

ARDS AND NORTH DOWN BOROUGH COUNCIL

4 June 2024

Dear Sir/Madam

You are hereby invited to attend an in-person meeting 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 11 June** commencing at **7.00pm**.

Yours faithfully

Susie McCullough
Chief Executive
Ards and North Down Borough Council

A G E N D A

1. Apologies
2. Declarations of Interest
3. Matters arising from minutes of Planning Committee meeting of 07 May 2024
 (Copy attached)
4. Planning Applications (Reports attached)

4.1	LA06/2022/0965/F	21 Dwellings - change of house types and positioning (planning approval X/2003/0144/F). Sites 56-93 Gowland Hollow, Portavogie
4.2	LA06/2023/1922/F	1 No. replacement dwelling and 1 No. new dwelling (comprising demolition of existing dwelling, access and associated site works). 11 Ballyhaft Road, Loughries, Newtownards

Reports for Noting

5. Update on Planning Appeals (report attached)
6. Update on Tree Preservation Orders & applications for consent works (report attached)
7. Half Yearly Performance Report (report attached)
8. Uplift in Planning Fees (report attached)

***** IN CONFIDENCE *****

9. Quarterly Update on Enforcement Matters (report attached)

MEMBERSHIP OF PLANNING COMMITTEE (16 MEMBERS)

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

ARDS AND NORTH DOWN BOROUGH COUNCIL

A meeting of the Planning Committee was held in the Council Chamber, Church Street, Newtownards on Tuesday 7 May 2024 at 7.00 pm.

PRESENT:

In the Chair: Alderman McIlveen

Alderman: Graham
McDowell
Smith

Councillors:	Cathcart	McRandal
	Creighton	McKee
	Harbinson	McCollum
	Kerr	Morgan
	Kendall	Wray
	Martin	

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

1. APOLOGIES

No apologies were received.

2. DECLARATIONS OF INTEREST

No declarations of interest were notified.

3. MATTERS ARISING FROM MINUTES OF PLANNING COMMITTEE MEETING OF 09 APRIL 2024

PREVIOUSLY CIRCULATED:- Copy of the above.

NOTED.

4. PLANNING APPLICATIONS

4.1 LA06/2023/1573/O - Approximately 70m East of No.18 Hillsborough Road, Comber – Dwelling on a farm
(Appendices I - IX)

PREVIOUSLY CIRCULATED:- Addendum to Case Officer Report, Case Officer's Report, Synopsis of PAC decision 2014 – present, 2021/A0133, Extract of minutes of PC meeting Oct 2021, 2014/A0269, 2018/A0210, 2016/A0197, 2015/A0062 and 2016/A0047.

DEA: Comber

Committee Interest: A local development application "called-in" to the Planning Committee by a member of that Committee – Alderman McDowell

Proposal: Dwelling on a farm

Site Location: Approximately 70m East of No.18 Hillsborough Road, Comber

Recommendation: Refuse Planning Permission

The Principal Planning Officer (C Blair) outlined the detail of the application which was before members following its deferral at April's Committee for one month to enable officers to consider the approach of the Planning Appeals Commission (PAC) in respect of application of and interpretation of Policy CTY 10 to date.

Members would note the detailed Addendum Report provided by the Director, with the raised PAC decisions considered under PAC Decisions 1 to 6.

Members would recall the site formed part of a larger agricultural field and located immediately adjacent to No.18 Hillsborough Road, a two-storey detached, which was owned by the applicant. It was proposed that the site was accessed via a new laneway, approximately 278 metres in length, which cuts through the centre of the existing field.

This was an application for a Dwelling on a Farm, which it was asserted by the applicants that they meet the necessary criteria under policy CTY 10 of PPS 21. The applicant had submitted that a Farm Business ID was allocated on 14 March 2012 and was a Category 2 business. However, this was associated with land at 58 Glenstall Road, Ballymoney, and which Planning was advised consisted of a shed and yard. It was confirmed that the building in Ballymoney was sold in 2021. The current site was purchased in April 2022, and the dwelling at no. 18 Hillsborough Road, which was being taken as the farm dwelling for the purposes of this Policy, was granted as a replacement dwelling under planning approval granted on 27 October 2014 under X/2014/0341/F.

The Planning Officer stated that he was not going to go through all the decisions referenced in the Addendum Report but wished to draw members' attention to two similar PAC decisions to the situation in the application here, where the applicant was relying on the shed and yard at Glenstall Road in Ballymoney to assist in meeting the six years criterion under CTY 10 for this farm dwelling on land on Hillsborough Road, Comber.

In this appeal decision to dismiss the appeal against the refusal of outline planning permission on Gransha Road South, Bangor – 2021/A0133, which was decided under a year ago, and was not challenged through the courts, therefore in the view of Planning represented the latest view of the Commission in respect of land being added to the farm business, or in this particular application's case, the land associated with the business being completely replaced in another location.

In this instance the Commissioner stated that the word 'established' means more than mere existence; it had the connotation of being set up and settled on a firm or permanent basis. Having regard to Policy CTY 10 of PPS 21 therefore, it was

reasonable to interpret 'established' by reference to active farming over a period of at least six years". Paragraph 17 of the PAC decision stated the following, which was crucial in the consideration of the application - the Commissioner states – "Whilst the farm business ID number itself has not changed, the composition of the holding has because the appeal site was added to it in 2019. For this reason, the Planning Officer considered the appellant's farm business had been amended from that date. Whilst he concurred with the appellant that a business could expand and contract, in the particular circumstances of this case, as the appeal site was only brought into the farm business in 2019, it could not possibly be part of an active and established farm business for at least 6 years as required by policy."

Similarly in this application, as the appeal site was only brought into the Farm business in 2022, it could not possibly be a part of an active and established farm business for the six years required under CTY 10.

That was not just a one-off decision by the PAC however was an established position as was outlined in this appeal decision, dated 9 November 2016 under reference number 2016/A0047 regarding lands located 100m NW of the junction between Tornagrough Road and Rusheyhill Road, Budore, Belfast. This example was used by himself at last month's meeting.

For this appeal, the appellant submitted a DARD business ID number and farm map that relate to a 2.34 ha farm business located at Tannaghmore Road, Seaforde, Co Down, which DARD at the time confirmed was active and established at this address in Seaforde, Co. Down for more than six years.

The appeal site, located in Budore, Belfast, was added to the appellant's farm business in May 2015 and the Commissioner confirmed that the six-year test under CTY10 could not be met.

The appellant submitted that that was not the position that should be taken by the Planning Committee, yet their circumstances were no different than those set out in these two appeal decisions. The PAC's position regarding this matter under policy CTY10 was clear, and it was position that the Planning Service must follow.

The PAC decisions related to criterion (a) of CTY10 and the Planning Service's position remained unchanged. The appellant's view that they could rely on having an active and established farm for six years at Glenstall Road, Ballymoney in order to build a new farm dwelling on land at Hillsborough Road, Comber was not correct or possible in policy interpretation, and evidentially supported through PAC decisions.

The Planning Officer referred to criterion (b) of CTY 10. As outlined in the Council's published Addendum Report, the original report considered this to be met. Criterion (b) required that no dwellings or development opportunities had been sold off (or 'transferred' as added by the SPPS) from the 'farm holding' within 10 years of the date of the application.

If Members considered that the land at 18 Hillsborough Road formed part of the holding for the purpose of the policy, criterion (b) was not met as the dwelling forming

the main 'farm house' was approved as a replacement dwelling granted on 27 October 2014 under X/2014/0341/F, within 10 years of the date of the application.

For Criterion (c), it indicated that the new building was visually linked or sited to cluster with an established group of buildings on the farm. Again, as outlined in the published Addendum Report, it had become apparent that the shed being relied upon for the purposes of this policy did not benefit from planning permission, nor was there a Certificate of Lawfulness in place to provide evidence of its immunity from enforcement action. As the shed was unauthorised, it could not be considered and thus the proposal fails to meet criterion (c) as the dwelling at No.18 Hillsborough Road would only be one building that the proposal could visually link or cluster with. As set out at the end of the Addendum Report the Planning Service had revised its CTY10 refusal reason following the further interrogation of the CTY10 policy. The Planning Service's view had not changed regarding the positioning of the proposed laneway, which was set out in the Addendum Report, alongside the failure of the application to comply with policies CTY13 and 14 of PPS 21, as debated during April's Committee meeting.

The Planning Service's position had not changed and accordingly refusal was recommended, however that included a revision of the refusal reason of CTY 10 to include criteria (b) and (c) as well as criterion (a).

The Chair invited questions from Members.

As there were no questions for the Planning Officer at this stage, the Chair invited Scott Caithness (Agent), Michelle Lestas and Nick Lestas (Applicants) to come forward who were speaking in support of the application.

Mrs Lestas stated that the Planning Officer's addendum report presented 98 case studies yet only 13 were highlighted and some were in favour of this type of development. In particular she referenced A0194/2019 which stated that Policy CTY10 applied to the farm business and was not concerned with the land ownership. She advised that she had submitted 10 relevant cases of planning approval from 2023 across different Council areas. She explained that they had only reviewed cases over the past year on the basis that the farm business ID was established for six years and active with no reference to the length of land ownership in those planning decisions, only that the proposed dwelling was established in lands currently active. In definition of 'currently active', it was addressed in a number of cases to extend beyond the need for single farm payments to include all agri-farm payments. She advised that they had submitted evidence of full active status including invoices, bank statements and insurance for the activity covered at 58 Glenstall Road, Ballymoney, along with the Woodland scheme which had been ongoing for the past two years.

The report made assumptions without clarification on their position with regards 58 Glenstall Road. She wished to clarify that there was no break in farming activity between moving from Ballymoney to Comber. It had been a condition of the sale of their property in Ballymoney that they could continue to use and farm on the land until they found their new property in Comber, therefore there was no break in continuity.

In response to the issue raised at the April Committee regarding a new laneway, that laneway extended from an existing laneway and would be covered by the extensive tree planting project. However, Mrs Lestas advised that they were prepared to amend the proposal to remove the need for a new laneway.

The planning laws were the same across all of Northern Ireland, she believed their proposal clearly met those laws and as detailed they had identified plenty of cases, similar to theirs that were approved. The 10 cases which were presented in their report were for 2023 alone and they believed there would be many more cases in previous years across all the Council areas. Mrs Lestas stated for the reasons outlined they were confused as to why the application could not be approved.

The Chair invited questions from Members.

Councillor McCollum asked when the applicants divested themselves of the ownership of the property at Glenstall Road. Mrs Lestas advised that they sold Glenstall Road in July 2021 with the condition of the contract of sale that they would be allowed to continue to use and farm on the land. They bought their property in Comber in April 2022.

Councillor McCollum referred to the upgrading by DEARA to Category 1 she asked what that was contingent on. Mrs Lestas advised that was in relation to the planting of the small woodland scheme and the planting of 2,100 trees.

Councillor Cathcart asked if any of the examples that were alluded to where from the Ards and North Down Borough and in relation to the PAC decision quoted in the presentation that was for 2023 and he asked if there were any more recent decisions. Mrs Lestas advised that they did come across any such decision for this Council area, they had only looked in 2023 as it was felt enough cases had been detailed.

The Chair wished for clarity from Mrs Lestas that she was stating that the Committee should be bound by decisions in other Council areas and not just by PAC decisions. Mrs Lestas stated that it was for the Planning Committee to make its own decisions. But she clarified that the point she was making was that there were at least 10 cases similar to their planning application that were approved and they were presenting what occurred elsewhere.

