 November 2022.
<b>Decision by:</b>	Commissioner Mark Watson, dated 29 January 2024.

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## Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions below.

## Preliminary Matter

2. The Objectors pointed to the large amount of written evidence submitted by the Appellant. The Commission's guidance indicates that statements of case should not exceed 1,500 words, otherwise the main points being made may not be readily identifiable. It goes on to indicate that statements containing more than 1,500 words should be accompanied by a summary of less than 1,500 words. Whilst the submission of large amounts of written evidence from any party is not helpful and no executive summary was provided, the main points made by the Appellant were nevertheless readily identifiable and parties were able to make comment on those points at the hearing.

## Reasons

3. The main issues in this appeal are whether or not the proposed development would:
  - be of an appropriate design for the locality, including its location within a draft Area of Townscape Character (ATC);
  - represent over-development of the site;
  - adversely impact on neighbouring residential amenity; and
  - prejudice road safety and cause traffic congestion in the locality.
4. Section 45(1) of the Planning Act requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless

material considerations indicate otherwise. The Strategic Planning Policy Statement (SPPS) sets out transitional arrangements that will operate until a Plan Strategy for the Council area is adopted. In this Council area, no Plan Strategy has been adopted. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) to be unlawful on 18 May 2017 and consequently BMAP must be disregarded. The North Down and Ards Area Plan 1984 - 1995 (NDAAP), despite its vintage, operates as the LDP for the area the site lies in. In it the site lies within the development limit for Holywood and is not zoned for any purpose. The NDAAP at section 13.7 states that new development should be carefully designed to respect the scale and character of existing buildings, using sympathetic building materials and should respect existing street patterns, landmarks, topographical and other features which contribute to the character of each town.

5. The appeal site also lies within the Cultra/Craigavad Policy Zone in the NDAAP. At section 18.9 the NDAAP explains that possibilities exist for extra development through conversion or subdivision of residential properties which, if permitted piecemeal, could have a detrimental effect on local amenity. It explains that the area in question has been divided into six zones with plot size restrictions imposed in order to protect the inherent qualities of this area. The appeal site lies within the 0.2 ha zone. The NDAAP continues that it recognises that there will be developments which are acceptable in planning terms although they are not strictly in accordance with the plot size policy, as a consequence of the physical or environmental considerations of a particular site or the nature of the development proposed. In addition to the plot size requirement all new development will be expected to integrate satisfactorily into the locality in terms of scale, design and respect for the environmental elements that characterise the area and contribute to its general amenity.
6. A further consequence of the Court of Appeal judgement is that the draft BMAP (dBMAP), published in 2004, is a material consideration in the determination of this appeal. In dBMAP the appeal site lies within the Holywood settlement limit and is not zoned for any purpose. The site also lies within the proposed Marino, Cultra and Craigavad ATC (HD12). The text for the draft ATC identifies multiple key features of the ATC. The compliance or otherwise with the provisions of the LDP and the weight to be given to dBMAP will be addressed later in this decision.

*The appeal site and proposed development*

7. The appeal site comprises a dwelling and curtilage located on a private road spur that branches eastwards from the northern, seaward terminus of Station Road. The dwelling faces shoreward and overlooks the Belfast Lough. It is modestly proportioned, two storey and finished in rough render with concrete roof tiles. It occupies a wedge-shaped plot that extends to the rear with a diagonal boundary that faces south-east. The roadside boundary comprises a low wall, whilst the eastern boundary is a 1.8m close board fence along the section close to the road, whilst a high conifer line defines the remainder of the eastern and entirety of the south-eastern boundaries.
8. The North Down Coastal Path takes its course along the shoreline past the appeal site on the opposite, northern side of the private roadway. There is a vacant grassed plot of land immediately adjacent and east of the site, with the southern half of that plot lying directly behind and south of the appeal site. Adjacent and east of that plot lie Nos. 115B and 117 Station Road, large dwellings sited on sizeable plots. Beyond

those dwellings to the east lies the Royal Belfast Golf Club. Adjacent and west of the appeal site lies No. 113 a two-storey dwelling occupying a small narrow plot. No. 111 lies adjacent and west of that. The appeal site occupies a residential area characterised by predominantly detached dwellings of varying design and vintage situated on reasonably sized, well landscaped plots, although the appeal site and adjoining two dwellings occupy smaller plots and are more tightly positioned to one another than other properties in the locality.

9. Full planning permission was granted on 4 February 2021 for replacement of the in-situ dwelling with a larger replacement dwelling (ref. LA06/2018/1077/F). That building was notably larger than the in-situ dwelling. It was of a modern design, with a 3-storey high element with front facing balcony at one end, sizeable window panels and a double garage emplacement in its front façade.
10. The appeal development seeks permission for a building containing 4 no. 2-bedroom apartments. It has been designed to replicate the footprint of the approved, but unimplemented replacement dwelling. Its height would match that of the 3-storey element of the approved dwelling, but in this case the entirety of the flat roofline would be at that height. The front façade would facilitate large window areas, including the garage door sections of the previously approved dwellings. It would generally possess the same overall solid to void ratios and layout in respect to façade detailing as the previously approved dwelling, save for the additional third level, though it matches the remainder of the building. Balconies would be placed at first and second floor levels. The building is to be finished in a mix of smooth render, stone, along with aluminium windows and door frames. Small, high level (when viewed from inside the building) windows would be set into the western gable adjacent to No. 113 Station Road. The eastern, golf course-facing gable would have larger windows and a sliding door / balcony area at first and second floor level. A forecourt area to the front of the building would include 7 car park spaces, set behind a wall and gates.

*Policy context*

11. The Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' (SPPS) refers at paragraph 6.137 to the need to deliver increased housing without town cramming and espouses the importance of new development respecting local character and environmental quality. In respect of the appeal development, there is no conflict or change in policy direction between the provisions of the SPPS and that contained Planning Policy Statement 7 – Quality Residential Environments (PPS7) and the Second Addendum to PPS7 – Safeguarding the Character of Established Residential Areas (APPS7). The same is the case in respect of the SPPS and the provisions of Planning Policy Statement 3 – Access, Movement and Parking (PPS3). PPS7, APPS7 and PPS3 remain the applicable policy documents to consider the appeal development under. I will address the matter of the applicability of the Addendum to Planning Policy Statement 6 – Areas of Townscape Character (APPS6) and the related provisions of the SPPS later on.
12. Section 23(2) (a) of the Planning Act (NI) 2011 sets out that demolition is a building operation, which is a form of development as understood within the Planning Act. Section 24(1) requires that planning permission is required for the carrying out of any development of land.

13. Part 33 of the General Permitted Development (NI) Order 2015 (GPDO) entitled Demolition of Buildings, paragraph A.1 states that development is not permitted by Class A if the building is in an area of townscape character or an area of village character except in certain listed circumstances. Paragraph A. 2 states that for the purposes of Part 33 “area of townscape character” means an area designated as such in a departmental development plan or in a local development plan prepared under Part 2 of the 2011 Act or a draft of such a plan. Thus, this legislation acknowledges there is a difference between a designated and draft ATC, though the aforementioned GPDO provisions nevertheless apply to both.
14. The Council’s third reason for refusal was based on Policy ATC2 of APPS6. Policy ATC2 of APPS6 states that development proposals will only be permitted within an ATC where the development maintains or enhances its overall character and respects the built form of the area.
15. Paragraph 4.26 of the SPPS states that design is an important material consideration in the assessment of all proposals and good design should be the aim of all those involved in the planning process and must be encouraged across the region. It goes on to state that particular weight should be given to the impact of development on existing buildings, especially listed buildings, monuments in state care and scheduled monuments, and on the character of areas recognised for their landscape or townscape value, including ATCs. Paragraph 6.21 of the SPPS states that in managing development within ATCs designated through the LDP process the council should only permit new development where this will maintain or enhance the overall character of the area and respect its built form. Paragraph 6.22 goes on to state that the demolition of an unlisted building in an ATC should only be permitted where the building makes no material contribution to the distinctive character of the area and subject to appropriate arrangements for the redevelopment of the site. There is no conflict or change in policy direction between the provisions of the SPPS and those in APPS6.
16. Notwithstanding the above, the policies within APPS6 and the related provisions of the SPPS refer to ATCs. No reference is made to draft ATCs, which do not have the same status or legal standing as a designated ATC. I am therefore not persuaded that Policy ATC2 of APPS6 and the aforementioned provisions of the SPPS are applicable to the consideration of the appeal development. The Council’s third reason for refusal is therefore not sustained.
17. Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The policy goes on to state that in Conservation Areas and Areas of Townscape Character housing proposals will be required to maintain or enhance their distinctive character and appearance. Again, as the policy refers to ATCs, but no reference is made to draft ATCs, I am not persuaded that this element of Policy QD1 is applicable to the appeal development. The Council’s first reason for refusal is not sustained. Notwithstanding my above conclusions, the potential impact of the appeal development on the proposed ATC remains a material consideration.

*Visual amenity considerations, including the proposed Marino, Cultra and Craigavad ATC*

18. Paragraph 4.27 of the SPPS states that where the design of proposed development is consistent with relevant LDP policies and/or supplementary design guidance, planning authorities should not refuse permission on design grounds, unless there are exceptional circumstances. It goes on to state that planning authorities will reject poor designs, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings, or not in accordance with the LDP or local design guidance.
19. Criterion (a) of Policy QD1 of PPS7 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.
20. In this case the Council considered that the overall appearance and consequent visual impact of the appeal building was unacceptable given its design and incompatibility with the surrounding design context. It also considered that the resulting visual impact would also fail to conserve or enhance the proposed ATC designation. Objectors shared some of these concerns also.
21. According to the submitted evidence no objections were submitted in respect of the Marino, Cultra and Craigavad ATC designation. It is therefore likely, if and when BMAP is lawfully adopted, a Marino, Cultra and Craigavad ATC designation will be included. The proposed ATC designation remains a material consideration in this appeal, though as it stands, it is unclear how the area will be characterised in any lawfully adopted BMAP.
22. In respect the appeal before me, as already outlined above, Policy ATC1 of APPS6 applies only to designated ATCs and not to proposed ATCs. As it is not known how any lawfully adopted BMAP will describe the overall character of the area to be designated, it is not possible to assess the impact of the appeal development on that character. However, regardless of the lack of a policy context, the impact of the appeal development on the proposed ATC remains a material consideration and can still be objectively assessed against the context of the surrounding built form.
23. The Appellant considered that the previously approved replacement dwelling provided a benchmark of acceptability. He pointed to minimal differences between that and the appeal development in terms of number of bedrooms, habitable rooms height and the footprint, as well as the number of vehicles that would be potentially parked at the building. Whilst I acknowledge that the Council stated that the previously approved design represented the “upper limit” of what was judged acceptable, I nevertheless agree that the approved dwelling provides a starting point for assessment of the potential impacts of the appeal development versus what has previously been deemed acceptable by the Council, even if it does not constitute a ‘fallback’ in the conventional meaning of the term.
24. The appeal development would occupy a site towards the end of the private road spur. Although Nos. 117 and 115B, large dwellings in their own right, occupy large plots to the east / south-east, it is the appeal site that presents as a bookend to the existing properties to the west given the notable setback of those two dwellings within their plots from the laneway. In effect the appeal site reads as an “end of row”



site despite there being further built development beyond it. This arrangement affords the site more scope for a larger building than were it set amidst a more rigidly laid out row of buildings.