Mr Caithness alluded to PAC decisions, in particular 2018/A0194 which referenced CTY10 which applied to the farm business and was not concerned with land ownership. Also 2021/A0083 which was allowed as the Council failed to prove non-compliance with CTY10 and the drawing would not be seen in the landscape. As with their proposal that would be well hidden in the landscape due to the trees. Those PAC decisions related quite closely to this proposal were other cases cited were not an identical representation. In terms of CTY10 it was felt that the criteria were met in terms of the length of business and that had been acknowledged by Planning.

Councillor Cathcart wondered if it was normal practice for the PAC to make decisions based on other Council areas.

Mr Caithness stated that they were highlighting the stance which other Councils had taken.

Alderman Graham questioned the reasoning why it had been in the contract of sale to continue to use and farm on that land at Glenstall Road. He also asked what impact the proposal would have on their agriculture business. Mrs Lestas explained that they wished to use the land at Glenstall Road until they found a suitable property. In relation to the impact she believed that would be significant for the farm and the farming family, they had children who were interested in being part of the community and she wished to see the family kept together as a farming family.

As there were no further questions, Mrs Lestas and Mr Caithness returned to the public gallery.

The Chair sought questions from Members for the Planning Officer.

Alderman Smith noted that there were a few points that had been made that were contrary to the Case Officer's Report and sought the Planning Officer's view in that regard. The applicants were now willing to remove the laneway and he asked if that required another amended application. In relation to the 10 cases from 2023 which the applicants contended supported the application he asked for the Planning Officer's view in that regard. Furthermore, they contended that there was no break in continuity in the farm business. There was reference in the report with regards the commercial signage which they contended was from the new owners.

In relation to the 10 cases from other Council areas that had been referred to, the Planning Officer stated that those were seen as irrelevant as it was up to each Council to determine how it interpreted policy. From the Planning Service point of view, the applicant had stated in their evidence that they had purchased Glenstall Road in 2014 and they had stated that permission had been granted for change of use of the agricultural shed from agriculture to light industry. That shed was then established as a shared rural community kitchen which was a non-agricultural activity and from the evidence received to date there had been no evidence of any farming related activity ongoing at that site. The Planning Officer referred to the definition of agricultural activity which had been quoted in the presentation. The information that had been provided to Planning Service to date did not include any evidence in that regard. It was not enough for the Agent to state that because the applicant had a farm business ID it showed that a farm business was currently active and established. As per to the PAC decision referenced in the presentation, the Commissioner did state that established meant more than mere existence. From the evidence submitted the Rural Community Kitchen was the applicant's business at Glenstall Road. From a planning point of view, he would contest that a rural community kitchen defined ongoing active farming. As indicated, Planning did not agree that the addition of the Hillsborough Road site in 2022 should be taken as showing six years on that site. There had been no information submitted to show continuous activity on the site. There was an indication that the previous owner of the site had undertaken farming; however, that would have been a different business

farm ID number and therefore was irrelevant. With regards the access lane, it had been recorded in the minutes from the previous meeting that there was no indication that the applicant wished to amend the proposal or remove the access lane and at that point of time the applicants contended that the trees would screen the laneway. In his professional opinion, the removal of the laneway did not change the recommendation of refusal and he would not recommend proceeding on that point.

Alderman Smith noted in summary the proposal failed in respect of CTY10 (a), (b) and (c). The Planning Officer confirmed the opinion remained unchanged.

Councillor Cathcart noted that the speakers had contended that there were examples of cases in other Council areas, and he asked the weight PAC give to such cases. The Planning Officer stated a PAC decision could be applied across all Council areas however it was up to each individual Council to interpret policy.

The Director recalled that the NIAO had produced a report in February 2022 which was followed by the Public Accounts Committee report in March 2022 which had been highly critical of the differing approaches to rural housing across all of Northern Ireland. It stated that the differing interpretations were threatening to create a patchwork of varying planning policy across Northern Ireland. That was why planning officers were placing an emphasis on the 2023 PAC case as being most relevant. Just because there were examples in other Council areas did not mean policy was being applied correctly and the Director stated that she would exert that planning policy was being applied correctly in this Council in line with PAC decisions and previous legal advice sought in other cases.

Alderman McDowell questioned if the planting of trees was a form of cultivation. He was of the view that farm diversification had changed over the years and the Planning Officer was being critical of the activity occurring at the farm in Ballymoney.

The Planning Officer clarified that he was not criticising the activity and its farm diversification. He had stated that there was no evidence that farming activity had occurred on the site in Ballymoney and therefore farming diversification could not occur in the absence of a farm. In terms of cultivation, the planting of trees was in reference to the site in Comber.

Regardless of criteria (a) Councillor McCollum sought further information regarding (b) and (c). The Planning Officer explained that a replacement dwelling was approved in 2014, at the time of submission of this application that was within the 10-year period and the point was being made that the proposal would fall under criteria (b). In relation to criteria (c), there were two buildings on the site; the dwelling and a shed. It had become apparent that the shed did not benefit from planning permission and there was no evidence of a certificate of lawfulness. Therefore, that shed was unlawful and could not be included in the cluster of buildings and therefore failed on criterion (c).

Councillor McCollum questioned in relation to criterion (b) if a replacement dwelling was considered as selling off. The Planning Officer explained that as it was replacement dwelling that represented an opportunity that was transferred within 10 years.

The Director stated that a number of PAC decisions provided evidence in that regard (re replacements being development opportunities) and the SPPS was more prescriptive in terms of dwellings sold off or transferred.

Councillor McCollum stated that regardless of criteria (a), the application failed on (b) and (c). The Planning Officer confirmed that was what Planning Service was contending.

Proposed by Councillor Morgan, seconded by Councillor McCollum, that the recommendation be adopted and that planning permission be refused.

Councillor Morgan thanked the Planning Officers for the work they had undertaken with regards the application. She proposed refusal on the basis that the proposal failed on CTY10.

Councillor McCollum was conflicted with regards criterion (a) however was content regarding (b) and (c).

RESOLVED, on the proposal Councillor Morgan, seconded by Councillor McCollum, that the recommendation be adopted and that planning permission be refused.

The Chairman advised that the planning applications would be re-ordered to accommodate the speakers.

- 4.3** **LA06/2022/1262/F - The property known as 225A Millisle Road, Donaghadee - Demolition of existing ancillary residential accommodation, garage and workshop and erection of replacement residential accommodation, detached garage and workshop ancillary to existing dwelling at 225 Millisle Road, Donaghadee**
(Appendices XI, XII)

PREVIOUSLY CIRCULATED:- Case Officer's report and addendum.

DEA: Ards Peninsula

Committee Interest: A local development application attracting six or more separate individual objections which are contrary to the officer's recommendation; and approval requires a legal agreement

Proposal: Demolition of existing ancillary residential accommodation, garage and workshop and erection of replacement residential accommodation, detached garage and workshop ancillary to existing dwelling at 225 Millisle Road, Donaghadee

Site Location: The property known as 225A Millisle Road, Donaghadee

Recommendation: Grant Planning Permission

The Senior Professional and Technical Officer (C Rodgers) outlined the detail of the application. She firstly displayed visuals of the site which was positioned within a row of properties along the Millisle Road where a suburban style build-up of development was evident despite the countryside location.

An existing building adjacent to the main dwelling could be lawfully occupied as ancillary accommodation as certified by a Certificate of Lawfulness issued by the Council in October 2020. The main dwelling was known as 225 Millisle Road and the existing ancillary building was known as 225a Millisle Road.

Visuals were displayed showing the views from the site towards existing properties to the north-east and to the northern and western boundary fence and a view towards properties to the south-east of the site.

The proposed ancillary building was positioned in the rear garden and was not immediately adjacent to party boundaries. The proposed garage was adjacent to the northern boundary. The buildings were single storey with low pitched roofs.

For comparative purposes the Officer showed a visual image of a detached building located in the Newry and Mourne Council area that was approved by the Planning Appeals Commission as ancillary domestic accommodation. Under the Addendum to PPS7 - Residential Extensions and Alterations - Planning policy makes provision for ancillary accommodation to provide additional domestic living space.

Whilst the proposed replacement structure was larger than the one to be replaced, it remained subordinate to the host dwelling, and it presented similar characteristics to that of the building approved as ancillary accommodation by the PAC.

In determining this appeal, the PAC gave weight to a number of key factors. The Appeal building was not physically attached to the main dwelling; however, the Commissioner noted that its siting to the rear of the dwelling (with little intervening space) makes it unlikely that the appeal building could function as an independent dwelling.

Similar to the appeal, there was no physical boundary between the proposed ancillary building and the dwelling. In addition, the garden, parking facilities and access would all be shared.

Having regard to these factors, as well as a Certificate of Lawfulness for the existing ancillary building within the site, it was considered that the principal of development was acceptable. Any approval of ancillary accommodation must be subject to a suitable mechanism to ensure that the development remained ancillary to the main dwelling and could not be occupied as a separate independent unit in the future. Normally that could be secured through planning conditions. However, in this case, the Applicant had expressed a desire to retain a separate address for the ancillary accommodation. Due to a potential degree of administrative independence between the ancillary accommodation and the main dwelling, it was considered that planning conditions may be difficult to enforce.

Having discussed this matter with the Council's legal representative, it was considered that a Section 76 Planning Agreement would represent an appropriate solution to ensure the use of the subject building remains ancillary to the host dwelling.

The Planning Agreement would be placed on the Statutory Charges Register. That would make the agreement a matter of public record and enforceable against successive owners of the site.

Integration and impact on character had been carefully considered in the COR. The proposed buildings were single storey and were located to the rear of the existing buildings along the Millisle Road; therefore, the development would not appear prominent in the landscape and would not cause harm to the character of the area.

Due the scale of the single storey buildings, and their position and orientation relative to neighbouring dwellings, and the intervening structures and boundaries, the proposed development would not cause unacceptable adverse harm to neighbouring residential amenity through overlooking, loss of light or other disturbance.

The existing ancillary accommodation would be demolished. Given the ancillary nature of the development no intensification of use of the existing access would occur.

Objections had been received from 6 separate addresses (12). Matters raised relate primarily to the potential use of the proposed buildings, impact on residential amenity and impact on the character of the area. All those issues had been considered in detail in the Case Officer Report and Addendum.

Having weighed all the material planning considerations, it was recommended that this application proceed by way of an approval of planning permission subject to the conditions listed in Case Officer Report and the execution of a Section 76 Planning Agreement. Delegated authority was sought from the planning committee post resolution to finalise the terms of this Planning Agreement.

The Chair invited questions from Members.

Councillor Martin referred to the Section 76 agreement and sought clarity that that prevented the house owner selling the ancillary building as separate accommodation. The Planning Officer confirmed that the agreement would mean that the building would have to remain ancillary to the main domestic dwelling. That would be a contractual obligation between the Council and the applicant.

Councillor McRandal questioned the scale and size of the proposal compared to what currently was there and what existed in the vicinity. The Planning Officer outlined that the proposal included the demolition of the existing ancillary structure, workshop and garage. Referring to the visuals, the Planning Officer advised that the garage was approximately 4.5m high and 2.5m to the eaves and the ancillary building was 2.5m high and 5.1m to the ridge, therefore they were quite low level ancillary buildings. The main ancillary building was 120sqm and the annex that was deemed to be lawful and immune from enforcement action was approximately 64sqm. The proposed garage would be 42 sqm. She recognised that the new structures would be larger but deemed to be subordinate to the host dwelling.