25. I do not disagree that the general character of the area is that of dwellings set within fairly spacious plots. However, the in-situ dwelling on the appeal site, and the adjacent dwellings at Nos. 113 and 111 Station Road to the west present as being more tightly grouped together and on notably smaller plots than others nearby. Whilst in one sense this pocket of development is an anomaly, one the Council itself stated was unique, it nevertheless remains part and parcel of the wider overall character. It is also one situated in a less prominent position within the wider area as a consequence of its coastline position towards the end of the short private road spur off Station Road.
26. Whilst the appeal building is not insignificant, it is to be sited to broadly respect the front building line of the adjacent dwellings to the west. From views along the actual site frontage the extent of the proposed building would be apparent, but this is a limited view and one I do not deem critical in nature, even when passing by on the North Down Coastal Path. The flat roof of the appeal building is not typical of the pitched roofs in the vicinity, though I note that even the adjacent dwelling at No. 113 has a more contemporary style of pitched roof and one steeper than the norm. Despite the proposed full length, three storey height I am not persuaded the appeal building would read as unacceptably dominant or overbearing in the streetscene as its proposed height, which would accord with that of No. 113, is a contextually acceptable increase when taking account of the approved replacement dwelling and the minimal differences in impact between the two.
27. The overall appearance of the building, particularly when viewed from the front, would be adequately broken up by the use of different materials, the off-centre positioning of the front entrance and the overall arrangement of windows. Whilst the Council considered that the approved replacement dwelling had the appearance of a large contemporary coastal dwelling, the overall design differences between it and the appeal building are not substantial. Whilst its overall proportions, scale and massing would be slightly greater than the approved dwelling because of the full third level of accommodation, this difference would not give rise to harmful effects on the character of the area due to the proposed building's siting and location relative to the surrounding built development. Nor would it present as overdevelopment of the site given its utilisation of the footprint for the previously approved dwelling and for reasons addressed later pertaining to density.
28. The Council's suggestion that the garage doors in the previously approved design, though large, did provide a visual cue that the building would not have been in use for multiple residential units does not necessarily follow, as apartment developments could have similar doors. Whilst the setting out of bins on collection day would inevitably entail a larger number of bins than for a single dwelling, this would only be for a limited period on a weekly basis. Even if this alerted an observer to there being a more intensive residential use on the appeal site, it would not in itself justify the withholding of planning permission.
29. The Council considered that the communal parking to the front of the proposal building would reinforce the sense of an intensively developed site. The Appellant considered that the proposed boundary wall would obscure this parking area and

mitigate this alleged impact. I cannot discount the fact that multi-car families occupying a single dwelling could give rise to a similar level of parking and I note the Appellant referred me to such an example nearby, which I observed had several vehicles parked outside on the morning of my site visit. I am not persuaded that the presence of a wall to the front of the property would, in itself, be suggestive of an increased level of residential use on the appeal site, particularly as it is not uncommon for dwellings to have such boundary features, even if this is not the case on this particular private road spur. Furthermore, at the hearing the Appellant suggested he could exercise permitted development rights to erect a similar wall across the site frontage as it stands. The Council witnesses accepted this was the case.

30. The Appellant provided a historical context photo, along with a more contemporary photograph, both taken from the eastern Golf Course vantage point to illustrate the context of the locality. Photomontages of both the approved replacement dwelling and appeal development set into the contemporary photo context were provided. Whilst the Council and Objectors challenged their veracity in terms of scaling, I find them to be of limited assistance given the particular position the photo is taken from. In any event, my consideration is based upon the totality of the evidence provided and my own inspection of the appeal site and surrounding area.
31. Nevertheless, for the reasons given above I am not persuaded proposed apartments would appear visually pre-eminent or discordant within the streetscape or wider local environment. Nor would it appear out of keeping with the character of the area given its position relative to existing built development. I am satisfied that the appeal development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. The appeal development satisfies criterion (a) of Policy QD1 of PPS7, that policy read as a whole, as well as the related provisions of the SPPS. Likewise, it also accords with section 13.7 of the NDAAP. For the reasons given above the Council's second reason for refusal and related concerns of the Objectors are not sustained.
32. For the same reasoning given above, as well as my conclusions relating to density later in this decision, whilst dBMAP is only to be afforded limited weight in this appeal, I consider that the appeal building by reason of its layout, scale, massing and overall design would not fail to maintain or enhance the overall character of the proposed ATC. The Council's and Objectors' related concerns as to the proposed ATC are not sustained.

*Density and effects on the established residential area*

33. Policy LC1 of APPS7 indicates that in established residential areas planning permission will only be granted for the redevelopment of existing buildings where the criteria in Policy QD1 of PPS7 and the additional criteria set out in Policy LC1 are met. Whilst the Appellant considered that Policy LC1 did not apply, as per the exception at Annex E of APPS7, I disagree that the appeal site is located on a key and link transport corridor. Whilst the Station Road ultimately joins to the A2 Belfast to Bangor Road, the appeal site itself is not located along this arterial route. Policy LC1 therefore applies to the appeal development before me.
34. The Council raised concerns under criterion (a); that the proposed density is not significantly higher than that found in the established residential area. Annex E of

APPS7 states that for the purposes of that document established residential areas are normally taken to mean residential neighbourhoods dominated by medium to low density single family housing with associated private amenity space or gardens. It goes on to state that these areas may include buildings in commercial, retail or leisure services use, usually clustered together and proportionate in scale to the size of the neighbourhood being served. An Objector also raised concerns against criterion (b) of Policy LC1 which requires that the pattern of development is in keeping with the overall character and environmental quality of the established residential area. This will also be addressed below.

35. The Council and Objectors considered that the density of the proposal would far exceed that of the wider established residential area (ERA), which it took to be the private road spur off Station Road. From my own assessment I agree that the relevant ERA to assess the appeal development comprises the line of buildings along the northern spur coming off Station Road.
36. As it stands, the in-situ dwelling and approved replacement dwelling would each equate to a density of 11 dwellings per hectare (dph). The appeal development would equate to approximately 40 dph as a consequence of there being four residential units within the appeal building. The average density “snapshot” provided by the Council of the wider area is approximately 5 dph. This was based on the properties at Nos. 101, 103, 105, 107 and 109 Station road, further west of the appeal site. It did not include the ‘anomalous’ smaller plots at Nos. 111, 113 and the appeal site, nor the dwellings at Nos. 115B and 117. I find this somewhat contrived and not entirely reflective of the average density. However, even taking those together with the adjacent line of dwellings, the average density equates to approximately 5.2 ha. The Appellant focussed his density arguments to include other approved developments in the locality, where he considered the Council had permitted an increase in density. Regardless of this, the density of the proposed development would still be significantly higher than that found in the ERA in numerical terms.
37. However, notwithstanding the mathematical difference, the increase in density would not present itself as significant in physical and visual terms for the reasons given above relating to design and character issues. In respect to Policy LC1 of APPS7, its aims and objectives must also be considered. Policy LC1 seeks to ensure that proposals for new housing development in ERAs do not result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. Whilst I accept the density would be significantly higher than that found in the ERA, these differences when taken together with the “end of lane” location and position of the proposal as part of an anomalous, tighter group of buildings on smaller plots, would not render the appeal development disharmonious with, or result in unacceptable damage to the local character and environmental quality of the area. It is also notable that despite having raised over-development of the site as an issue, there was no suggestion that there would be insufficient amenity space for the appeal development, which is often an indicator of over-development or unacceptable density. Whilst the appeal development does not satisfy criterion (a) of Policy LC1 of APPS7, no harm to the character of the ERA would arise for the reasons given above.
38. Whilst the appeal development would introduce three additional residential units above what is in-situ or approved by the Council, given the particular design of the

proposed building, it will not alter the footprint to plot ratio over what was deemed acceptable by the Council. Nor, for the same reasoning given earlier, would the appeal development alter the pattern of development to any extent where it would not be in keeping with the overall character and environmental quality of the established residential area. Accordingly, I find that criterion (b) of Policy LC1 is not offended.

39. Although the proposed development does not comply with criterion (a) of Policy LC1, harm would be avoided for the reasons given earlier in this decision. In the specific circumstances of this case, which are unlikely to recur, these considerations outweigh the policy failure. In addition, I am satisfied that the appeal development satisfies the essential thrust of Policy LC1 of APPS7 in the round.
40. The Council in its Statement of Case referred to the NDAAP policy relating to plot sizes in this area, though this in itself did not form a reason for refusal. Nevertheless, I note that section 18.9 of the NDAAP acknowledges that there will be developments which are acceptable in planning terms although they are not strictly in accordance with the plot size policy, as a consequence of the physical or environmental considerations of a particular site or the nature of the development proposed. The policy is framed on the basis of prevention of subdivision of existing plots. Whilst there is no dispute that the appeal development would represent an intensification of residential use on the site, no subdivision of the plot would take place given the proposed design, which is, again, predicated on the same footprint as that of the approved replacement dwelling. Thus, whilst the density of the development and residential use would increase over that presently on the site, it would not contravene this plan policy.
41. Furthermore, for the reasons given earlier in this decision I accept that the appeal development would also integrate satisfactorily into the locality in terms of scale, design and respect the environmental elements that characterise the area and contribute to its general amenity. For these reasons I find the appeal development meets the provisions of the NDAAP at 18.9 and the plan read as a whole. Again, the Appellant referred to a number of residential developments within the locality as examples of intensified density which had been judged acceptable against the prevailing character of the locality and the draft ATC. However, as I have already found the appeal development acceptable in its own right, I need not address those. The Council's fourth reason for refusal and Objectors' concerns are not sustained.

#### *Residential amenity*

42. Criterion (h) of Policy QD1 of PPS7 requires that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. Paragraph 4.11 of the SPPS states that there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development.
43. Objectors raised concerns as to potential overlooking into Nos. 115A, 115B and 117 Station Road, as well as light pollution arising from the large areas of fenestration to the rear of the appeal building. Concerns relating to general activity arising from the increased living density at the site were also raised. In terms of potential overlooking, although the appeal development would have balconies to the rear along with areas of fenestration, Nos. 115B and 117 lie at an angle to the rear of the

proposed building, with a separation distance of approximately 35m between the nearest rear section of the appeal building and the front of No. 115B. No. 117 would be positioned further away and at a greater angle relative to the rear of the appeal development. I am not persuaded that any unacceptable degree of overlooking would take place from the rear of the appeal building into the aforementioned properties. Furthermore, any incidental views would be into the front of those dwellings and not the private rear areas of those properties. I note the Council raised no issue in respect to overlooking from the appeal development.