Councillor Morgan noted that the garage was to be moved and the proposed garage would be against a neighbouring property. Referring to the visuals, the Officer

explained that would be against an outbuilding belonging to 221 Millisle Road. Due to the location of the intervening buildings, boundaries, small scale of the structure, orientation and with the openings directed away from the dwellings, it was not considered that it would cause any harm to existing residential amenity.

Councillor Wray referred to condition number 4 which stated the building shall not be occupied at any time other than for the purposes ancillary to the residential use and he asked if the property was to be sold in the future could the ancillary dwelling be rented out and/or used for commercial purposes.

The Planning Officer referred to her addendum and restated that the Council was restricting the use of the building through the use of a Section 76 planning agreement. That was a stronger mechanism than a planning condition, it was more robust as there was greater enforcement powers. That went with the land and the ancillary building could not be used for another purpose and the use was to remain ancillary to the host dwelling.

The Chairman invited Dr Iain Craig to come forward who was speaking in support of the application.

Dr Craig stated that he expected to be speaking in response to an impassioned plea from the objectors to this planning application. The fact that none of the objectors could find any reason in the planning policies to object to the proposal spoke volumes. It was clear that this planning application would have negligible impact on them in reality and their objections have in fact just been a way to make the process more difficult for them. Dr Craig thanked the Committee for taking the time to give the application due consideration. He also thanked Clare Rodgers for taking the time to consider all of the factors of this planning application including those that were not obvious to both the objectors and the supporters of this application. He felt it was fair to say that supporters and objectors were equally split in numbers but where they all had a commonality was in the errors they made in trying to figure out the real reason for this application. He recognised that the Committee was not the platform for examining motivation but it he felt it was worth noting that Clare Rodgers fully understood the personal family circumstances for requiring the proposal. Clare Rodgers had done such a thorough job of her planning report it was difficult to find anything in planning specific to this application not covered by the report.

However, Dr Craig stated that he would try to add to what had already been stated. Planning application LA06/2022/1262/F was submitted shortly after Ards and North Down Council published 'Sustainability and Climate Change Policy'. That document fanfares the Council's commitment to sustainable development and stated 'The LDP shall deliver locally distinct planning policy including policies related to renewable energy.' Almost a year and a half had passed since submission of the first planning application and the Council had not as yet backed up their commitment with changes to existing policies to advance this aim. He appreciated that changes to fight climate change were not easy and the Council was justifiably taking as long as necessary to get the policy updates right. However, the application was an opportunity for the Committee to show commitment to renewable energy at the micro-generation level, by supporting the application. That would send a clear signal of intent that the Committee supported measures to reduce the harm done to the environment by the

burning of fossil fuels. The proposal enjoyed triple glazing throughout, ground source heat pump and solar panels supporting an almost zero environmental impact once built. With the exception of gas for cooking the ancillary accommodation would be effectively 'off-grid' once completed. Dr Craig urged the Committee to demonstrate commitment to action on climate change by supporting this planning application. The Planning Officer's report touched on many points in relation to PPS21 but missed one part of CTY's relevant to this application. It was worth pointing out that CTY3 sets a number of criteria for the acceptability of replacement dwellings and 5.14 in particular stated 'The replacement of existing dwellings was important to the renewal and up-grading of the rural housing stock.' The ancillary accommodation being replaced had a number of shortcomings that made it less than ideal as a 'granny annex'. After all a granny annex without wheelchair accessibility or wheelchair accessible bathroom, etc. undoubtedly fell into the category of housing stock in need of up-grading. In response to Councillor McRandal's question to the Planning Officer regarding the scale, Dr Craig advised that the existing bungalow would not be permitted as it was too small. This application was intended to renew an existing building and bring it up to the expectations of 21st century living.

The Chair invited questions from Members for Dr Craig.

Councillor McCollum stated that the desire to improve the sustainability of the application was commendable. She wished to confirm that Dr Craig understood the implications of the Section 76 agreement. Dr Craig confirmed that he was content with the agreement, and he had discussed that at length with the Planning Officer.

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

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

Alderman Smith felt all the objections had been dealt with in the report and he was satisfied that the application met the requirements.

Councillor Cathcart was content to second the proposal subject to the finalisation of the section 76 agreement. He understood the neighbours' concerns however the section 76 agreement would be robust and alleviate any concerns in that regard.

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

- 4.2 LA06/2022/1076/F - 50 Main Street and lands to rear of 38-48 Main Street, Carrowdore - 63 dwellings, open space, landscaping, parking and access
(Appendix X)

PREVIOUSLY CIRCULATED:- Case Officer's report

DEA: Ards Peninsula

Committee Interest: In the major category of development

Proposal: 63 dwellings, open space, landscaping, parking and access
Site Location: 50 Main Street and lands to the rear of 38-48 Main Street
Recommendation: Grant Planning Permission

The Principal Professional & Technical Officer (C Blair) outlined the detail of the application. The pre-application community consultation process was carried out in line with the legislative requirements set out in the Planning Act (NI) 2011.

Members should note that there are no representations submitted in respect of this application, either in support of or objection to the proposed development.

Members would further note from the case officer's report that there were no objections from consultees subject to conditions.

The site, within the settlement limit of Carrowdore was to the northwest side of Main Street. It was the former Ards Building Products Ltd yard approximately 3.6ha in area. The vacant, relatively flat brownfield site, which gently sloped away from Main Street, was predominantly surrounded by residential development with exception of agricultural land to the rear (west).

The principle of development had been established by the planning history of the site, which included planning permission granted for Phase One in November 2023 under LA06/2022/0881/F for 25No. dwellings, comprising 11No. detached and 14No. semi-detached, open space, landscaping, parking and all other associated site and access works.

The land was not zoned for a particular use in the Ards and Down Area Plan 2015 and it complied with the requirements of the SPPS.

The proposal complied with Policy LC1 of the Addendum to PPS 7 'Established Residential Areas'. The proposed development measures approximately 17.5 dwellings per hectare (dph). McBriar Meadow and The Stables had a density of 36 dph whereas Quarry Court had a lower density of 15 dph. The proposed density was therefore not out of character of the surrounding residential area.

The pattern of the development was consistent with the surrounding area and the average plot size of 0.057ha was also comparable.

The proposal would comprise 13 No. detached and 50 No. semi-detached dwellings all of which were 2 storey and would be finished in brick. Spot levels, layout, scale and massing of the proposed dwellings respect the topography of the land and the character of the surrounding area.

In terms of Policy QD1 of PPS 7 'Quality Residential Environments' the proposed design and layout did not conflict with any adjacent development.

The dwellings approved in phase 1 back onto sites 63 to 71 and were also west of site 76. There was a 25m back to back separation distance which meets the guidance recommended in Creating Places. Environmental Health had requested specific double glazing and ventilation systems in units 14-16 to reduce noise from

external sources. That was also approved in unts 11-13 of Phase 1. That was given the close proximity of the development to the petrol station to the south of this part of the site.

Proposed site 14's southeastern side boundary abuts the rear boundaries of the existing terrace dwellings. However, given the existing 30m rear gardens with intervening ancillary buildings, and fact that a first-floor gable window of the proposed detached dwelling on site 14 serves a stairwell and not a habitable room, there are no concerns regarding overlooking and loss of privacy to the existing terraced dwellings.

In terms of the recently constructed McBriar Meadow development to the northeast of the site, the recommended back-to-back relationship of 20 metres (as per Creating Places) was provided.

Finally, in terms of residential amenity for proposed residents the proposed first floor gable windows have been designed so that stairwell windows look towards ensuite/bathroom windows. This layout prevents intervisibility between the dwellings. Ensuite/Bathroom windows on gable elevations would be conditioned to have obscure glazing.

Planning Service found the proposed open space acceptable with the overall site area for Phases 1 and 2 being 3.64ha. The open space provision totals 0.445ha which equates to 12.5%. The minimum threshold of 10% has been met.

Each dwelling will have two in-curtilage parking spaces with 38 visitor parking spaces indicated meeting the requirements of Parking Standards. DfI Roads had no objections with the proposed access road into the development to be adopted by DfI Roads. The proposed development satisfied the policy requirements of PPS 3 'Access, Movement and Parking'.

A Drainage Assessment had demonstrated that the design and construction of a suitable drainage network is feasible for Phase 1 and this proposed Phase 2. It indicates that the 1 in 100-year event could be contained through the addition of an underground online attenuation system, when discharging at existing green field runoff rate, and therefore there would be no exceedance flows during this event. To ensure compliance a condition would be imposed on any approval.

Lastly, the proposed development was located on land which was marked as contaminated due to previous historical use (builders' yard). The current use of adjacent land as a petrol filling station was also noted. Environmental Health considered and accepted the remediation strategy submitted under the Phase One application regarding land contamination. That was set out in detail in the Case Officer's Report. As Phase One had already been approved by the Council, the remediation strategy was therefore acceptable in terms of Phase 2 with the imposition of conditions on any approval requiring the submission of a Verification Report and the recommended steps to take if unexpected contamination and/or buried wastes be encountered during the construction phase.

Taking all of the above into account, approval was recommended.

Councillor Cathcart noted that NI Water had capacity for 62 properties. He highlighted that there were no letters of objection to the application and all the statutory agencies were on board. He questioned what the delay had been with the application.

The Planning Officer stated that the application had been taken in line with phase 1 development which had been approved in November 2023. There had been a slight delay in the preparation of the report.

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

Speaking to his proposal, Councillor Wray stated that the proposal was compliant, there were no objections, and he felt the proposal was positive development for a growing village. He was mindful of the community's concerns regarding the lack of supporting infrastructure in the area, that was not a planning matter but an issue which the Council needed to be cognisant of.

Councillor Kerr welcomed the Officer's recommendation.

Referring to the laneway onto the High Street, Councillor Morgan was pleased to see that positive development encouraging people to walk to the High Street.

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

5. REVIEW OF SCHEME OF DELEGATION AND PLANNING COMMITTEE PERFORMANCE

(Appendices XIII, XIV)

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity attaching current Planning Scheme of Delegation and Committee Statistics 2019-2024. The report detailed that there were a small number of application types that must by statute be determined by the Planning Committee:

- All Major planning applications;
- Applications made by the council or an elected member; and
- Applications that relate to land in which the council has an estate.

For all 'local' application types, the Council must operate a Scheme of Delegation which delegates planning decisions-making authority from the Planning Committee to planning officials for chosen categories. This Council's Scheme of Delegation was attached as Item 5a to this report.

The Council was required to review its Scheme of Delegation regularly. That Council's scheme was last updated in 2020, so it is timely to review its effectiveness, reflecting on performance over the past five years and in line with the observations and recommendations made by the Northern Ireland Audit Office.

Northern Ireland Audit Office Report on Planning in Northern Ireland

The report into Planning in Northern Ireland by the NI Audit Office (NIAO), published February 2022, then followed by the report by the then Public Accounts Committee (PAC) shortly after, made a number of observations and recommendations in relation to the Planning system in Northern Ireland. Its report is available here [Planning in Northern Ireland | Northern Ireland Audit Office \(niauditoffice.gov.uk\)](https://niauditoffice.gov.uk).

Part Three of the NIAO Report entitled 'Variance in Decision-Making Processes' dealt with the following items in respect of delegation of planning applications:

- a) Delegation as an essential part of an effective development management process;
- b) Not all Schemes of Delegation ensure that decisions are taken at the appropriate level;
- c) The types of applications being considered by committees are not always appropriate
- d) One in eight decisions made by planning committees goes against the recommendation of planning officials

Delegation as an essential part of effective development management process

The NIAO Report notes that 'given that councillors are not typically professional planners, the sharing of decision-making roles and responsibilities between planning committee members and officials could make a critical contribution to the efficiency and effectiveness of decision-making processes within an individual council'.