44. Reference was made to No. 115A, which is the adjacent presently vacant plot, though it does have an outline permission on it. Whilst it is likely to be developed in the future, I have not been presented with any evidence that suggests that the appeal development would preclude a suitably designed development taking place on that adjacent plot of land which could co-exist with the appeal development without adverse impact to the amenity of prospective occupants of that potential future development.
45. Whilst the appeal building would have sizeable, glazed areas to its rear and I note the balcony areas, it seems reasonable to assume that future occupants of the appeal development would seek to retain their own privacy, utilising blinds or curtains for those glazed areas, particularly at night. Whilst the appeal development would likely increase the levels of ambient light when compared to the dwelling presently on site, or the approved replacement building, I am not persuaded that such potential light emanating from these windows would adversely impact on the residential amenity of neighbouring residents, nor to any appreciable degree on local residents' appreciation of the night sky, even in the unlikely event that a resident chose not to close blinds or curtains. Reference was also made to the 'infinity view' out across the sea from the aforementioned properties, but I am not persuaded that the appeal building would necessarily impact on such views to any degree that would warrant the withholding of planning permission.
46. Objectors pointed to the Appellant having cut down the line of mature conifers along the eastern and south-eastern boundaries of the appeal site. From my own site inspection, the vegetation was still there but had been reduced in height for maintenance purposes. I agree with the Appellant's assessment that the in-situ vegetation was still approximately 3m in height. In the event of permission being granted, a landscaping condition requiring the retention of this existing tree line along the eastern and south-eastern site boundaries at this height would be necessary in the interests of preserving visual amenity, as well as retaining a private amenity space to the rear of the appeal development.
47. Whilst the comings and goings of vehicles would increase over what is presently in-situ, I am not persuaded that such trips, including deliveries, would adversely impact on the amenity of those in nearby properties to any unacceptable degree. The appeal site, despite its coastal location, still lies in what is essentially a suburban area, where some degree of comings and goings from residences is inevitable. I am not persuaded that such general activities associated with the appeal development would adversely impact on neighbouring residential amenity to any unacceptable degree. For the reasons given above I am not persuaded that the occupants of neighbouring dwellings would experience any unacceptable adverse effect upon their amenity arising from the appeal development. Criterion (h) of Policy QD1 of PPS7 as well as the related provisions of the SPPS are satisfied. The

Objectors' concerns on these matters would not warrant the withholding of planning permission.

*Traffic matters*

48. Objectors raised the matter of potential impacts from traffic generated by the appeal development, as well as possible prejudice to pedestrian safety, particularly given the number of pedestrians, many with pushchairs, who utilise the adjacent coastal path. Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where two criteria are met. These are that such access will not prejudice road safety or significantly inconvenience the flow of traffic and the proposal does not conflict with Policy AMP 3 Access to Protected Routes. As the appeal site is not located on a protected route, the second criterion is not engaged.
49. Whilst any new residential development inevitably brings a degree of additional traffic into an area, I am not persuaded that the level of traffic generated by the appeal development would give rise to any appreciable congestion within the local road network, even with the relatively narrow width of Station Road and the private road spur to the appeal site itself. It is reasonable to expect that motorists travelling to and from the appeal site would be cognisant of the local driving environment, including the likelihood of encountering pedestrians, including those with pushchairs or young children, and remain vigilant.
50. Although an Objector raised issue with the proposed parking provision, I am satisfied that the appeal development would provide a sufficient level. I note that DFI Roads raised no objections to the appeal development. Whilst Objectors raised concerns as to the physical condition of the private road spur and its upkeep, that is a matter between the relevant landowners. Furthermore, I have been given no persuasive evidence that the appeal development would be likely to give rise to further deterioration of the road surface. For the reasons given above the appeal development would not prejudice road safety or significantly inconvenience the flow of traffic. The first criterion of Policy AMP2, as well as the policy read as a whole and the related provisions of the SPPS, are met. The Objectors' concerns in this regard are not sustained.

*Other matters*

51. The Council and Objectors pointed to the potential for the granting of permission to set a precedent. They considered that there were no apartments along this particular private road spur. Although the Appellant pointed me to an apartment development granted and built along the coastline further to the west of the terminus of Station Road, I accept that development falls outwith the particular immediate locality of the appeal site. Nor am I persuaded that the subdivision of No. 111 Station Road via the addition of an annex, which the Council stated it had no record of permission for, is akin to the appeal development in terms of accommodation type. However, the appeal site has a very particular context and interrelationship with the surrounding built development. Notwithstanding that each application must be assessed on its individual merits, I consider the particular planning history associated with the appeal site along with its characteristics, already addressed at length above, are such that the granting of permission for the appeal proposal would not set a precedent for future apartment development in the locality.

*Conclusions*

52. For the reasoning given above the appeal development would not harm the character of the area, nor that of the proposed ATC. It would not represent overdevelopment of the site and also comply with the provisions of the NDAAP. References to issues over access regarding a right of way are not matters for this appeal. The Appellant's concerns with the Council's processing of the application now subject of this appeal is a matter between the relevant parties. As the Council's reasons for refusal and the various concerns of the Objectors have not been sustained, the appeal shall succeed. The matter of conditions remains to be considered.
53. Given the nature of the proposed development and its coastal location I agree that a Construction Method Statement would be necessary to prevent any pollutant impacts on the marine environment. The Appellant indicated no objection to such a condition.

**Conditions**

- (1) Prior to any development taking place, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the planning authority. The CMS shall include details of demolition, excavation and construction. It shall also identify the perceived risks to the aquatic environment, potential pollution pathways and mitigate measures to negate such risks. Works on site shall be carried out in accordance with the approved CMS, unless otherwise agreed in writing by the planning authority.
- (2) The existing vegetation along the eastern and south-eastern boundaries of the site shall be retained at a height of not less than 3m.
- (3) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

This decision relates to the following drawings submitted with the application:-

<b>DRAWING No.</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
01	Site Location Plan	1:1250	02/04/2021
02	Proposed Block Layout Plan	1:200	02/04/2021
03	Proposed Ground Plan	1:100	02/04/2021
04	Proposed First Floor Plan	1:100	02/04/2021
05	Proposed Second Floor Plan	1:100	02/04/2021
06	Proposed Front Elevation	1:100	02/04/2021
07	Proposed Rear Elevation	1:100	02/04/2021
08	Proposed Side Elevation (113)	1:100	02/04/2021
09	Proposed Side Elevation (Golf)	1:100	02/04/2021
10	Proposed Section A-A	1:100	02/04/2021
11	Proposed Section B-B	1:100	02/04/2021

**COMMISSIONER MARK WATSON**





**List of Appearances**

Planning Authority:-	Mrs C Hamilton (A&ND BC) Mrs P Hamilton (A&ND BC)
Appellant:-	Mr J Morley (Appellant)
Third Parties:-	Mr P Farquharson (Objector on behalf of himself and Mrs P Irvine)  Mr Irvine (online observer)

**List of Documents**

Planning Authority:-	'A' Statement of Case & Appendices (A&ND BC) 'B' Rebuttal Statement (A&ND BC) 'H' Post-hearing comment on photomontages (A&ND BC)
Appellant:-	'C' Statement of Case & Appendices (J Morley) 'D' Rebuttal Statement Appendices Document (J Morley) 'G' Photographs of appeal site from view at Golf Course showing historic image, more recent image and versions with appeal proposal and approved replacement dwelling superimposed (4 no. total)– submitted at hearing (J Morley)
Third Party:-	'E' Statement of Case (P Irvine) 'F' Rebuttal Statement (P Irvine) 'I' Post-hearing comment on photomontages (P Irvine)



# Appeal Decision

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<b>Appeal Reference:</b>	2022/A0220
<b>Appeal by:</b>	Castlebawn, Newtownard Ltd.
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	New car dealership including mobile structure for office use
<b>Location:</b>	Site to rear of Tescos and adjacent to Translink Depot, A20 Relief Road, Newtownards
<b>Planning Authority:</b>	Ards and North Down Borough Council
<b>Application Reference:</b>	LA06/2021/1141/F
<b>Procedure:</b>	Informal hearing on 25 <sup>th</sup> January 2024
<b>Decision by:</b>	Commissioner Cathy McKeary, dated 26 <sup>th</sup> January 2024

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## Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

## Reasons

2. The main issue in this appeal is whether or not the proposed development can take access onto a Protected Route
3. In order to address the Council's sole reason for refusal the appellant provided amended drawings to them after the submission of the statements of case at appeal stage, but prior to the hearing. These were then forwarded to the Commission. The drawings included changes to the access arrangements from the service road onto the appeal site. As the amendments overcame the reason for refusal, the Council then withdrew their objection to the proposal prior to the hearing, subject to the imposition of a number of conditions.
4. The appeal site accesses onto a shared private service road before joining the A20 Castlebawn Road, which is a protected route. Prior to commencement of the proposal it is necessary for the access, to be constructed in accordance with the plans to facilitate safe access onto the service road and the protected route. It is also necessary to ensure that there would be a hardcore area allowing for adequate parking and appropriate space available for vehicle manoeuvring onto and around the site. Due to the access only being configured for the use of cars and not any other vehicles, it is necessary to limit the use of the access and the site in the interests of road safety. Furthermore, I am content that access to the appeal site should be managed in such a manner to limit the time and the manner in which car deliveries can occur, through a service management plan. This would prevent conflict with customer vehicles on the site and would ensure the free flow of traffic on the protected route. This would need to be agreed by the Council in

writing prior to the operation of the proposal. A landscaping scheme would also be required for visual amenity purposes.

## 5. Conditions

- (1) Prior to commencement of development on the site, the access shall be constructed and completed in accordance with the detail as depicted on drawing 23138-MRA-001 (PAC3) and permanently retained thereafter.
- (2) Prior to the commencement of the operation of the development hereby permitted all internal hard surfaced areas shown on drawing 23138-MRA-001 (PAC3) shall be constructed, completed and permanently retained thereafter, and used only for purposes of the development hereby permitted.
- (3) The development hereby approved shall be for the sole use for the sale of cars.
- (4) The delivery of cars for sale at the development hereby approved by car transporter, low loader, HGV or any such other form of multi car transporter is prohibited.
- (5) Prior to the commencement of the operation of the development hereby approved the developer must submit to the Council for approval in writing a service management plan which must:
  - a) Prohibit the delivery of vehicles for sale by car transporter, low loader, HGV or any such other form of multi car transporter;
  - b) Set out the hours upon which the deliveries of cars will be made to the development hereby approved so as to prohibit the delivery of vehicles to the development hereby approved during the AM Peak ([08:00 to 09:30 Monday to Saturday]) and PM Peak ([16:00 to 17:30 Monday to Saturday]);
  - c) Set out the management of the arrival of cars for sale at the development hereby approved so as to prevent a conflict with customers attending the site and the potential for the obstruction of traffic progression on the service road and the A20 Castlebawn Road;
  - d) The prevention of no more than one service delivery (ancillary to operations of the development hereby approved) occurring at any one time to the site.
- (6) The service management plan approved in writing by the Council in accordance with condition 5 above and must be implemented on the commencement of the operations of the development hereby approved and be permanently implemented thereafter.
- (7) Prior to commencement of any development on the site, a detailed landscaping scheme shall be submitted and approved in writing by the Council. Such a scheme shall provide for species, siting and planting. It shall include details of all existing trees and hedgerows on the land together with details of any to be

retained and measures for their protection during the course of construction. The landscaping shall be carried out as approved and completed during the first available planting season following the commencement of operations of the development hereby permitted.

- (8) If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.
- (9) This development shall be begun before the expiration of 5 years from the date of this permission.