Not all Schemes of Delegation ensure that decisions are taken at the appropriate level

Departmental guidance, published in 2015, recommended that over time council should aim to have between 90 and 95 per cent of applications dealt with under a scheme of delegation. The NIAO Report reiterated Departmental guidance that councils should ensure that applications were not unnecessarily referred to the Planning Committee as that would contribute to inefficiency and delay. It further referenced a benchmarking exercise carried out in England in 2012 which highlighted that there were significantly higher administrative demands and costs associated with applications heard by planning committee as opposed to those decided by officials.

The NIAO Report recommended that in instances where delegation rates fall below 90% councils should review their processes to ensure that they represented the best use of council resources.

Officers had reviewed the performance of Planning Committee over the past five years, 2019/20 to 2023/24. The detail was tabulated in Item 5b to this Report.

Members would note that the delegation rate for this Council was 94%, well within the 90-95% bracket recommended by the Department, and well above the 90% figure that NIAO was concerned with.

The types of applications being considered by committees are not always appropriate.

The NIAO reported widespread concerns that the applications coming to committee either under the Scheme of Delegation or by referral, were not always the most significant and complex applications. In this regard it particularly raised concern regarding planning applications for single dwellings in the countryside, which it considered were rarely the most complex, and representing a disproportionate use of committee time.

Members would view in Item 5a attached the different categories of applications determined by the Committee over the past five years. The largest number of applications at 43% considered by Committee related to one of the mandatory categories of development to be determined by Committee – i.e. applications made by Council or an elected member, or related to land in which the council had an interest.

The highest numbers of applications referred to Committee by the Scheme of Delegation were as follows:

- Local applications attracting six or more objections, from separate addresses, contrary to the officer's recommendation – accounting for just over 26%; and
- Call-ins to Committee from the weekly delegated list by Members of that committee – accounting for nearly 17%.

One in eight decisions made by planning committees goes against the recommendation of planning officials

The NIAO Report noted that divergences of opinion between committees and officials were to be expected where planning issues are finely balanced, highlighting that decisions against officer recommendations must always be supported by clear planning reasons.

NIAO records concern regarding its review of data between 2018 and 2020 whereby just under one in eight applications decided by committee was made contrary to official advice.

Members would note from the table at Item 5b that the figure for Ards and North Down over the past five years was six out of 266 applications determined, representing a 4.92% overturn rate, well below the 12.5% rate that NIAO was concerned about.

Conclusion

It was considered that the current Scheme of Delegation was operating appropriately, cognisant that delegation was an essential part of an effective development management process, and that significantly higher administrative demands and costs were associated with applications heard by planning committee as opposed to those decided by officials.

It was recommended that Members review the data within the table at Item 5b and the current Scheme of Delegation for the non-mandatory categories of development, to ensure no changes were considered necessary.

Subject to the Committee being content, and subsequent ratification by Council, the version control would be updated for the Scheme having been reviewed accordingly in line with the requirements of legislation.

RECOMMENDED that Council notes the content of this report and the attachments and determines that it is content with the current Scheme of Delegation for Planning.

The Director spoke to the report explaining the content to Members.

Proposed by Councillor McRandal, seconded by Councillor Cathcart, that the recommendation be adopted.

Councillor McRandal stated that he was content with the current Scheme of Delegation.

Councillor Cathcart recognised that it was hard to get the balance right and he was content for the scheme of delegation to remain as it was.

Councillor Kendall felt it would be beneficial if the revocation of TPO's came to the Committee highlighting the interest in the protection of trees. She also felt it would be useful to educate residents further that a petition to a planning application only constituted as one objection.

The Director stated that with regards the matter of petitions that had been in the Borough magazine, was included in the Guide to the Planning Application Process published in January 2020 and was highlighted on the website. She noted that it only became an issue when it affected somebody. She further explained that an application could have a number of objections however there was a need to outline how the application was contrary to policy or guidance. There was a need to ensure that Planning Service was being consistent and meaningful and she would like to see the scheme being taken further excluding objections from people who lived outside the Borough; however, that could be looked at a further stage. In relation to TPO's, it was in the Department's guidance that the Planning Committee should not consider such matters and Officers kept the Committee up to date regarding TPO's.

Councillor Martin agreed that a petition should not hold the same weight as a letter submitted with cited planning policy. He highlighted that it was a complicated process objecting to a planning application given the number of planning policies. He agreed that it was about educating objectors and making it clear that objections needed to contain a planning concern.

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

6. **PROPOSED AMENDMENTS TO THE PROTOCOL FOR THE OPERATION OF THE PLANNING COMMITTEE**

(Appendices XV)

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity attaching current Protocol for the Operation of the Planning Committee. The report that Members would be aware that the purpose of the protocol was to outline practical handling arrangements for the operation of the Planning Committee. Paragraph 91 of the Protocol stated that it "will be monitored and procedures reviewed as necessary to ensure that they remain current and relevant to the operational needs of the Ards and North Down Borough Council Planning Committee".

With regard to the Development Management function, the main role of the Planning Committee was to consider planning applications made to the Council as the local planning authority and decide whether or not they should be approved.

Current Protocol for the Operation of the Planning Committee

Paragraph 16 of the Protocol for the Operation of the Planning Committee referred to Section 31 of the Planning Act (NI) 2011 which required the Council to produce a Scheme of Delegation for operation in its area. A Scheme of Delegation was where decision-making for local applications was delegated to an appointed officer rather than the Planning Committee, thereby enabling speedier decisions and improved efficiency. Members were reviewing the current Scheme of Delegation under Item 6.

Locals Processing Times

Members' attention was drawn to table below which set out the processing times for applications in the local category of development over the past five years 2019/20 to 2023/24.

Members shall be aware that the statutory performance indicator for processing of local applications was 15 weeks.

Year	Locals			% cases processed <= 15 wks
	Applications received	Decided	Average Processing Time (wks)	
2019/20	897	798	15.8	48.8%
2020/21	1000	790	16.8	46.2%
2021/22	1078	1014	22.4	31.9%
2022/23	937	988	19.9	41.2%
2023/24	782	838	16.0	48.6%

Weekly Delegated List

1. The weekly delegated list sets out those applications delegated initially to appointed officers. Members of the Committee then have 48 hours in which to determine if a call-in to full Committee was appropriate.

2. Within the current Protocol, applications in the householder category of development which were recommended for approval and had attracted no objections were excluded from the delegated list.
3. This process provided efficiency in issuing of householder decisions, contributing to the Council meeting its 15 week target, as if a report was not ready at the precise time the delegated list is issued to Committee Members, it could be a further two weeks before a decision was issued, subject to no call-in. – as if not ready from the Monday afternoon, after the delegated list had issued, it must wait until the following week's list, plus 48 hours, and then once confirmed as no call-in, arrangements made to generate the decision notice for checking and signature.

Proposal for Consideration

4. Taking cognisance of the Planning Improvement Programme stemming from the various recommendations set out within the NI Audit Office's and Public Accounts Committee Reports referred to in Item 6, officers have reviewed the types of applications in the local category of development currently included on the weekly delegated list. It was considered that some additional proposals could be excluded from the delegated list, similar to the householder applications.
5. Taking into account that any local application which currently receives six separate material objections contrary to a recommendation to 'Approve' will be referred automatically to Planning Committee, the following list sets out those types of local applications for consideration by Planning Committee to be excluded from the weekly delegated list:
 - a) All Householder applications
 - b) Applications for Advertising Consents
 - c) Reserved Matters (where not associated with a major category of development approval)
 - d) Renewal of Outline approvals (subject to no change in policy framework).
 - e) Change of House Type applications
 - f) Listed Building Consents
6. By excluding the above list of local applications from the weekly delegated planning application list, in addition to improving processing times, this move would also take account of findings by the Northern Ireland Audit Office's Report on Planning in Northern Ireland, published February 2022, with regard to Recommendation 2 which stated:

"We recommend that the Department and councils continue to put an enhanced focus on improving the performance of the most important planning applications.
7. To assist Members with consideration of this proposal, the following details the applications called in from the delegated lists over the past 12 months:

Delegated Month	Type of Proposal
-----------------	------------------

January 2023	1. Access point and driveway to dwelling, to include pillars and walls 2. Change of use from garage to short term holiday let (retrospective)
April 2023	3. Erection of agricultural shed (proposed) and creation of laneway (retrospective)
September 2023	4. Dwelling and garage on farm 5. Proposed dwelling and garage
October 2023	6. Dwelling and shed (addition of retrospective shed and minor alteration to site boundary to previous approval)
November 2023	7. Farm dwelling and garage
February 2024	8. Erection of dwelling and conversion of three existing outbuildings for incidental usage (in substitution for previous approval) 9. Infill dwelling, garage and associated site works (in substitution for previous approvals) 10. Dwelling on a farm

RECOMMENDED that Council agrees to the recommendation to remove the categories of local applications detailed at paragraph 10 from the weekly list of delegated planning applications in the interests of contributing to quicker processing times.

The Director spoke to the report outlining what was proposed.

Councillor Cathcart stated that he did not have an issue with a lot of the categories; however, he was hesitant regarding reserved matters and householder applications, bearing in mind design implications. At this stage, he would like to see categories (a) and (c) remain with those to be reviewed in the future.

The Director referred to the issues with householder applications and where the line could be drawn with those. She noted that the householder application team made the biggest difference to the statistics and they were not regularly concerned with issues in respect of consultees etc.

Councillor Cathcart was conscious that the processing times had improved recently, and he concerned about taking a blunt approach.

Councillor Morgan highlighted that one of the jobs of the Committee was to exercise a democratic process and she would be concerned regarding the removal of the category for householder applications (a).

Councillor Kendall questioned in respect of (a) would there be a compromise option to allow for oversight but to speed up the process.

Alderman Smith questioned the volumes of applications in categories (a) and (c). The Director stated she did not have the exact numbers, however, did not believe that not to be a large number of applications.

Alderman Smith stated that anything that reduce the timeline, improve productivity, remove bureaucracy the Council should strive to do. He was happy for all the categories to be removed on a trial basis.

Alderman McDowell urged caution, highlighting the need to have oversight and on rare occasions Members called in applications. One situation, neighbours were not aware of nearby applications. He felt it was important that the process was done right and that residents had an input into the process. He did not wish to see the householder applications removed. He also had reservations regarding the category for reserved matters.

Councillor Martin recognised the concerns; however, on balance Officers and members of the public wished to see a speedier process. He wondered if (b) and (c) categories could be considered via Officers and the Chair and brought to the Committee if it was felt required.

(Councillor Martin withdrew from the meeting – 8.44 pm)

Alderman Graham was inclined to remove all of the recommended categories. He noted the issue with reserved matters applications; however, noted he was unsure of the powers the Committee had if that application had already been approved at outline stage.

The Director highlighted that the planning authorities had received negative feedback in the press, NIAO and through the Public Accounts Committee for not meeting the statutory targets. To try and speed up the process and free time for the administrative and professional officers to provide time to allow them to work on applications. As Members were aware, the time for processing planning applications was published in a league table across all the Councils. That did not take account of a range of issues including the number of environmental designations, type of applications received and number of planning officers.

(Councillor Martin re-entered the meeting – 8.46 pm)

In terms of a reserved matters application, an application was approved at outline stage which reserved siting, design, access etc. along with other conditions. Further conditions could not be added to a reserved matters consent that had not been included on the approval at outline stage. The principal of development was already approved and the design elements could be considered. The Director outlined that the drive was that the Public Accounts Committee had said that Planning Committees were not concentrating on the most significant or controversial planning applications. The report sought to streamline the matter further.

Alderman Graham was conscious of the workload of Planning Officers and how that did affect staff morale.

The Chair stated that he did have reservations regarding removing the householder applications (a) referring to instances where applications had been called in highlighting the need to maintain that democratic oversight.

Proposed by Alderman Smith, seconded by Councillor Wray, that Council agrees to the recommendation to remove the categories of local applications detailed at paragraph 10 from the weekly list of delegated planning applications in the interests of contributing to quicker processing times.

Alderman Smith noted there had been improvements in the processing times however highlighted the need to strive to do more, improve staff morale and reduce bureaucracy. He appreciated the concerns and agreed that a trial may be appropriate.

Proposed by Councillor Cathcart, seconded by Councillor Martin, as an amendment that Council agrees to the recommendation to remove the categories (b) – (f) of local applications detailed at paragraph 10 from the weekly list of delegated planning applications in the interests of contributing to quicker processing times.

The Director stated that there still be oversight by the Head of Planning and referred to previous applications which she had called in when in that post.

Councillor Cathcart was happy to look further at the scale of householder applications but for now to have the democratic oversight he wished for (a) to remain.

The Director felt that having those criteria excluded would make a big difference.

Councillor Martin was content that (a) remained and noted that constituents wished for an expedient planning process whilst still providing protections.

Alderman Graham felt the discussion had been useful and taking the comments on board he was happy with the amendment.

Councillor Morgan was happy to support the amendment and she thanked the Director for bringing the report forward. Democratic oversight was important and she welcomed further discussion in the future.

Councillor McCollum advised that she had been in contact with Planning Officers over the past number of weeks, she noted the pressure Officers were under and hoped that the proposal would alleviate some of that pressure. She wondered if it would be useful to timetable the matter being brought back to Committee to review the matter again in particular in relation to the householder applications.

The amended proposal was put to the meeting and declared carried with 13 voting FOR and 2 AGAINST.

AGREED TO RECOMMEND, that Council agrees to the recommendation to remove the categories (b) – (f) of local applications detailed at paragraph 10 from the weekly list of delegated planning applications in the interests of contributing to quicker processing times.

7. UPDATE ON PLANNING APPEALS (Appendices XVI, XVII)

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity attaching 2022/E0044 PAC decision and 2022/A0127 PAC decision. The report detailed the undernoted:

Appeal Decisions

1. The following appeal against service of an Enforcement Notice was determined on 10 April 2024 with the Council's Enforcement Notice being upheld by the Commission.

PAC Ref	2022/E0044
Enf Case ref	EN/2022/0118
Appellant	Jonathan Hamilton
Subject of Appeal	Service of Enforcement Notice alleging: <ol style="list-style-type: none"> Unauthorised extension to domestic curtilage; Area of gravel hardstanding and new access; Erection of 4no. polytunnels; Erection of roadside timber boundary fence
Location	Land SW of 70 Ballygowan Road, Comber

An appeal against an Enforcement Notice can be brought on any of the following grounds:

- a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- b) that those matters have not occurred;
- c) that those matters (if they occurred) do not constitute a breach of planning control;
- d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- e) that copies of the enforcement notice were not served as required by the relevant section of the Planning Act;
- f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- g) that any period specified in the notice falls short of what should reasonably be allowed.

This appeal was brought on grounds (a), (b), (c), (d), (f) and (g). As they did not pay the fee the Ground (a) appeal was later dropped and the appeal was heard on the remaining grounds.

Ground (b) that the matters alleged in the notice have not occurred – This ground failed. The Commissioner contended that at the time the EN was served the land

was not being used for the purposes of 'forestry' and set out various definitions. She also accepted that the domestic curtilage had been extended.

Ground (c) that those matters (if they occurred) do not constitute a breach of planning control – This ground failed as it had not been demonstrated that the matters described do not constitute a breach.

Ground (d) that any breach of planning control is immune from enforcement action. This ground failed.

Ground (f) in relation to the steps required by the notice not being adequate also failed whilst the appeal under **Ground (g)** regarding timeframes succeeded and the time was varied to 12 months.

2. The following appeal was dismissed on 29 March 2024.

PAC Ref	2022/A0127
Application ref	LA06/2021/1451/F
Appellant	Adam Clint
Subject of Appeal	Refusal of planning permission for 1no. dwelling with detached garage, using existing site entrance
Location	Site 30m SW of 9a Quarter Road, Cloughey

The Council refused planning permission on 2 September 2022 for the following reasons:

- i. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition to ribbon development along Quarter Road.
- ii. The proposal is contrary to Policy CTY 2a of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no cluster of development as it is not associated with a focal point or located at a crossroads.
- iii. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- iv. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the dwelling would, if permitted, result in a detrimental change to the rural character of the countryside by adding to a ribbon of development.

The site was assessed against Policy CTY 2a 'New Development in Existing Clusters'. The Commissioner found that the first two criteria in this policy were met in that there were more than four qualifying buildings in the immediate area, which lay outside a farm and appear as a visual entity in the landscape (Nos. 7c, 9, 11, 48 and 46a Quarter Road). However, the Commissioner concluded that the subject group

was not associated with a focal point or located at a crossroads. Whilst there was a crossroads approximately 325m north-west of the appeal site, there were intervening fields, and the group of buildings were therefore not sited at this required location. The applicant argued that a pigeon club prefabricated building in an adjacent field was a community focal point; however, as that was an unlawful structure it could not be considered. As such the third criterion of Policy CTY 2a was not met and the group of buildings were not considered to constitute a cluster. The policy was not met and refusal reason 2 was sustained.

The PAC determined that Policy CTY 8 did not apply to plural road frontages as the Quarter Road was bisected by the laneway that serves two dwellings at Nos 9a and 9b Quarter Road. As there was no substantial and continuously built-up frontage there can be no gap site for the purposes of Policy CTY8. Additionally, it was concluded that the gap does not represent a "small gap site" as it would be able to accommodate more than two dwellings.

As such the erection of a dwelling on this site would further result in the creation of a ribbon of development failing to meet this policy and criterion (b) of Policy CTY 14.

As there were no overriding reason why the appeal development was essential in this countryside location the site failed to also meet policy CTY 1.

The PAC concluded that as the Council's reasons for refusal were sustained the appeal had to fail.

New Appeals Lodged

1. The following appeal was lodged on 01 April 2024.

PAC Ref	2024/A0001
Application ref	LA06/2021/1493/O
Appellant	Peter Knight
Subject of Appeal	Refusal of Outline Planning Permission for 1no. detached dwelling with associated site works
Location	Lands approx. 40m north of 194 Church Road, Hollywood

Details of appeal decisions, new appeals and scheduled hearings could be viewed at www.pacni.gov.uk.

RECOMMENDED that Council notes the report and attachments.

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


TERMINATION OF MEETING

The meeting terminated at 9.04 pm.

ITEM 4.1

Ards and North Down Borough Council

Application Ref	LA06/2022/0965/F
Proposal	21 Dwellings - change of house types and positioning (planning approval X/2003/0144/F).
Location	Sites 56-93 Gowland Hollow, Portavogie
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to the officer's recommendation.
Validated	27/09/2022
Summary	<ul style="list-style-type: none"> • No objections from consultations (subject to conditions from DfI Roads). Site meets requirements of PPS 3. • There have been 13 objections from 11 addresses, including access to the site, landscaping, flood risk and overdevelopment – dealt with in Officer's Report • Site located within Housing Policy Area PE02/HPA5 as designated in the Ards and Down Area Plan 2015. • Part of a previously granted larger housing development site of 86 dwelling units under X/2003/0144/F allowed at appeal. • Although proposed housing density is slightly below the minimum of 20dph as set out in the Area Plan, the development respects the surrounding character of the area including comparable average plot sizes. Meets the requirements of policy LC1 of APPS 7. • Proposal's design and layout complies with policy QD1 of PPS 7 – public open space provided on eastern portion of site with approved and proposed development overlooking this area. Sufficient private amenity space provided within each plot. • Re: residential amenity, adequate separation distance provided with obscure glazing conditioned as required. • Acceptable in-curtilage parking provided. 24 visitor parking spaces provided as annotated in site plan (20 minimum). • Drainage Assessment submitted and considered acceptable. • Dwelling units acceptable in terms of finishes and use of materials, which respects surrounding character and appearance of area.
Recommendation	Approval
Attachment	Item 4.1a – Case Officer Report

Development Management Case Officer Report			 Ards and North Down Borough Council		
Reference:	LA06/2022/0965/F	DEA: Ards Peninsula			
Proposal:	21 Dwellings - change of house types and positioning (planning approval X/2003/0144/F)	Location:	Sites 56-93 Gowland Hollow Portavogie		
Applicant:	Mountainburg Ltd				
Date valid:	27/09/2022	EIA Screening Required:	Yes		
Date last advertised:	13/10/2022	Date last neighbour notified:	09/01/2023		
Consultations – synopsis of responses:					
DFI Roads		No objection subject to conditions			
NI Water		No objection			
Environmental Health		No objection			
Rivers Agency		No objection			
Letters of Support	0	Letters of Objection	13 from 11 addresses	Petitions	0
Summary of main issues considered:					
<ul style="list-style-type: none"> • Principle of development • Design, Visual Impact and Impact on Character of the Area • Public Open Space/Private Amenity Space • Impact on Residential Amenity • Access, Road Safety and Car Parking • Archaeology and Built Environment • Security from Crime • Designated Sites/Other Natural Heritage Interests • Other Planning Matters 					
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 https://epicpublic.planningni.gov.uk/publicaccess/					

1. Site and Surrounding Area

The application site is located north-east of Portmore Grove/Heights and west of Lawson Gardens. The site comprises of former grazing pasture. The northern boundary is formed by an existing hedgerow. The eastern boundary is mainly undefined with the south extent defined by a concrete post and wire fence. The south-western boundary is formed by a variety of timber fences. The site is generally level.