This decision approves the following drawings:-

- Site Location Map – SK01-1 1:1250@A3 Rev A
- Block Plan - SK02-1 1:500@A3 Rev C (PAC1)
- Site plan and elevations - SK03-1 1:100/200 @A3 Rev C (PAC2)
- Proposed access arrangements - 23138-MRA-001 (PAC3)

**COMMISSIONER CATHY MCKEARY**

**List of Appearances**

Planning Authority:- Chris Blair (Ards and North Down Borough Council)  
Christine Hamilton (Ards and North Down Borough Council)

Appellant:- Stewart Beattie (KC)  
Jennifer Mawhinney(MBA Planning)  
Richard Agus (MRA)  
Bill McAlister (Architect)

**List of Documents**

Planning Authority:- Statement of Case  
Proposed conditions (provided post submission of statement of case but prior to hearing)

Appellant:- Statement of Case  
Amended drawings, proposed access arrangements, site plan and elevations and block plan (provided post submission of statement of case but prior to hearing)

Unclassified

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## ITEM 7

## Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 March 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	16 February 2024
File Reference	
Legislation	The Planning (Development Management) Regulations (Northern Ireland) 2015
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	Response submitted to DFI Consultation on The Planning (Development Management) Regulations (NI) 2015
Attachments	Item 7a - The Planning (Development Management) Regulations (Northern Ireland) 2015 Item 7b - Easy read version of consultation Item 7c - Response to consultation

## Background

1. The Department for Infrastructure (Planning) issued a consultation on 11 December 2023 with a closing date of 03 March 2024.
2. This consultation invites views from the public and stakeholders on potential changes to **The Planning (Development Management) Regulations (Northern Ireland) 2015** (the Development Management Regulations). These potential changes focus on the following aspects of the Development Management Regulations:

Not Applicable

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- Regulation 2 (Hierarchy of developments – i.e. local and major)
- Regulation 3 (Department's jurisdiction in relation to developments of regional significance)
- Regulation 5 (Pre-application community consultation)
- Regulation 7 (Pre-determination hearings)
- Schedule (Major development thresholds)

## Detail

3. Changes to the Development Management Regulations are part of a wider package of measures delivering change through the **Planning Improvement Programme [1]** (PIP), brought forward by the Department for Infrastructure (the Department), local government and other stakeholders. The aim is to create an efficient, effective and equitable planning system, trusted to deliver high quality, sustainable inclusive and healthy places.
4. The PIP includes actions and measures recommended through the review of the implementation of The Planning Act (Northern Ireland) 2011 (the 2011 Act), which was required under section 228 of the 2011 Act. The recommendations emerged from numerous proposals, suggested revisions and recommendations for change or improvement submitted following the Call for Evidence [2].
5. In relation to the Development Management Regulations, the Department confirmed in its Review Report [3] it would undertake the following three actions:

### **(PT3-1) Classes of development & thresholds**

The Department will review existing thresholds and categories of development to determine the need for revisions.

### **(PT3-10) Pre-determination hearings (PDHs)**

The Department will bring forward proposals to make all PDHs discretionary for councils in the exercise of their functions. This will require amendments to subordinate legislation.

### **(PT3-3) Provide for both in-person and on-line/electronic PACC public engagement**

The Department will bring forward proposals to provide for both in-person and on-line/electronic Pre-Application Community Consultation (PACC) public engagement. This will include consideration of any recommendation to emerge from the work of the Planning Engagement Partnership.

6. An easy read version of the consultation is attached as Item 7b.
7. The response as submitted is attached as Item 7c.

Not Applicable

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The detail of the consultation can be viewed here <https://www.infrastructure-ni.gov.uk/consultations/consultation-review-planning-development-management-regulations-northern-ireland-2015>

### **RECOMMENDATION**

It is recommended that Council notes this report and the response as submitted to the Department for Infrastructure consultation on the Planning (Development Management) Regulations (Northern Ireland) 2015.

[1] <https://www.infrastructure-ni.gov.uk/topics/planning/planning-improvement-programme>

[2] <https://www.infrastructure-ni.gov.uk/consultations/review-implementation-planning-act-ni-2011-call-evidence>

[3] <https://www.infrastructure-ni.gov.uk/publications/review-planning-act-ni-2011-report>



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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 71**

**PLANNING**

**The Planning (Development Management) Regulations  
(Northern Ireland) 2015**

*Made* - - - - *25th February 2015*

*Coming into operation* - *1st April 2015*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by sections 25(2), 26(1), 27(4) and (5), 30(1), 31(1) and (3), 50(2) and 247(1) and (6) of the Planning Act (Northern Ireland) 2011(a).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Planning (Development Management) Regulations (Northern Ireland) 2015 and come into operation on 1st April 2015.

(2) In these Regulations a reference to a section is a reference to a section of the Planning Act (Northern Ireland) 2011.

(3) In these Regulations—

“the GDPO” means the Planning (General Development Procedure) Order (Northern Ireland) 2015(b);

“appointed officer” means a person appointed by the council for the purposes of section 31(1)(a);

“appropriate council” means the council for the district in which the land to which the application relates is situated;

“council” means a district council;

“EIA development” has the same meaning as in regulation 2 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015(c).

**Hierarchy of Developments**

2.—(1) For the purposes of section 25(1)(hierarchy of developments) the classes of development belonging to the category of major development are—

- (a) development described in Column 1 of the table in the Schedule, where any applicable threshold or criterion in the corresponding entry in Column 2 of that table is met or exceeded; and

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(a) 2011 c.25 (N.I.).  
(b) SR 2015 No.72.  
(c) SR 2015 No.74.

- (b) any change to or extension of development of a class described in paragraphs 1 to 9 of Column 1 of the table in the Schedule where that change or extension itself meets or exceeds the threshold or criterion in the corresponding entry in Column 2 of that table.

(2) All other development belongs to the category of local development.

### **Department's jurisdiction in relation to developments of regional significance**

3. The major development prescribed for the purposes of section 26(1) is—

- (a) development described in Column 1 of the table in the Schedule, where any applicable threshold or criterion in the corresponding entry in Column 3 of that table is met or exceeded; and
- (b) any change to or extension of development of a class described in paragraphs 1 to 5 of Column 1 of the table in the Schedule where that change or extension itself meets or exceeds the threshold or criterion in the corresponding entry in Column 3 of that table.

### **Content of proposal of application notice**

4. A proposal of application notice must be in writing and must, in addition to those matters required by section 27(4), also contain—

- (a) a copy (where applicable) of any determination made under regulation 7(1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates;
- (b) a copy of any notice served by the Department under section 26(4) or (6); and
- (c) an account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take.

### **Pre-application community consultation**

5.—(1) Where the prospective applicant has been served with a notice under section 26(4), the Department must consult the appropriate council as respects a proposed application and in doing so, must give a copy of the proposal of application notice to that council.

(2) The prospective applicant must—

- (a) hold at least one public event in the locality in which the proposed development is situated where members of the public may make comments to the prospective applicant as regards the proposed development; and
- (b) publish in a newspaper circulating in the locality in which the proposed development is situated a notice containing—
  - (i) a description of, and the location of, the proposed development,
  - (ii) details as to where further information may be obtained concerning the proposed development,
  - (iii) the date, time and place of the public event,
  - (iv) a statement explaining how, and by when, persons wishing to make comments to the prospective applicant relating to the proposal may do so, and
  - (v) a statement that comments made to the prospective applicant are not representations to the council or as the case may be the Department and if the prospective applicant submits an application there will be an opportunity to make representations on that application to the council or as the case may be the Department at a later stage.

(3) A public event held by the prospective applicant in accordance with paragraph (2)(a) must not be held earlier than 7 days after notification of the date, time and place of such event is given under paragraph (2)(b)(iii).

**Duty to decline to determine application where section 27 not complied with**

6. The period prescribed for the purposes of section 50(2) is the period of 21 days beginning with the day on which the additional information referred to in that subsection was requested.

**Pre-determination hearings**

7.—(1) The classes of development prescribed for the purposes of section 30(1) are those developments to which a direction under Article 17 of the GDPO applies where the Department has notified the council that it does not intend to determine the application under section 29(1).

(2) The persons who submit representations to the council in respect of the application in accordance with paragraph (1) are prescribed for the purposes of section 30(1), as persons to whom the council are to give an opportunity of appearing before and being heard by a committee of the council.

**Content of scheme of delegation**

8.—(1) A scheme of delegation must—

- (a) describe the classes of local development to which the scheme applies; and
- (b) state with respect to every such class which of the applications mentioned in paragraph (2) are to be determined by an appointed officer and, if such application is only to be so determined in particular circumstances, specify those circumstances.

(2) The applications are—

- (a) an application for planning permission; or
- (b) an application for consent, agreement or approval required by a condition imposed on a grant of planning permission.

(3) A scheme of delegation must include provision that prohibits an appointed officer from determining an application for planning permission in the circumstances mentioned in paragraph (4).

(4) The circumstances are that—

- (a) the application is made by the council or an elected member of the council; or
- (b) the application relates to land in which the council has an estate.

**Procedure for the preparation and adoption of scheme of delegation**

9. The council must send a copy of the scheme of delegation to the Department and must not adopt the scheme until the scheme has been approved by the Department.

**Publication of the scheme**

10. On adoption of the scheme the council must—

- (a) make a copy of the scheme of delegation available for inspection at an office of the council; and
- (b) publish the scheme of delegation on the website of the council.

**Subsequent schemes of delegation**

11. The council must prepare a scheme of delegation at intervals of no greater than three years.

**Transitional provision**

12. Section 27 (pre-application community consultation) applies only to applications for planning permission made on or after 1st July 2015 and the requirement in Article 3(3)(e) of the GDPO shall not apply before that date.

Sealed with the Official Seal of the Department of the Environment on 25th February 2015



*Angus Kerr*  
A senior officer of the  
Department of the Environment

## SCHEDULE

Regulations 2 and 3

## Major Development Thresholds

1. In the Table below—

“airport” has the meaning assigned to it in Article 2(2) of the Airports (Northern Ireland) Order 1994(a)

“area of works” includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation;

“floor space” means floor space in a building or buildings;

2. The Table below sets out the classes of development belonging to the category of major development.

<i>Description of Development</i>	<i>Major Developments Threshold or Criteria</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i>
<u>1.EIA development</u>	Development of a description in paragraphs; 1, 3, 4, 5, 6, 11, 12, 15, 17, 18, 22, 23 and 24; mentioned in Schedule 1 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.	Development of a description in paragraphs 1, 3, 22, 23 and 24 mentioned in Schedule 1 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.
<u>2. Energy Infrastructure</u>		
Electricity generating stations	<p>1. The construction of an electricity generating station where its capacity is or exceeds 5 megawatts.</p> <p>2. All onshore development associated with the construction of an offshore electricity generating station.</p>	<p>1. The construction of an electricity generating station where its capacity is or exceeds 30 megawatts.</p> <p>2. All onshore development associated with the construction of an offshore electricity generating station with a capacity which is or exceeds 30 megawatts.</p>
Electrical power lines	The installation of an electrical power line where the voltage exceeds 33 kilovolts if the purpose of the line is the provision of a supply to more than one customer.	The installation of an electrical power line where the voltage: <ul style="list-style-type: none"> <li>-is 110 kilovolts double circuit overhead line; or</li> <li>-is or exceeds 275 kilovolts, and a length of more than 15 kilometres.</li> </ul>

(a) S.I. 1994/426 (N.I.1).

<i>Description of Development</i>	<i>Major Developments Threshold or Criteria</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i>
Storage	<p>1. Installations for the storage of petroleum, petrochemical, chemical products or natural gas where the storage capacity of the facility is expected to be 30,000 tonnes or more.</p> <p>2. Installations for the underground geological storage of petroleum, natural gas, carbon dioxide or compressed air energy storage.</p>	<p>1. Installations for the storage of petroleum, petrochemical, chemical products or natural gas where the storage capacity of the facility is expected to be 200,000 tonnes or more.</p> <p>2. Installations for the underground geological storage of petroleum, natural gas, carbon dioxide or compressed air energy storage.</p>
Extraction	<p>1. Any proposal relating to the extraction of unconventional hydrocarbons.</p> <p>2. The extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 250 tonnes per day in the case of petroleum and 250,000 cubic metres per day in the case of gas.</p>	<p>1. Any proposal relating to the extraction of unconventional hydrocarbons.</p> <p>2. The extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.</p>
Pipelines	<p>Pipelines with a diameter of more than 400 millimetres or more than 20 kilometres in length:</p> <ul style="list-style-type: none"> <li>-for the transport of gas, oil or chemicals, or</li> <li>-for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.</li> </ul>	<p>Pipelines with a diameter of more than 800 millimetres or more than 40 kilometres in length:</p> <ul style="list-style-type: none"> <li>-for the transport of gas, oil or chemicals, or</li> <li>-for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.</li> </ul>
<u>3. Transport infrastructure.</u> Construction of new or replacement railways, airports, harbours and ports, waterways, transit ways.	The areas of work is or exceeds 1 kilometre in length or 1 hectare.	<p>a) construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more;</p> <p>b) inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes; or</p> <p>c) trading ports, piers for loading and unloading connected to land outside ports (excluding ferry piers) which</p>

<i>Description of Development</i>	<i>Major Developments Threshold or Criteria</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i>
		can take vessels of over 1,350 tonnes.
<u>4. Waste infrastructure.</u>		
Construction of facilities for use for the purpose of waste management, disposal or treatment.		
Waste Management Facilities	<p>1. An installation for the disposal, treatment or recovery of hazardous waste with a capacity for an annual intake of or more than 25,000 tonnes.</p> <p>2. Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive 2008/98/EC under heading D9(a)) of non-hazardous waste with a capacity exceeding 100 tonnes per day.</p>	<p>1. An installation for the disposal, treatment or recovery of hazardous waste with a capacity for an annual intake of or more than 100,000 tonnes.</p> <p>2. Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive 2008/98/EC under heading D9) of non-hazardous waste with a capacity for an annual intake exceeding 100,000 tonnes.</p>
Waste Water	Waste water treatment plants with a capacity exceeding 50,000 population equivalent as defined in Article 2 point (6) of Directive 91/271/EEC.	Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Directive 91/271/EEC(b).
<u>5. Minerals</u>		
Extraction of minerals	The area of the site is or exceeds 2 hectares.	<p>a) development involving quarries or open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares; or</p> <p>b) development involving underground mining where the surface of the site exceeds 2 hectares.</p>
<u>6. Housing.</u>		
Construction of buildings structures or erections for use as residential accommodation;	<p>a) development that comprises 50 units or more; or</p> <p>b) the area of the site is or exceeds 2 hectares.</p>	

(a) O.J. No.L312, 22.11.08, p.3.

(b) O.J. No. L135, 30.5.91, p.40.

<i>Description of Development</i>	<i>Major Developments Threshold or Criteria</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i>
includes private schemes.		
<u>7. Retailing, Community, Recreation and Culture.</u> (according to Parts A and D of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015 <sup>(a)</sup> ). Including shops, financial, professional and other services, community and cultural uses, and assembly and leisure.	a) development that comprises 1,000 square metres or more gross floor space outside town centres; or b) the area of the site is or exceeds 1 hectare.	
<u>8. Business, Industry (Light and General), Storage and Distribution.</u> (according to Part B of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015	a) development that comprises 5,000 square metres or more gross floor space; or b) the area of the site is or exceeds 1 hectare.	
<u>9. All other development.</u> Any development not falling wholly within any single class of development described in Parts 1 to 8 above.	a) development that comprises 5,000 square metres or more gross floor space; or b) the area of the site is or exceeds 1 hectare.	

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(a) S.R. 2015 No. 40.



## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations make provision for the new development management processes for determining planning applications. The statutory rule puts in place the regulatory framework required to implement the development management provisions in Part 3 of the Planning Act (Northern Ireland) 2011 (“the 2011 Act”).

Regulation 2 prescribes the classes of major development.

Regulation 3 prescribes the classes of major development that are considered to potentially be developments of regional significance.

Regulation 4 makes provision regarding the content of the proposal of application notice required under section 27(4) of the 2011 Act.

Regulation 5 sets out the prescribed manner of pre-application community consultation which an applicant will have as a minimum to undertake. This requires the holding of a public event and publication of the proposed event in a local newspaper.

Regulation 6 prescribes the time period for requesting additional information where section 27 of the 2011 Act may not be complied with.

Regulation 7 prescribes the classes of development in respect of applications for which a council must hold a hearing before reaching a decision and provides who is to be given an opportunity to appear before the committee of the council.

Regulations 8-11 relate to schemes of delegation. Section 31 of the 2011 Act requires a council to prepare a scheme of delegation by which applications for planning permission for local development and for consent, agreement or approval required by a condition imposed on a grant of planning permission are to be determined by an appointed person. This person is defined in regulation 1 as the “appointed officer”. Regulation 8 makes provision in relation to the content of the scheme of delegation and prescribes the circumstances that prohibit an appointed officer from determining an application for planning permission. Regulation 9 requires the council to send a copy of the proposed scheme of delegation to the Department and it may not adopt the scheme until it has been approved by the Department. Regulation 10 sets out the manner of publication of the adopted scheme. Section 31(1)(a)(ii) of the 2011 Act requires a council to prepare a scheme of delegation at such intervals as may be provided for in regulations and regulation 11 sets this period at no greater than every 3 years.

Regulation 12 makes a transitional provision.

The Schedule to these Regulations prescribes the classes of development for the purposes of regulations 2 and 3.

A regulatory impact assessment has been prepared in relation to these Regulations. A copy may be obtained from the Department of the Environment, Causeway Exchange, 1-7 Bedford Street, Belfast, BT2 7EG or accessed at [www.doeni.gov.uk](http://www.doeni.gov.uk)

The Explanatory Memorandum is available alongside the Regulations on the government’s website [www.legislation.gov.uk](http://www.legislation.gov.uk)

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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 71**

**PLANNING**

The Planning (Development Management) Regulations  
(Northern Ireland) 2015

£6.00

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## Item 7b

### Introduction

This consultation invites views from the public and stakeholders on potential changes to **The Planning (Development Management) Regulations (Northern Ireland) 2015** (the Development Management Regulations). These potential changes focus on the following aspects of the Development Management Regulations:

- regulation 2 (Hierarchy of developments)
- regulation 3 (Department's jurisdiction in relation to developments of regional significance)
- regulation 5 (Pre-application community consultation)
- regulation 7 (Pre-determination hearings)
- Schedule (Major development thresholds)

Changes to the Development Management Regulations are part of a wider package of measures delivering change through the **Planning Improvement Programme** [1] (PIP), brought forward by the Department for Infrastructure (the Department), local government and other stakeholders. The aim is to create an efficient, effective and equitable planning system, trusted to deliver high quality, sustainable inclusive and healthy places.

The PIP includes actions and measures recommended through the review of the implementation of The Planning Act (Northern Ireland) 2011 (the 2011 Act), which was required under section 228 of the 2011 Act. The recommendations emerged from numerous proposals, suggested revisions and recommendations for change or improvement submitted following the Call for Evidence [2].

In relation to the Development Management Regulations, the Department confirmed in its Review Report [3] it would undertake the following three actions:

#### **(PT3-1) Classes of development & thresholds**

The Department will review existing thresholds and categories of development to determine the need for revisions.

#### **(PT3-10) Pre-determination hearings (PDHs)**

The Department will bring forward proposals to make all PDHs discretionary for councils in the exercise of their functions. This will require amendments to subordinate legislation.

#### **(PT3-3) Provide for both in-person and on-line/electronic PACC public engagement**

The Department will bring forward proposals to provide for both in-person and on-line/electronic Pre-Application Community Consultation (PACC) public engagement.

This will include consideration of any recommendation to emerge from the work of the Planning Engagement Partnership.

### **Structure of the Consultation**

This consultation sets out the aims and potential issues for each of these actions and seeks views and feedback on any potential changes that may or may not be required.

Section 2 of this consultation document explores the aims and key issues supporting regulations 2 and 3 relating to the hierarchy of development, which provide the thresholds and criterion for major development, and developments prescribed for the purpose of section 26(1) of the 2011 Act. It outlines a series of questions exploring whether the classes of development and their thresholds and criterion as set out in the Major Development Thresholds Schedule should be amended. The aim is to ensure they are relevant, fit for purpose and take account of future development trends.

Section 3 explores the aims and objectives of the PACC process outlined in regulation 5 of the Development Management Regulations. It outlines proposals to introduce online / digital techniques into the PACC process and invites feedback accordingly.

Section 4 explores the objectives for PDHs which are provided for in regulation 7 of the Development Management Regulations. It outlines the key issues highlighted through the review of the implementation of the 2011 Act and the Department's proposal to make these hearings discretionary.

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[1] <https://www.infrastructure-ni.gov.uk/topics/planning/planning-improvement-programme>

[2] <https://www.infrastructure-ni.gov.uk/consultations/review-implementation-planning-act-ni-2011-call-evidence>

[3] <https://www.infrastructure-ni.gov.uk/publications/review-planning-act-ni-2011-report>

## **Section 2: Review of regulations 2 and 3, and the Schedule (Major Development Thresholds)**

### **Introduction**

Section 25 of the 2011 Act introduced a hierarchy of development within the planning system, establishing development as one of two categories, major or local. The aim of the hierarchy is to encourage a more proportionate and responsive approach to processing planning applications, with resources and decision-taking mechanisms tailored according to the scale and complexity of the proposed development [1].

Proposals for major development, which tend to be more economically and socially significant are likely to require considerably more assessment and processing resources than local developments which, by comparison, are less complex and, on the whole, raise fewer public interest issues.

The Development Management Regulations set out the classes of development and the relevant thresholds or criterion for each category. The thresholds provide clarity for prospective applicants and councils about which process a proposed development should follow and which developments require consultation with the community during the pre-application phase.

In the Development Management Regulations, there are nine classes of development identified in Column 1 of the table in the Schedule (Major Development Thresholds) each with a threshold or criterion to establish major development. They also identify major development which may be considered regionally significant under section 26(1) of the 2011 Act.

### **Major Development**

Major developments have important economic, social, and environmental implications for a council area. With potential to deliver important benefits for the local community, planning applications for major development will be given appropriate priority to avoid undue delay and risk to investment decisions [2].

Regulation 2 of the Development Management Regulations confirms that major development is the relevant class of development which meets or exceeds the threshold or criterion outlined in Column 2 of the table in the Schedule. Planning applications for major development are submitted to the appropriate council, however they can also be called-in for determination by the Department under section 29 of the 2011 Act.

All major development is subject to section 27 of the 2011 Act and PACC must be undertaken prior to the submission of the planning application. In defining the classes and thresholds for major development, the aim is to achieve a balanced approach to the types of application that would most affect the community without over-burdening users of the system or the public by over-consultation.

Community consultation is an essential part of an effective and inclusive planning system. The aim of PACC is to inform local communities about forthcoming

development proposals and allow them the opportunity to view and comment on the emerging design proposals before a formal planning application is submitted. The intention is to add value and improve the quality of the proposed development, by addressing community issues, improving understanding, and mitigating potential negative impacts, where possible [3]. The process aims to encourage trust and more open, positive working relationships from the earliest stages in the development management process.

### **Major Development of regional significance**

Regionally significant developments form the top tier of development proposals which have a critical contribution to make to the economic and social success of Northern Ireland as a whole, or a substantial part of the region. They also include developments which potentially have significant effects beyond Northern Ireland or involve a substantial departure from a local development plan (LDP) [4].