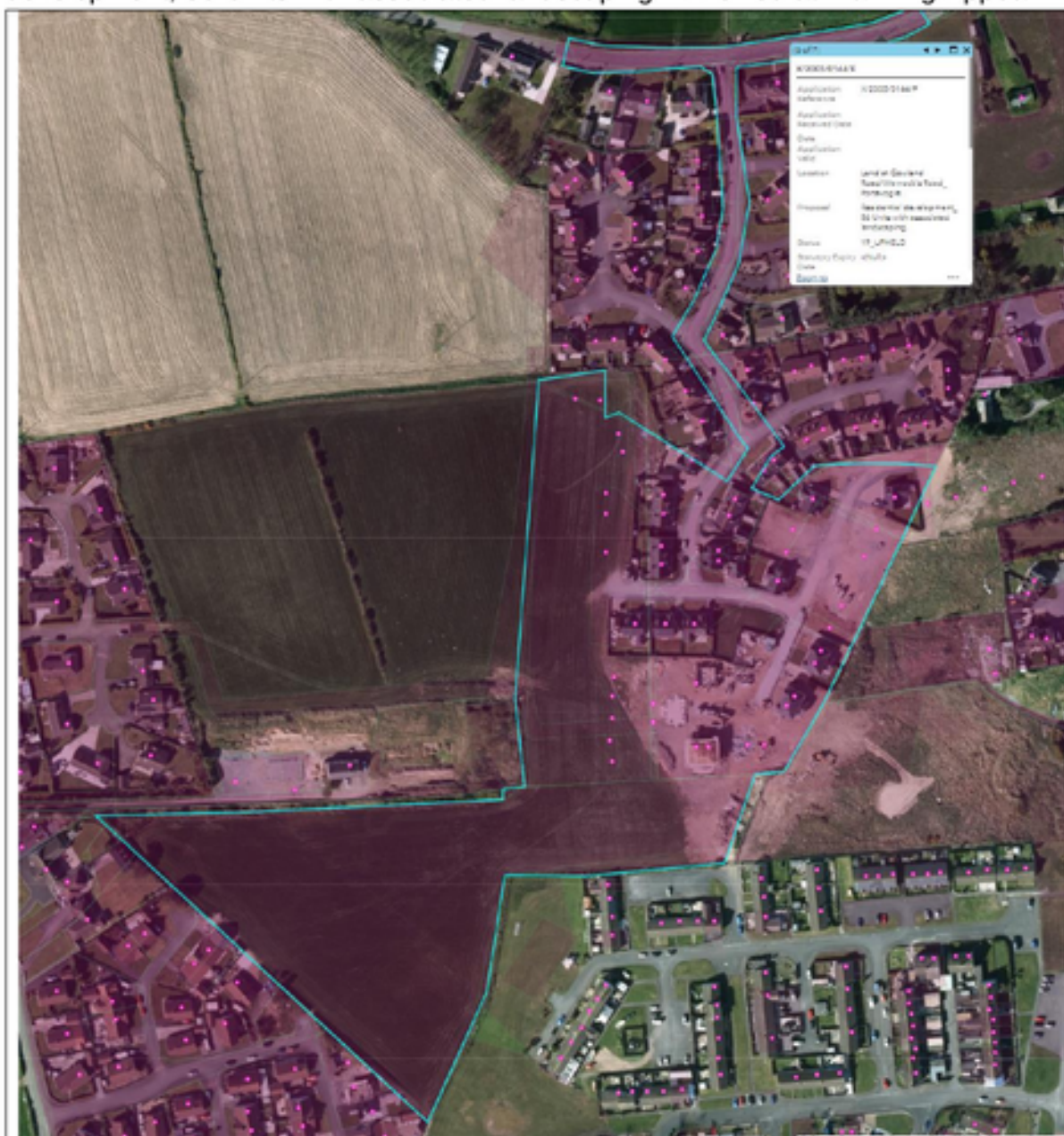
The site is within the settlement of Portavogie and is zoned as a Housing Policy Area PE02/HPA5 as designated in the Ards and Down Area Plan 2015. The area is mainly residential with a range of house types. Portview Grove and Heights contain single storey detached and semi-detached dwellings. Lawson Gardens has a range of single and 2 storey terrace properties.

2. Site Location Plan



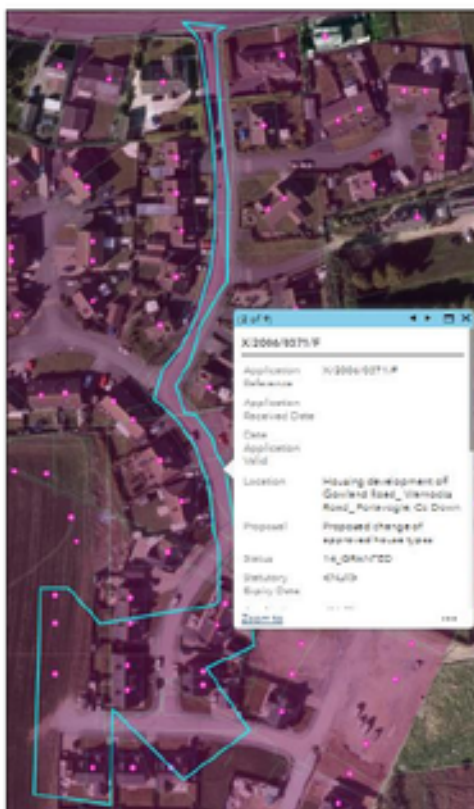
3. Relevant Planning History

X/2003/0144/F - Land at Gowland Road/Warnock's Road, Portavogie - Residential development, 86 Units with associated landscaping – Allowed at Planning Appeal



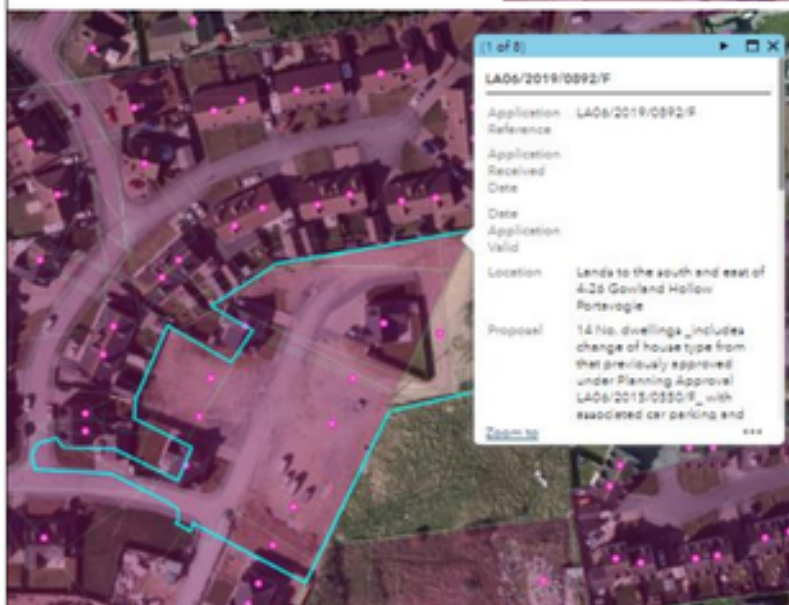
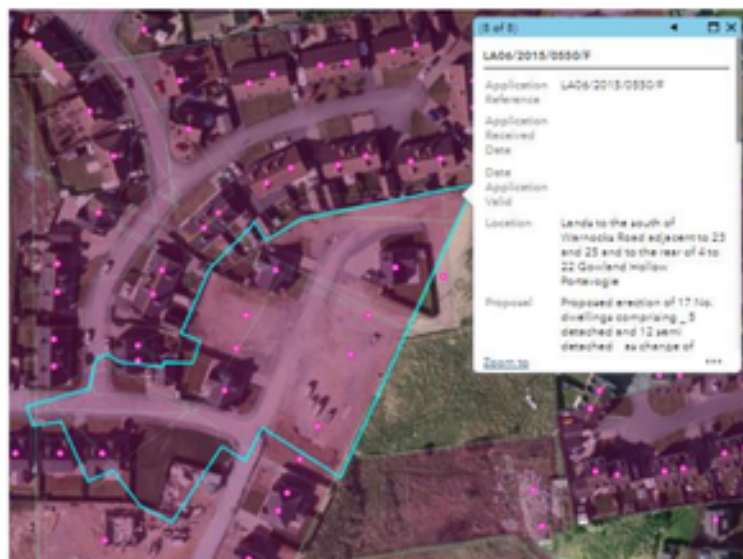
Blue outline denotes 2003 application site

X/2004/1337/F - Land at Gowland Road/Warnocks Road Portavogie - Develop Land Without Compliance with condition 2 of PAC Decision 2003/A153 (X/2003/0144) - Requirement for right hand turning lane – Allowed at Planning Appeal



X/2006/0371/F - Proposed change of approved house types – Permission granted 22/01/2007

LA06/2015/0550/F - Proposed erection of 17 No. dwellings comprising (5 detached and 12 semi detached) as change of house type to that previously approved under X/2003/0144/F with associated landscaping and parking – Permission granted 31/10/2016



LA06/2019/0892/F - 14 No. dwellings (includes change of house type from previous approval LA06/2015/0550/F) with associated car parking and landscaping – Permission granted 09/07/2021

Development has commenced on the northern portion of the original 2003 approval site. This current proposal does not involve any change in the number of dwellings proposed versus previously approved within the red line boundary.

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
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement & Parking
- Planning Policy Statement 7: Quality Residential Environments
- Addendum to PPS 7: Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 12: Housing in Settlements

Planning Guidance:

- Creating Places
- DCAN 8 – Housing in Existing Urban Areas
- DCAN 15 – Vehicular Access Standards

Principle of Development

The site is located within the settlement of Portavogie and is zoned as a Housing Policy Area PE02/HPA5 as designated in the Ards and Down Area Plan 2015.

HPA 5 Land to the north of Lawson Gardens and east of Portview Heights

- housing development to be a minimum gross site density of 20 dwellings per hectare;
- access arrangements and site layout to be designed to the satisfaction of DRD Roads Service;
- dwelling layout to ensure that dwellings front onto proposed internal access roads;
- design of buildings and layout of site to ensure no overlooking or otherwise adversely affect the residential amenity of adjacent residential areas; and
- interim sewage disposal measures may be necessary until such time as the required upgrade to the Waste Water Treatment Works for Portavogie is complete and fully operational

- The density of the proposal is 16.2dph which is below the minimum recommended in the plan.
- The access will be taken from the Gowland development which extends from Warnocks Road. DfI Roads has been consulted on the proposal and it has offered no objection subject to conditions.

- The dwellings do front onto the internal access roads and the design and layout of buildings ensures no overlooking or adverse impact on the residential amenity of adjacent residential areas.
- NI Water has confirmed that there is capacity at the Waste Water Treatment Works.

The proposal is considered to be in conformity with the plan provided it complies with the relevant regional planning policies.

The SPPS states 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.

Planning applications within the Housing Policy Areas will also be processed in accordance with the requirements of all prevailing planning policy.

Design, Visual Impact and Impact on Character of the Area

The proposal involves the erection of 21 No. dwellings within an urban context. The density of the proposed development would equate to approximately 16.2 dwellings per hectare (dph). The wider Established Residential Area (ERA) for the purposes of this assessment is considered to include residential development in Portview Heights/Grove, Lawson Gardens and Gowland Hollow. The area is characterised by medium housing in a range of house types and plot sizes. The average density in the area is 24dph. Gowland and Portview have a similar density of approx. 19/20 dph and Lawson Gardens is higher at 33dph so the proposed density is not higher than that of the surrounding area.

It is considered that the pattern of development is consistent with that exhibited in the area. The average plot size of the application site is 0.06ha which is comparable to other residential plots in the area.