Regulation 3 of the Development Management Regulations confirms that development prescribed for the purposes of section 26(1) of the 2011 Act is major development which meets or exceeds the threshold or criterion outlined in Column 3 of the relevant class of development within the Schedule to the Development Management Regulations. Where the thresholds are met or exceeded it does not automatically equate to the application being considered regionally significant, it is a prompt to enter into consultations with the Department and follow the procedures outlined in section 26 of the 2011 Act.

Planning applications for major development deemed regionally significant [5] are submitted to and determined by the Department. They are also subject to section 27 of the 2011 Act and require PACC.

### **Local Development**

Local developments comprise of all other developments (other than permitted development [6]) that do not fall within the classes described for major or for regionally significant developments in the Schedule to the Development Management Regulations. The vast majority of local development proposals are for residential and minor commercial applications and are determined by councils.

### **Key Issues**

Through the Call for Evidence for the review of the implementation of 2011 Act respondents raised several issues in relation to regulations 2 and 3 and the Schedule to the Development Management Regulations, namely:

- the current hierarchy of development should be reviewed;
- the classes of development and the corresponding thresholds / criterion for major and regionally significant development should be reviewed to ensure they take account of current and future development trend; and
- the review should also consider a third category, sub-dividing the 'local' category.



In response to these issues, the Department confirmed in its January 2022 Review Report [7] that it would review the existing thresholds and categories of development to determine the need for revisions.

## Potential Changes

The objective of the consultation is to explore what revisions may be required, if any, to the classes of development and the corresponding thresholds in the Schedule for major and regionally significant development, to ensure they remain fit for purpose and relevant for current and future development trends. The questions on classes and thresholds focus on gathering key issues and concerns in the operation of the development hierarchy. Building on the information received through the Call for Evidence referred to above, an important part of this focused public consultation is garnering views, feedback and user experiences from the public to identify and inform any potential changes that may be required.

In addition, since the Development Management Regulations were introduced in 2015, new technologies and types of developments have been emerging which do not fall clearly into the current classes of development. Similarly, it is timely to evaluate whether the current thresholds are reasonable and proportionate to enable local communities to engage on complex development proposals which may impact them, whilst ensuring there is a balanced approach to timely decision-making. Recent legal proceedings have also highlighted operational issues which need to be addressed, to ensure that local communities are given an opportunity to engage in the pre-application planning process.

To assist in preparing this consultation, a targeted pre-engagement exercise was undertaken in June 2023 with the councils and the Department for the Economy (DfE) to explore their operational experience of the classes of development and thresholds to date. The respondents provided useful feedback, which has helped shape some of the questions in this consultation.

The Department is also examining the current categories within the hierarchy of development to establish whether the category of local development should be subdivided further to reflect performance targets more appropriately for councils in determining planning applications. Performance of a council's planning functions is principally measured against the processing of major and local applications. However, there is a considerable variation in the types of development proposal within the local category which can distort resource requirements, processing times, and performance targets. Work being conducted by councils on development management processes and procedures should provide further clarity on this issue. As such, it does not form part of this public consultation.

The Department welcomes comments on any aspect of regulations 2 and 3, and the Schedule (together with other information and evidence that may assist with the review), however having distilled the key issues from the pre-engagement exercise, it is particularly keen to hear views on the following key questions relating to Classes 2, 7, and 9 in the Schedule.

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- [1] *Para 5.40 Strategic Planning Policy Statement (SPPS)*
- [2] *Para 5.45 Strategic Planning Policy Statement (SPPS)*
- [3] *Development Management Practice Note 10 - <https://www.infrastructure-ni.gov.uk/publications/development-management-practice-notes>*
- [4] *Para 5.44 Strategic Planning Policy Statement (SPPS)*
- [5] *Confirmed by a notice issued under section 26(4) of the Planning Act (NI) 2011*
- [6] *<https://www.legislation.gov.uk/nisr/2015/70/contents/made>*
- [7] *<https://www.infrastructure-ni.gov.uk/publications/review-planning-act-ni-2011-report>*

## Class 2 Energy Infrastructure

Energy infrastructure currently incorporates several sub-classes of development including electricity generating stations, electrical power lines, storage, extraction, and pipelines. Each sub-class has a different threshold for both major development and consideration as regionally significant development under section 26(1) of the 2011 Act.

It is anticipated that new and improved energy infrastructure will be required to meet Northern Ireland's net zero climate change commitments. The Northern Ireland Energy Strategy 'Path to Net Zero Energy' [1] set a target of at least 70% electricity consumption from renewable sources. The Climate Change Act (Northern Ireland) 2022 [2] set a target of at least 80% electricity consumption from renewable sources by 2030.

Whilst the growth in traditional renewable energy technologies, such as wind and solar is likely to continue, new viable energy technologies and solutions may emerge in the coming years which merit new or adapted energy infrastructure sub-classes. In tandem, it is likely that new electricity support technologies and infrastructure may also be required to support a flexible and resilient renewables-based electricity network.

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[1] <https://www.economy-ni.gov.uk/articles/northern-ireland-energy-strategy-path-net-zero-energy>

[2] <https://www.legislation.gov.uk/nia/2022/31/enacted>

2. Do you consider that the current sub-classes and associated definitions within the class of Energy Infrastructure remain relevant, and encompass emerging technologies and future development trends?

Yes No

If no, please provide information on suggested changes to the sub-classes and their descriptions, including where relevant potential technologies, proposed thresholds / appropriate measurements to identify these as major and regionally significant development.

## Class 2 Energy Infrastructure

In relation to **electricity generating stations**, the pre-engagement with councils and DfE indicates a strong support for a review of the current megawatts (MW) thresholds, to ensure that they remain relevant, take account of emerging energy technologies, and support renewable energy targets. Submissions received through the Call for Evidence and some councils have suggested that the current MW thresholds for electricity generating stations could be increased.

3. Do you consider that the current MW thresholds for electricity generating development should be revised?

## Class 2 Energy Infrastructure

In England, there are separate thresholds for wind energy proposals and all other onshore electricity generation stations. The technology for wind energy infrastructure has been developing at pace in recent years as more powerful and efficient turbines are able to enhance generation capacity. In their pre-engagement feedback, some councils and DfE felt this approach should be considered as part of this review.

In considering wind energy developments, it is important to establish clear and robust thresholds for identifying proposals as either major or regionally significant development. A simple MW threshold is only an approximation of the size and visual impact of a wind energy development. Following pre-engagement advice from DfE, additional or alternative threshold criteria and measurements are being considered, for example the number of turbines or geographical extents, which may better reflect potential impacts on local communities.

4. Do you consider that separate thresholds for wind energy and electricity generation stations would be beneficial?

Yes No

If yes, please provide suggestions on thresholds and the appropriate measurements to identify major and regionally significant development and explain your reasoning.

## Class 2 Energy Infrastructure

Within Energy Infrastructure the **Storage** sub-class outlines descriptions for various types of products and chemicals/materials and associated thresholds for above ground and sub-surface storage installations. This encompasses the traditional containment of fuels, such as petrol, oils and other petrochemical products, as well as chemical and natural gas storage. There may be merit in adapting this sub-class to incorporate a wider range of gases and chemicals, such as ammonia and hydrogen to acknowledge the growth and development of clean energy solutions.

There may also be merit in developing this sub-class further to encompass a broader range of energy storage options which are likely to come forward in the coming years. At present, storage technologies and systems can range from chemical, electrical, thermal, electro-chemical and electro-mechanical incorporating projects such as battery energy storage systems (BESS), compressed air and liquid air storage, molten salt storage and aquifer thermal energy storage.

The various forms of storage are likely to have different characteristics and capabilities, and as such, may have different planning considerations and thresholds. For example, certain systems can be measured by both their power capacity (MW) which is the maximum amount of power which the installation can produce, and their energy capacity (megawatt-hour (MWh)) which is the amount of electrical energy which can be stored in the installation.

It is also acknowledged that some technologies and systems will have multifunctional roles – for example, battery energy storage systems can both store electrical energy and generate electricity. Such technologies may fall into more than one of the sub-classes within Energy Infrastructure.

5. Do you consider it beneficial to adapt the sub-class of Storage to encompass emerging clean energy solutions and storage options which are likely to come forward in support of a decarbonised energy sector?

Yes No

If yes, please provide suggestions on potential options, proposed thresholds and the appropriate measurements to identify major and regionally significant development. If no, please explain your reasoning.

6. For those energy technologies and systems which have multifunctional roles, please state below how these should be categorised within Energy Infrastructure and provide thresholds and appropriate measurements to identify major and regionally significant development.

## Class 2 Energy Infrastructure

Within the Energy Infrastructure sub-classes of **Extraction and Pipelines**, there are detailed definitions and associated thresholds for various types of proposals for above ground and sub-surface installations. This sub-class encompasses development descriptions and thresholds for the extraction of unconventional hydrocarbons, fuels such as petroleum, and natural gas. It also includes pipelines for the transport of a wide range of products. In recent years, there has been a focus on exploring geothermal heat as a potential clean energy source. Planning applications for development proposals within this sub-class are usually small in number however can be controversial.

7. Do you consider that the current descriptions, thresholds and measurements for the sub-classes of Extraction and Pipelines, remain relevant and encompass emerging technologies and future development trends?

Yes No

If no, please provide suggestions for change, proposed thresholds and the appropriate measurements to identify major and regionally significant development.

## Class 7 Retailing, Community, Recreation & Culture

The Development Management Regulations provide two sub-thresholds for major development for Use Classes A and D of the Planning (Use Classes) Order (Northern Ireland) 2015 (Use Classes Order), which cover shops, financial professional and other services, community, and cultural uses, as well as assembly and leisure. These thresholds were originally aligned with paragraph 36 of Planning Policy Statement 5 – Retailing and Town Centres (PPS5). The Strategic Planning Policy Statement (SPPS) supersedes PPS5 and indicates at paragraph 6.283 a similar threshold of 1000 square metres for out of centre development proposals.

The pre-engagement feedback from councils confirmed there was merit in revisiting the definition of this class of development and the corresponding threshold criteria.

8. Do you consider that the current definition of Class 7 and the corresponding thresholds and criterion for major development are appropriate and relevant?

Yes No

If no, please suggest changes and explain your reasoning.

9. Do you believe there is merit in amending this Class to relate solely to proposals for retail development (Part A, Use Classes Order), with a threshold of 1000 sqm or more of gross floor space outside the town centre? In this scenario, proposals for the development of community, recreation and cultural uses would be considered under the Class 'All other development'.

Yes No

Please explain your reasoning.



## Class 9: All Other Development

Class 9 currently provides a general class for all other development which does not fall wholly within the Classes 1-8.

Following the judgment from Judicial Review 2021/NIQB96 [1], consideration has been given to clarifying the application of **Class 9 All other development**, in relation to mixed class development and all other development not currently within classes 1-8. Mixed class proposals comprise multiple elements which fall into more than one of the current classes 1-8 of the Schedule (Major Development Thresholds).

It is important that development proposals are correctly categorised within the Hierarchy of Development at the outset of the planning process. This provides applicants with clarity on the correct procedures to be followed, and it also enables local communities to engage with developers early in the planning process on those development proposals which are likely to impact them. In their pre-engagement feedback, councils also indicated support for clarification on the approach to mixed class or mixed-use development proposals.

To clarify the categorisation of all other classes of development, the Department is considering replacing the description of development in Column 1 of Class 9 (All other development) with the following text as set out below in Table 1:

**Table 1:** Proposed amendment to Column 1 of Class 9 in the Schedule

<b><i>Description of Development</i></b> <b><i>(Column 1)</i></b>	<b><i>Major Developments</i></b> <b><i>Threshold or Criteria</i></b> <b><i>(Column 2)</i></b>	<b><i>Major Developments pr</i></b> <b><i>the purpose of section</i></b> <b><i>Planning Act (Northern</i></b> <b><i>(Column 3)</i></b>
9. All other development  Any development not falling within a class of development described in Parts 1 – 8 above.	a) development that comprises 5000 square meters or more gross floor space; or  b) the area of the site is or exceeds 1 hectare.	

It should be noted that the thresholds and criteria in Column 2 of Class 9 will be considered following the feedback and views received through this public consultation.

The Department also intends to state that a mixed class development (consisting of two or more classes or sub-classes of development) will be categorised as major development where any part of that development meets or exceeds the applicable threshold or criterion for that class of development in the Schedule.

[1] <https://www.judiciaryni.uk/judicial-decisions/2021-niqb-96>

10. Do you consider that the potential changes to Class 9, including the approach to mixed class development, will create a consistent, clear and robust approach to establishing major development?

Yes No

If no, please explain your reasoning.

## Other comments

11. Do you have comments on any other aspect of regulations 2 and 3, and the Schedule (classes of development and corresponding thresholds or criterion)?

Yes No

If yes, please provide any comments and/or suggestions for change and explain your reasoning.

## Section 3: Potential Changes to regulation 5 Pre-application Community Consultation

### Introduction

Section 27 of the 2011 Act introduced a requirement to undertake PACC before submitting a planning application for major development, as prescribed by the Development Management Regulations. It requires prospective applicants to submit a Proposal of Application Notice (PAN) outlining details of the applicant, the proposed development, its location and contact details. The council, or Department, may request further circulation of the PAN or additional consultation within 21 days of receipt. Section 27 of the 2011 Act also states that a planning application for major development must not be submitted until a minimum of 12 weeks have elapsed since submission of the PAN.

The Development Management Regulations specify that the PAN must include certain information, including the details of the consultation that the applicant proposes to undertake, with whom and in what form. It also requires prospective applicants to:

- hold at least one in-person public event in the locality of the proposed development;
- publish a newspaper notice no earlier than 7 days before the public event; and
- provide details of the proposed development, public event, how to provide feedback/comments, and how to obtain further information in the newspaper notice.

The objective of PACC is to inform local communities about forthcoming development proposals and allow them the opportunity to view and comment on the emerging design proposals before a formal planning application is submitted. The intention is to add value and improve the quality of the proposed development, by addressing community issues, improving understanding, and mitigating potential negative impacts, before the start of the statutory development management process. It aims to encourage trust and open working relationships from the outset of the planning application process. Engaging with communities is an essential part of an effective and inclusive planning system.

It is recognised that effective PACC with local communities can also lead to planning applications which are better developed, and in which the important issues have been clearly set out and considered, as far as possible, in advance of submitting the application to the council or Department.

### Key Issues

In 2020, response to the COVID-19 pandemic, the Department made a legislative amendment to the Development Management Regulations [1] which temporarily removed the requirement to hold an in-person public event as part of the PACC, during the emergency period. Alternative consultation methods included web/online

based engagement, online consultation events, and an increased use of social media.

Feedback received through the Planning Engagement Partnership [2] (PEP) indicated generally that the introduction of electronic / online options during the PACC process were a positive addition to the community engagement. It was felt that during the pandemic the online display of development proposals yielded numerous benefits, including:

- widening the sphere of community engagement by raising awareness of the proposals to a wider geographical audience;
- altering the profile of those getting involved in planning to a younger demographic;
- enhancing access to proposals for major development;
- improving accessibility for those wishing to feedback comments to an applicant on a development proposal; and
- using social media as a tool for signposting consultations and development proposals.

Through the Call for Evidence for the review of the implementation of the 2011 Act, respondents raised several issues in relation to online / digital engagement, endorsing the findings of PEP that consideration should be given to a 'blended' in-person and online approach to PACC following greater digital availability engagement.

The Department acknowledged that the temporary regulations introduced during the COVID-19 pandemic encouraged a greater use of digital technology, to provide information on development proposals and ultimately improve opportunities to participate and engage with the public and local communities. It committed to bringing forward proposals to provide for both in-person and online/electronic public engagement as part of the PACC process.

In March 2022, PEP published a report '*Planning your Place: Getting Involved*' setting out practical recommendations to enhance the quality and depth of community engagement within the planning system. In association with PEP and Community Places, the Department has been exploring options to improve the PACC process. The focus is on understanding how more modern, inclusive and digital techniques can help raise awareness of future development proposals in local areas and provide greater opportunities for the public and stakeholders to participate in the pre-application process to influence decision making. The options proposals outlined in this section have been further informed by research undertaken by MSc Planning and Development students.

### **The Proposed Options**

The importance of encouraging community participation in the planning process and enhancing opportunities to engage in the pre-application stage of developing proposals cannot be underestimated. Involving the community and enabling them to contribute their views to the development process can highlight important issues, address misunderstandings, and improve the quality of planning applications.

Following the COVID-19 pandemic, it is clear that the internet and digital media can facilitate online community engagement and playing an important role in enhancing community participation. Evidence from PEP has shown that it has facilitated greater participation by younger people in the planning process and it has helped raise awareness of development proposals beyond geographical boundaries.

This consultation seeks your views on two potential options for incorporating digital / online engagement into the PACC process, alongside in-person consultation events. The overall objective is to improve the pre-application process, by encouraging methods which will increase awareness of development proposals and enable greater opportunities for the public and stakeholders to participate in the pre-planning process. Garnering views and feedback from the public in relation to both options is an important part of developing the policy.

### **Option 1**

Currently, regulation 5 of the Development Management Regulations requires an applicant to hold at least one public event in the locality in which the proposals are located. This option would place an additional requirement for prospective applicants to display information on major developments and development subject to a notice under section 26(4) of the 2011 Act i.e., regionally significant development on a website during the pre-application phase.

The information would be displayed on a website maintained by the prospective applicant for a specified period of time during the pre-application consultation phase, prior to submission of the associated planning application. The newspaper advertisement and other media would be required to include the website address, in addition to all other requirements currently outlined in regulation 5(2) of the Development Management Regulations, including applicant details, information on the proposed development, site location, how to provide feedback, and the timelines for submitting comments.

The displayed information would include draft planning proposals, including drawings, site location, environmental reports, and design & access statement for the public to view and consider. The website would also have the facility to accept comments and feedback online and would provide information on how to contact the applicant in relation to queries.

It is anticipated that the date of the in-person public event would coincide with the live website. This would enable members of the public to view and consider the proposals online, with the option of attending the public event and engaging with the applicant to provide comments in person.

With this option, section 27(6) of the 2011 Act will remain unchanged. Councils and the Department retain the option of requesting additional consultation and notification within 21 days following receipt of the PAN, where deemed necessary.

### **Option 2**

At present, regulation 5 of the Development Management Regulations requires an applicant to hold at least one public event in the locality in which the proposals are located. Option 2 seeks to vary this provision to introduce flexibility to the public event and places an additional requirement on prospective applicants to display information on all major developments on a website during the pre-application phase.

Option 2 retains the requirement for a public event, however, proposes to introduce an element of flexibility enabling it to be facilitated either as:

- a) an *in-person* consultation event held in the locality of the proposed development; or
- b) an *online* consultation event, where members of the public can attend virtually to engage with the applicant and provide comments on the proposed development.

In practice, the prospective applicant would propose the type of public event it believes to be the most appropriate based on the detail of the proposed development and its site location, and agreement would be sought from the council or Department as part of the PAN process. The requirements for publicity, advertising, and timelines set out elsewhere in regulation 5 would be adjusted accordingly within amended legislation.

This option also requires the pre-application consultation strategy to incorporate an element of online consultation. This online consultation would comprise the display of the draft development proposals on a website for a specified period of time, during the pre-application consultation phase, as explained in Option 1 above. This would be added into regulation 5 of the Development Management Regulations and would apply to all proposed major development and development subject to a notice under section 26(4) of the 2011 Act i.e., regionally significant development.

With this option, section 27(6) of the 2011 Act will remain unchanged. Councils and the Department retain the option of requesting additional consultation and notification within 21 days following receipt of the PAN, where deemed necessary.

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[1] *The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020*  
<https://www.legislation.gov.uk/nisr/2020/72/contents/made>

[2] *Report produced by the Planning Engagement Partnership Planning Your Place: Getting Involved | Department for Infrastructure (infrastructure-ni.gov.uk)*

12. Please indicate your preferred option and explain your reasoning below.

Option 1 Option 2 Neither Option

Q12 - comments

13. Do you consider there to be an alternative option for incorporating online / digital engagement into the PACC process, which may be more beneficial?

Yes No

If yes, please outline this option and explain your reasoning.



## Section 4: Potential Changes to regulation 7 Pre-Determination Hearings

### Introduction

Section 30(1) of the 2011 Act enables the Department to make regulations requiring councils to provide an applicant or third party the opportunity to appear before and be heard by the council prior to determination of a planning application.

Regulation 7(1) of the Development Management Regulations states that section 30(1) applies to developments subject to a direction under Article 17 of The Planning (General Development Procedure) Order (Northern Ireland) 2015, but where the Department has notified the council that it does not intend to determine the application under section 29(1) of the 2011 Act. The council facilitates a hearing following receipt of the Departmental notification, and prior to the council formally determining the planning application.

The objective of a PDH is to make the planning application process more inclusive and transparent. It allows an applicant and those who have submitted representations to a planning application the opportunity to appear before and be heard by the council before it reaches a decision. The meeting focuses on the material planning considerations and explores these to help the planning committee make its determination on the application.

In practice, PDHs are commonly convened for those planning applications which have a variety of complex issues, include wide-ranging policy considerations, have issues which are of interest to a substantial proportion of the population in the council area and/or attract large numbers of objections.

Under section 30(4) of the 2011 Act, councils also have the discretion to convene a PDH for any planning application that they will determine.

### Key Issues

Through the Call for Evidence for the review of the implementation of the 2011 Act, respondents raised several issues in relation to regulation 7 of the Development Management Regulations and mandatory PDHs in particular. In summary, comments highlighted that the mandatory PDH hearings process added delay, increased cost and hindered council's performance.

In addition, responses also highlighted that:

- they should be a discretionary function only for councils to decide where, in their view, they would add value to the decision-making process;
- they add unnecessary administration and can add delay and cost to the process.
- the wording in section 30(1) of the 2011 Act is complicated and confusing;
- they extend the timeframe for a planning decision to be issued; and
- the requirement should be removed where the Department has returned a notifiable application, a previous PDH has been held, and there are no new material planning considerations.

The Department committed to bringing forward proposals to make pre-determination hearings discretionary for councils in the exercise of their functions.

### **The Proposal**

The purpose of this consultation is to seek your views on the Department's proposal to remove the requirement for mandatory PDHs. Garnering views, feedback and user experiences from the public in relation to this proposed change is an important part of policy development.

The Department's overall objective for the proposed removal of mandatory pre-determination hearings, is to enable councils to have greater flexibility and control over when and how a PDH takes place which should ultimately lead to a more efficient, effective, transparent and inclusive planning service.

It is proposed that section 30(4) of the 2011 Act will remain to provide councils with the legislative mechanism to hold discretionary PDH for any planning application they will determine. Section 30(2) and (3) of the 2011 Act are referenced in section 30(4) in the context of providing the legislative requirement to provide procedures for PDH. In practice, the proposal would require regulation 7 of the Development Management Regulations to be revoked.