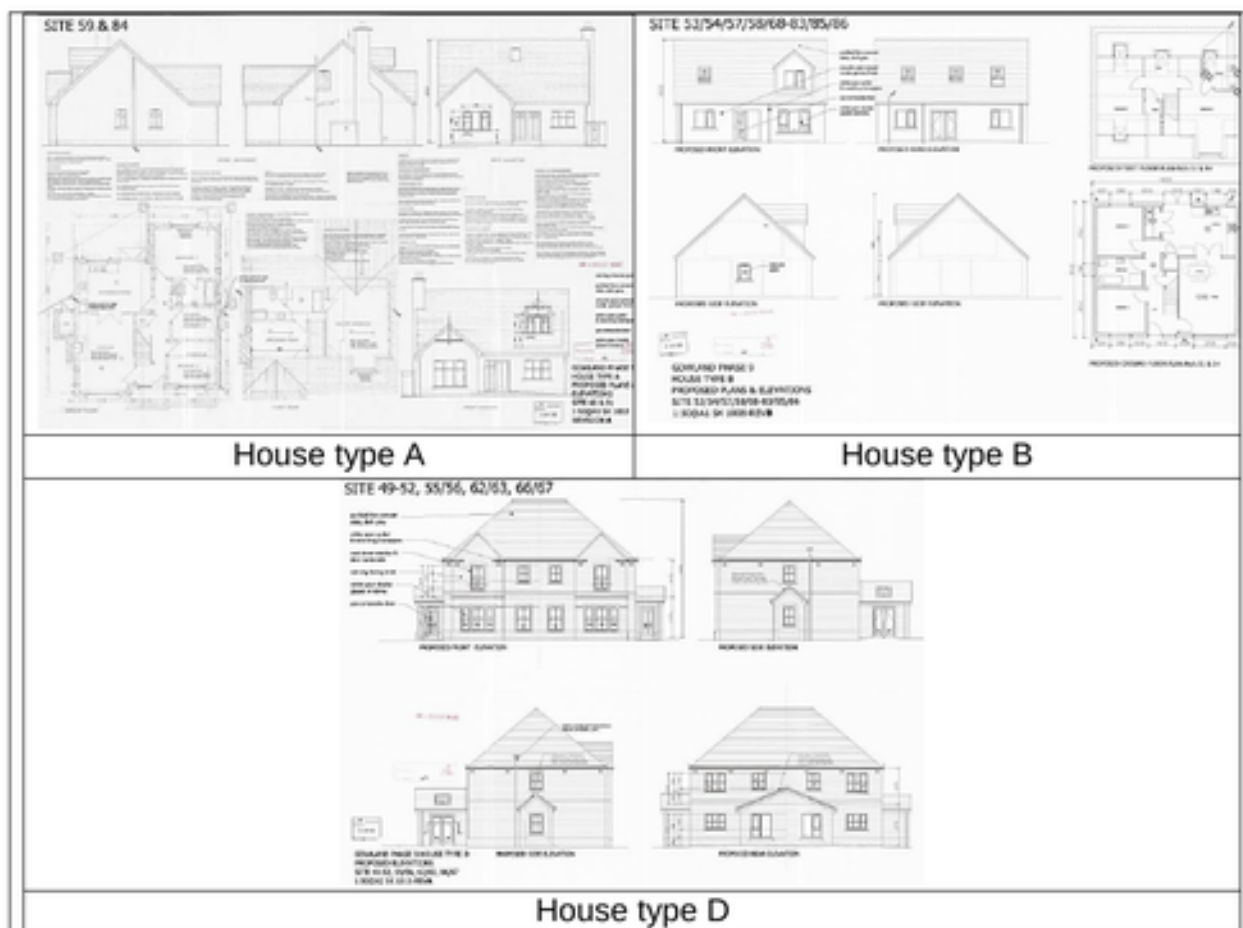
In my opinion the proposal complies with policy LC1.

Three house types are proposed

House type A – Site 84 (1 unit) – a 4-bed 1 ½ storey detached dwelling with a ridge height of 6.955m above finished floor level (FFL) and finished in render.

House Type B – Sites 68-83 and 85-86 (18 units) – a 4-bed 1 ½ storey detached dwelling with a ridge height of 6.83m above FFL and finished in render.

House Type D – Sites 66-67 (2 units) – a 3-bed 2 storey semi-detached dwelling finished in brick with a hipped roof and a ridge height of 9.3m above FFL.



The render and brick mix for the finishes will be consistent with the adjacent housing developments. I also note that there are a mix of single storey, 1 ½ storey and 2 storey dwellings in the area as well as a range of house types.





Gowland

The design and scale of the dwellings appears to be appropriate for the area. The finished floor level of the dwellings is appropriate for the topography of the land.

Public Open Space/Private Amenity Space

An average of 150sqm of private amenity space is provided to the rear of each dwelling and enclosed by close boarded timber fencing.

An area of public open space has been provided on the eastern portion of the site and a Communal Landscaping Maintenance Schedule and Communal Landscape Management Plan have been submitted. The Planning Agent advised that Simon Steele of JA Steel Landscaping lays all the gardens for the Applicant, Mountainburg and is retained to carry out the on going maintenance at all their sites. There will be a Management Company setup for the residents to subscribe going forward. The area is over-looked on all sides by previously approved development and proposed development. It will comprise of grass with gravel paths and trees planted around the edges.

Impact on Residential Amenity

Policy QD1 (h) states that design and layout should not conflict with adjacent land uses and there should be no unacceptable adverse effect on existing or proposed properties in terms of over-looking, loss of light, overshadowing, noise or other disturbance.

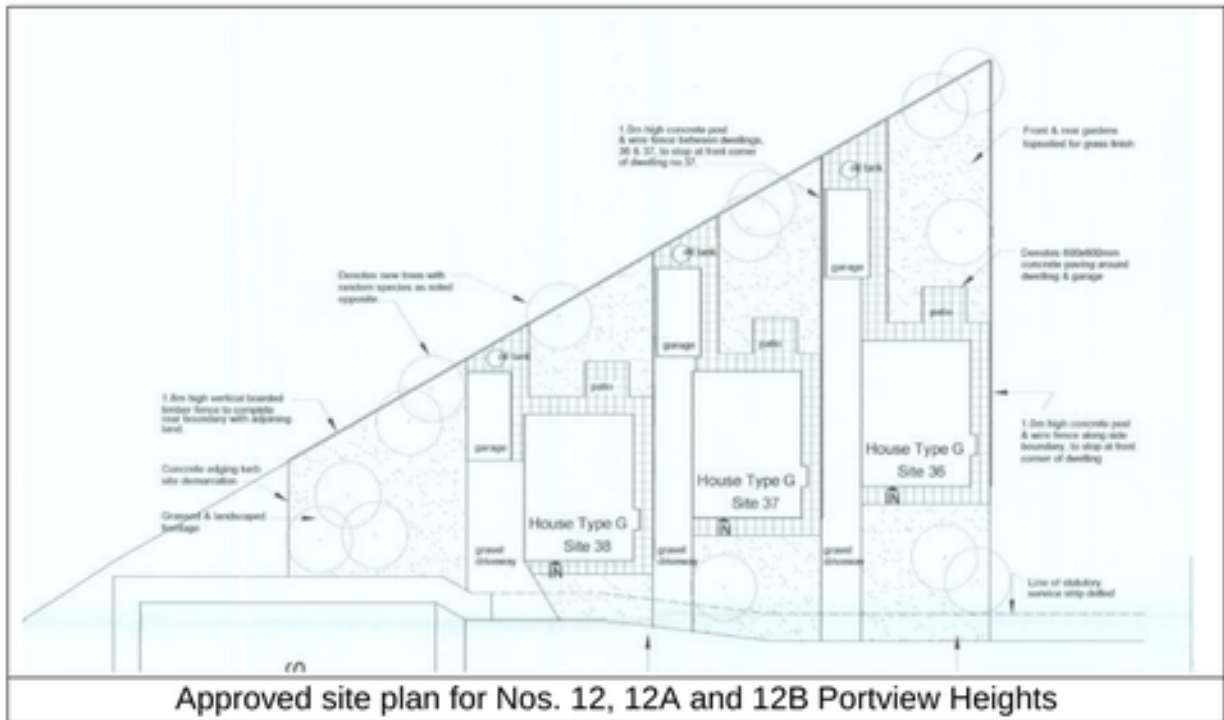
The site is bounded by residential development on all sides. Portview Heights/Grove and 99, 101, 109 and 111 Main Road are located to the west, 113 and 113A (113A constructed but not currently occupied) Main Road to the north and previously approved dwellings (X/2003/0144/F Allowed on appeal) to the east.



Sites 66 and 67 back onto an area of open space. They will be house type D, 2 storey in height. Drawing No. 10 shows the previously approved site plan and I note that the dwellings immediately north of site 66 were also to be house type D. There is a bathroom window located on each gable end which can be finished in obscure glazing to avoid any intervisibility between

the dwellings.

Sites 68, 69 and 70 will back on to Nos. 12, 12A and 12B Portview Heights (12B is not yet constructed).



8 Portview Heights also backs on to the application site. It is a bungalow with a large garden shed in the rear garden. There is a minimum separation distance of 20m between this dwelling and site 73. The windows on the rear of this neighbouring dwelling are located centrally and therefore will be directly opposite garden space and

not a building. The proposed dwelling on sites 73 and 74 will be 1 ½ storey with only velux windows to the rear. The occupant of this dwelling has raised concerns in relation to loss of light, over-shadowing and over-looking. Considering the above assessment of separation distance and location of proposed windows, I do not consider that the proposed dwellings will have an unacceptable adverse impact on 8 Portview Heights. The occupant also raised concerns that the proposal would devalue their home however there is an extant permission with dwellings approved in a similar location to the proposed unit and no evidence has been provided to demonstrate how their property will be devalued.



Relationship with Sites 76 and 77

5 Portview Grove has its gable facing onto the application site. The dwelling is also a bungalow with a side extension which brings it closer to the application site. There are ground and first floor windows on the gable end. As the dwellings proposed to the rear of this property are to only have velux windows at first floor level on the rear

elevation, I do not have concerns with intervisibility between existing and proposed opposing windows. Site 77 comes within 3m of the party boundary but due to the siting of the dwellings on sites 76 and 77, the separation distance increases to 19m when measured from the southern end of the garden. At the closest point, the proposed dwellings will be adjacent to the turning head located in Portview Grove and the front elevation of No. 5 Portview Grove and on balance I do not consider that any potential impact will cause an unacceptable adverse impact. The occupant has raised concerns in relation to noise and disturbance, reducing views and de-valuing their dwelling. The principle of residential development has already been established on this site and in relation to views, there is no legal right to a view. No evidence has been submitted to demonstrate how the proposal will devalue their property especially when there is an extant permission for dwellings in a similar location to the proposed dwellings.

99, 101 and 109 Main Road abut the application site at the western corner. The dwelling on site 78 has its gable adjacent to these dwellings. There are no first floor windows proposed on the gable and only velux windows are proposed to the rear. Whilst the dwelling is only 2m from the party boundary, the adjacent existing dwellings have gardens extending approx 35m. Due to the pitch of the roof and the orientation of the gable towards the party boundary and lack of first floor windows, I have no concerns regarding adverse impact on the residential amenity of the dwellings fronting Main Road.

113 and 113A Main Road are accessed via a laneway and are located immediately north of the application site. These neighbouring dwellings are located on a ground level approx. 2m higher than that of the application site.



113 and 113A Main Road

The dwellings in front of 113A are a minimum of 8.5m from the party boundary. Sites 80-82 are 1 ½ storey with velux windows to the rear. As the finished floor level is approx. 2m below the ground level of 113A, only velux windows are proposed to the rear and their low elevation of 6.8m above finished floor levels, I have no concerns regarding impact on residential amenity of 113A Main Road.

113 Main Road is a 2 storey dwelling also located at the higher ground level. Sites 83 and 84 abut this dwelling and are 1 ½ storey with velux windows to the rear. Site 84 does come within 5m of the party boundary with its single storey return but there is an existing hedgerow which is to be retained and augmented with native species. I do not consider that the proposed dwellings will have an adverse impact on this existing dwelling. I note that the previous approval showed a landscaped area in front of this neighbouring dwelling and the occupant has raised concerns in relation to the proposed dwellings obstructing their view. As previously stated there is no legal right to a view. The assessment relates to residential amenity and it has been deemed that the proposed dwellings will not have an adverse impact on this neighbouring dwelling.

Whilst a number of residents objected from Lawson Gardens, the proposal only abuts this development at the south-eastern corner and the dwellings back on to an area of open space. I therefore have no concerns in relation to any adverse impact on residential amenity for the dwellings in Lawson gardens.