14. Do you agree with the proposal to make Pre-Determination Hearings discretionary for councils?

Yes No

If no, please explain your reasoning.

## Item 7c

### **Ards and North Down Borough Council - consultation response – March 2024**

**Public Consultation by the Department for Infrastructure (DfI) on its review of The Planning (Development Management) Regulations (Northern Ireland) 2015 (the Development Management Regulations).**

#### **Review of Classes of Development & Thresholds**

##### **Class 2 Energy Infrastructure**

**Question 2: Do you consider that the current sub-classes and associated definitions within the class of Energy Infrastructure remain relevant, and encompass emerging technologies and future development trends?**

No.

A new sub-class for BESS (Battery Energy Storage Systems) should be included and have a higher megawatt threshold for major development.

In terms of Electricity Generating Stations a specific sub class should incorporate renewables including wind energy and solar farms.

**Question 3: Do you consider that the current MW thresholds for electricity generating development should be revised?**

Yes.

This should include a higher MW threshold for major development particularly given the context of advancing technologies.

**Question 4: Do you consider that separate thresholds for wind energy and electricity generation stations would be beneficial?**

Yes.

There are currently no major thresholds for wind energy. The hub-height restriction of 15m applied in England is too low for major development and would render most single wind turbines to fall within major development. In terms of numbers, development comprising more than two turbines.

It should ensure larger scale turbines will remain subject to pre-application community consultation. This is considered essential in the context that most such applications do not necessarily trigger neighbour notification due to the location and small area included within the application site.

**Question 5: Do you consider it beneficial to adapt the sub-class of Storage to encompass emerging clean energy solutions and storage options which are likely to come forward in support of a decarbonised energy sector?**

Yes.

**Question 6: For those energy technologies and systems which have multifunctional roles, please state below how these should be categorised within Energy Infrastructure and provide thresholds and appropriate measurements to identify major and regionally significant development.**

A new sub-class should be included which defines energy storage as a form of an electricity generation station, on the basis of when such a system is in discharge state it acts as an electricity generation device. This is preferable to it currently falling within 'Class 9 – All other development'.

This Council would refer to the ABO Wind judgment and the legislation referred to therein in place in England and Wales.

**Question 7 : Do you consider that the current descriptions, thresholds and measurements for the sub-classes of Extraction and Pipelines, remain relevant and encompass emerging technologies and future development trends?**

It is not considered that the Council has the necessary expertise to comment on this specific element in the absence of experience of dealing with such proposals. It is considered that reference should be included as to the definition of 'unconventional' in respect of 'extraction'.

It is considered that certain lengths of pipeline below the major threshold of 20km could have major environmental and amenity impacts and as such, it would be useful to review proposals and their impacts falling below this threshold before amending, if appropriate.

## **Class 7 Retailing, Community, Recreation & Culture**

**Question 8: Do you consider that the current definition of Class 7 and the corresponding thresholds and criterion for major development are appropriate and relevant?**

Yes, in respect of criterion (a), but in respect of criterion (b) often a site can contain a lot of associated ancillary space or parking which could trigger the 1ha site area, whereby the actual retailing element may not be significant.

**Question 9: Do you believe there is merit in amending this Class to relate solely to proposals for retail development (Part A, Use Classes Order), with a threshold of 1000 sqm or more of gross floor space outside the town centre? In this scenario, proposals for the development of community, recreation and cultural uses would be considered under the Class 'All other development'.**

Yes.

In order to streamline the class, and given the distinct nature and complexity of such developments, it would be beneficial to separate retail development from community, recreational and cultural uses. This would also be more beneficial for Local Development Plan monitoring in respect of different classes of development.

### **Class 9: All Other Development**

**Question 10: Do you consider that the potential changes to Class 9, including the approach to mixed class development, will create a consistent, clear and robust approach to establishing major development?**

Yes. A mixed development category would be welcomed.

### **Other Comments**

**Question 11: Do you have comments on any other aspect of regulations 2 and 3, and the Schedule (classes of development and corresponding thresholds or criterion)?**

Yes.

Class 6: Housing. The threshold of comprising 50 units or more should be reduced to allow Pre-Application Community Consultation on lesser schemes which could benefit from community participation at an earlier stage, as often smaller schemes in smaller settlements can still result in considerable impact on the environment and amenity given the scale. Schemes with less units can still have a significant impact on local urban communities.

Class 9: All Other Development. Under b) increasing the area of the site to exceed 2Ha.

An additional category of development should be introduced for small scale proposals such as householder development due to the wide scope of local developments. This would better reflect performance and resources required to determine applications, as presently the "Locals" category is too broad, and such applications, which remain important to the proposer, can get lost among smaller teams dealing with mainly 'local' applications, unless a specific householder team is in place.

There should also be consideration given to those applications for likes of change of house type in larger previously approved schemes whereby the site falls into 'major' by virtue of inclusion of the access road to the specific sites, whereas they should be classed as 'local'.

Consideration should also be given to Class 9 (b) in respect of agricultural improvement applications which can fall into the major category of development by virtue of exceeding the 1ha site area, whereby it is often considered that they are not necessarily contentious or requiring of pre-application community consultation.

## Section 3: Potential Changes to regulation 5 Pre-application Community Consultation

### Pre-Application Community Consultation

#### **Question 12: Please indicate your preferred option and explain your reasoning**

This Council recognises the effectiveness of introducing digital consultation in reaching a wider and more diverse range of people across the local community. However given the mix of ages of the population across the Ards and North Down Borough it is considered that “Option 1” of the consultation is the most viable option and that which the Council supports.

This Option requires both an in-person public event and online/digital consultation, which would enhance existing requirements by also facilitating wider engagement with potential interested parties online – particularly younger people or those unable to attend in person.

Meaningful pre-application engagement is essential. Minimum legislative requirements for PACC Reports should be considered. Applicants should be required to detail how concerns have been addressed through the design/layout or explain the reasons why concerns have not been addressed.

Whilst there is some guidance in the DM practice note in relation to Section 54 applications, regulations should explicitly state that that Section 54 applications are exempt from the PACC process.

A maximum time restriction for the period between PACC taking place and submission of application should be provided, to ensure that information originally submitted and consultation undertaken remains relevant. It would be useful to include parameters around how far the finally submitted scheme can deviate from that which formed the basis of the original Proposal of Application Notice.

There also needs to be scope in the regulations to prevent applicants from splitting sites to avoid pre-application community consultation. E.g. perhaps legislation could specify PACC would be required for subsequent applications or proposals considered cumulatively against the thresholds with similar applications to develop adjacent land submitted by the same developer within a specified period of time.

“Option 2” gives a developer the discretion to either carry out in-person or an online/digital consultation, which would not be considered beneficial to the whole community across Ards and North Down.

#### **Question 13: Do you consider there to be an alternative option for incorporating online/digital engagement into the PACC process, which may be more beneficial?**

No, but that is not to say that other alternatives may become apparent in future, therefore there should be appropriate review in time to reflect best practice.

## **Section 4: Potential Changes to regulation 7 Pre-Determination Hearings**

### **Pre-Determination Hearings (PDHs)**

A PDH occurs when an application is returned to the council for determination following notification from DfI that it does not intend to determine the application under section 29(1) of the Planning Act (Northern Ireland) 2011.

At present a PDH must be held on this type of application before a Planning Committee can make any decision on the application.

### **Question 14: So you agree with the proposal to make Pre-Determination Hearings discretionary for councils?**

The proposal to remove the requirement for statutory PDHs and instead adopt a discretionary approach is supported by ANDBC. The present statutory requirement is administratively burdensome and also irrelevant in the context whereby the Council has already made a determination but has to hold a PDH immediately before remaking its determination. It is not considered to add anything beneficial to the planning system. To make them discretionary will provide greater flexibility and a more efficient and effective service.

Unclassified

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**ITEM 8****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 March 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	16 February 2024
File Reference	n/a
Legislation	The Planning (NI) Act 2011 & The Planning (Trees) Regulations (NI) 2015
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	Quarterly update on Tree Preservation Orders & Works
Attachments	N/A

**Background**

This report represents the quarterly update to Planning Committee regarding detail relating to Tree Preservation Orders served and applications for consent to carry out works to protected trees. This update provides information from 15 November 2023 (date of previous report) to 16 February 2024.

**Detail**

The table overleaf sets out the figures from the date of the last report to Committee.

**RECOMMENDATION**

It is recommended that Council notes the content of this report.



Not Applicable

**Table 1 Tree Preservation Orders Served**

TPO (Full or Provisional)	Date Served	Address
0		

**Table 2 Consent for Works Decisions**

TPO or Conservation Area	Consent Granted / Notification Accepted*	Consent Refused
<b>Tree Preservation Orders</b>	7	0
Address	1) 6 Twisel Brae Lane, Holywood 2) 6 Cultra Avenue, Holywood 3) 8 Cultra Avenue, Holywood 4) 1a Clanbrassil Terrace, Holywood 5) 81 Victoria Road, Holywood 6) 2a Ballydrain Road, Comber 7) 3 Worcester Lane, Bangor	
<b>Conservation Area</b>	1	0
	South of 61 High Street, Donaghadee	

\* Notification refers to when the Council receives notification of proposed works to trees within a conservation area. If the Council does not accept the proposed works, it must serve a TPO within the 6-week period from the date of notification. 'Notification Accepted' means that the Council did not consider it necessary to serve a TPO and thus there is no objection to the proposed works.

**Detail**

**Works to Trees - Tree Preservation Order Protection**

- 1. 6 Twisel Brae Lane, Holywood**  
 Felling of one tree and carrying out of works to three trees. The tree to be felled had extensive ash dieback and therefore removal was required for safety reasons. Works to three trees was for management and maintenance reasons. Replacement planting was conditioned with 1 no. standard native tree at a height of 3-3.5m
- 2. 6 Cultra Avenue, Holywood**  
 Carrying out of works to five trees – all works were for management and maintenance reasons.

Not Applicable

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3. **8 Cultra Avenue, Holywood**  
Carrying out of works to two trees – all works were for management and maintenance reasons.
4. **1a Clanbrassil Terrace, Holywood**  
Felling of one tree – the tree was located adjacent to a laneway leading to the coastal path and showed a significant loss of vigour and dieback. Removal was required for safety reasons. Replacement planting was conditioned with 1 no. standard native tree at a height of 3-3.5m.
5. **81 Victoria Road, Holywood**  
Carrying out of works to one tree – works were for management and maintenance reasons.
6. **2a Ballydrain Road, Comber**  
Carrying out of works to four trees – all works were required for management and maintenance reasons.
7. **3 Worcester Lane, Bangor**  
Felling of one tree – the tree was located in very close proximity to the rear elevation of the dwelling and it had very limited public amenity. Replacement planting was conditioned with 1 no. standard native tree a height of 3-3.5m.

### Conservation Area Protection

1. **South of 61 High Street opposite the Manor House, Donaghadee**  
The felling of seven trees – two of the trees showed a significant loss of vigour and removal was considered acceptable due to the trees' location as they had no public visual amenity. One tree had a large decayed cavity at the base and was hollow at that point and therefore removal was required for safety reasons. The remaining four trees were located adjacent a stone wall which bounded with a walled garden used by Dinner Bell Bistro and therefore the public. All trees showed a loss of vigour and therefore removal was required for safety reasons given their location. The site also has outline approval for residential development.