Open space adjacent to Lawson Gardens

Having weighed up the potential impact of the proposed development, I am content that there will not be a significant adverse impact on the neighbouring dwellings.

Access, Road Safety and Car Parking

Vehicular access is proposed through the previously approved development which was originally allowed on appeal. The access onto Warnocks road will be via Gowland Road.

DfI Roads has considered the proposed access and has offered no objections, subject to a number of conditions.

With regards to parking, 2 in-curtilage parking spaces are provided per unit. In accordance with the Creating Spaces document 3 No. spaces are required for 4-bed detached dwellings (19 units) and 2.5 No. spaces are required for 3-bed semi-detached dwellings (2 units). 2 No. spaces can be within the curtilage. 20 visitor spaces are therefore required and a total number of 24 spaces have been annotated on the proposed site plan.

The proposal is therefore not considered to prejudice road safety or significantly inconvenience the flow of traffic.

Archaeology and Built Heritage

There are no archaeological, built heritage or landscape features to protect or integrate into the overall design and layout of the development.

Security from Crime

The layout has been designed to deter crime as the back gardens will be enclosed by 1.8m high timber fencing. The dwellings will look onto the proposed roadway and the area of open space will be over-looked by the front of the dwellings on sites 66-75 and 83-86. I am content that maximum surveillance is provided within the development which will provide a feeling of security and a sense of vitality in all parts of the layout

Designated Sites/Other Natural Heritage Interests

Ayre Environmental Consulting completed the NI Biodiversity Checklist.

Part 1 of the Checklist was employed as a guide to identify 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 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.

In terms of protected and priority species, Part 2 of the Checklist was referred to and the Ecologist completed the Ecological Statement. A site walkover was undertaken and the existing hedgerow located on the northern boundary is classified as a priority habitat in Northern Ireland. The hedgerow is located to the rear of sites 78-86 and it is annotated on the plans that it will be retained and augmented with native species. It was noted that a new 1.8m high close boarded timber fence is to be erected along the boundary of the site. the Ecologist has recommended that the fence could be installed on the inside of the existing hedgerow to permit its retention as a priority habitat.

The Ecologist also noted that the proposed planting schedule for the augmentation of the existing hedgerows includes Field maple, this species is considered non-native to Ireland and must be replaced with a species of native origin such as Wych elm, Oak, Hornbeam, Larch, or Spindle.

No protected species were found to be utilising the application site as a habitat. No further assessments were recommended by the Ecologist.

5. Representations

13 letters of representation have been received from 2 Portview Court, 5 and 8 Portview Heights, 5 Portview Grove, Nos. 30, 32, 34, 36 and 40 Lawson Gardens and 109 and 113 Main Road. The concerns raised are detailed below:

- Environmental Assessment, loss of trees, impact on birds and wildlife – An

ecological assessment was completed by Ayre Environmental Consulting Ltd. The existing hedgerow along the northern boundary is classified as a priority habitat and the proposal involves the retention of this hedgerow. An Environmental Impact Assessment was also completed and it was considered that the development was not of such a scale to cause a significant environmental effect and warrant the submission of an environmental statement.

- Flood Risk Assessment – DfI Rivers was consulted on the proposal and it confirmed that the proposal does not lie within a 1 in 100 year fluvial or 1 in 200 year coastal flood plain. The Surface Water (Pluvial) Flooding layer on Flood Maps (NI) does not indicate surface water flooding affecting the site. Any evidenced localised flooding was to be addressed within the Drainage Assessment. The drainage Assessment concluded that the proposed drainage system will be such that the system will not flood any part of the site in a 1 in 30 (with a 10% increase for climate change) year designed event whilst retaining a 300mm free-board within the manholes. For storms with a return period of 100 years (with a 10% increase for climate change) the properties will not flood. DfI Rivers considered the Drainage Assessment which was completed by Civil Design Services and whilst not being responsible for the preparation of this Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.
- Over-development – The density of the site has been considered in the body of the report and it is not considered to be greater than the previous approval granted on the application site and it is not significantly greater than that found in the local area.
- Issue with all houses accessing off Warnocks Road – DfI Roads was consulted on the proposal and it offers no objections. It should be noted that this is the same access as was approved for the overall development by the Planning Appeals Commission in their assessment of the 2003 application. No additional residential units are proposed under this current planning application.
- Access through Portview heights – the proposed access is off Warnocks Road and through the Gowland development.
- How is site boundary to be secured – the site is to be secured by 1.8m high timber fencing along the northern boundary and it is already secured by timber fencing along the south-western boundary. The small portion of the site which abuts the open space adjacent to Lawson Gardens will also be secured by 1.8m high timber fencing.
- Landscaping buffer should be provided between proposed dwellings and existing neighbours – This is not a typical requirement in an urban environment and is considered to be unnecessary in this instance.

- Radon – this is a recommendation from Environmental Health to the develop, it does not hold determining weight in the assessment of the application.

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. 11B.

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. No dwelling(s) 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.

4. No dwelling shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 2 spaces.

Reason: To ensure adequate (in-curtilage) parking in the interests of road safety and the convenience of road users.

3. All hard and soft landscaping works shall be carried out in accordance with the approved details on Drawing No. 03C. The works shall be carried out prior to the occupation of any part of the development unless otherwise agreed in

writing by the Council. Any existing or proposed trees or plants 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 with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council. All hard surface treatment of open parts of the site shall be permeable or drained to a permeable area. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: In the interests of the character and appearance of the area.

4. The existing natural screenings of this site on the northern boundary, as indicated on Drawing No. 05 bearing the date stamp 9 May 2022, shall be retained at a minimum height of 1.8m high and augmented with native species hedgerow in accordance with Drawing No. 03C.

Reason: To protect the Northern Ireland Priority Habitat.

5. The proposed boundary fence along the northern boundary shall be erected on the inside of the hedgerow.

Reason: To protect the Northern Ireland Priority Habitat.

6. No more than 18 of the dwellings hereby approved shall be occupied on site until the communal open space as indicated on Drawing No. 19A has been provided in accordance with the details shown on the plan. The open space areas shall be permanently retained and shall not be used for any purpose other than as open space.

Reason: To ensure the provision and maintenance of public open space within the site.

7. The Communal Landscape Maintenance and Management Document date stamped 23 September 2022 shall be permanently carried out in accordance with the approved details during the operational phase of the development to the reasonable satisfaction of the Council.

Reason: To ensure the provision and maintenance of public open space within the site.

8. The long-term management and maintenance of the open space, as indicated on Drawing No. 03C, 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, shall 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.

9. The first-floor gable windows as indicated in blue on the approved drawings, shall be finished with obscure glass and be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. These windows shall be installed prior to the occupation of each dwelling unit and permanently retained thereafter.

Reason: In order to preserve the amenity of the adjoining 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.



Site



Site layout and landscaping



House type A



House type C




House type D

ITEM 4.2

Ards and North Down Borough Council

Application Ref	LA06/2023/1922/F
Proposal	1 No. replacement dwelling and 1 No. new dwelling (comprising demolition of existing dwelling, access and associated site works).
Location	11 Ballyhaft Road, Loughries, Newtownards
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to the officer's recommendation.
Validated	30/06/2023
Summary	<ul style="list-style-type: none"> • Site located within the settlement limit of Loughries, where there is presumption in favour of development, and comprises an existing single storey detached dwelling next to the NW site boundary. • Site unzoned in ADAP 2015 and is within Strangford and Lecale AONB. • Proposal meets requirements of SPPS and retained Plan policies including PPS 7 and PPS 3 with principle of development acceptable. • Density of proposed development respects surrounding character of the area. • The proposed development does not have a back to back relationship with existing dwellings to the rear given site orientation. Separation distances are considered acceptable. • Adequate private amenity space for proposed replacement and new dwelling unit with sufficient in-curtilage parking. • No objections from consultees. • Objections assessed in case officer's report. • The proposed two-storey detached dwellings are subordinate in design, finishes and use of material to that of the surrounding area.
Recommendation	Approval
Attachment	Item 4.2a – Case Officer Report

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2023/1922F	DEA: Ards Peninsula	
Proposal:	1 No. replacement dwelling and 1 No. new dwelling (comprising demolition of existing dwelling, access and associated site works).		
Location:	11 Ballyhaft Road, Loughries, Newtownards		
Applicant:	Loughries Developments Ltd		
Date valid:	30/06/2023	EIA Screening Required:	No (0.13ha)
Date last advertised:	20/07/2023	Date last neighbour notified:	15/02/2024
Letters of Support: 0		Letters of Objection: 8	Petitions: 0
Consultations – Synopsis of Responses:			
DFI Roads		No objection.	
DAERA Water Management Unit (WMU)		No objection.	
DAERA Natural Environment Division (NED)		No objection.	
NI Water (NIW)		No objection.	
NIE		No objection.	
Historic Environment Division (Historic Monuments)		No objection.	
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of Development. • Design, Visual Impact and Impact on Character of the Area • Impact on Residential Amenity • Car Parking 			
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: [Northern Ireland Public Register \(planningsystemni.gov.uk\)](http://planningsystemni.gov.uk)

1. Site and Surrounding Area

The application site is located within the development limits of Loughries as designated by Ards and Down Area Plan 2015. The site consists of a single storey dwelling positioned directly against the north western boundary of the site. Within the site boundary there is a garden area to the side. A masonry wall encloses the site to the south and east with an existing hedgerow located along the roadside.

The application site is adjacent to the Ballyhaft Road and is visible when travelling either direction. Access to the site is currently located immediately in front of the existing dwelling house.

The site context includes a mix of detached, semi-detached and terraced single and two storey dwellings.



Fig 1: Orthophotography of site

2. Site Location Plan



Fig 2: Site Location Plan

3. Relevant Planning History

There is no relevant planning history relating to this site.

4. Planning Assessment

The relevant planning policy framework 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 (PPS2)
- Planning Policy Statement 3: Access, Movement & Parking (PPS3)
- Planning Policy Statement 6: Planning Archaeology and the Built Heritage. (PPS6)
- Planning Policy Statement 7: Quality Residential Environments (PPS7)
- Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas (Addendum to PPS7)
- Planning Policy Statement 12: Housing in Settlements (PPS12)

Relevant supplementary planning guidance for this application is as follows:

- Creating Places
- DCAN8 – Housing in Existing Urban Areas

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, PPS6, PPS6A, PPS7, PPS7A and PPS12; therefore, these remain the applicable policy documents to consider the proposal under.

The application site is within the settlement limit of Loughries as defined in the Ards and Down area plan (ADAP 2015). The site is currently white land and not zoned for any particular purpose but is situated within Strangford and Lecale Area of Outstanding Natural Beauty and is 355m north of a site identified as a Rath.

According to ADAP 2015 'The Settlement Limit has been designated to prevent further ribboning of development along Finlay's Road, the Ballyblack Road, the Bowtown Road and the Ballyhaft Road. Within the limit there are opportunities for some infill development.'

As the site is within Loughries settlement limit on white land, the principle of a replacement dwelling and 1 no new dwelling is acceptable in the context of the LDP subject to compliance with the relevant regional planning policies.

Design, Visual Impact and Impact on the Character of the Established Residential Area and Area of Outstanding Natural Beauty.

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.

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.

A Design and Access Statement has been submitted setting out the design principles and how the proposed dwelling will respect the established built form of the area. It sets out the poor condition of the current dwelling at 11 Ballyhaft Road and states it is, 'uninsulated and offers a very poor standard of living conditions'.

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. 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.

Policy LC1 sets out that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing where all the criteria set out in Policy QD1 of PPS7, and a list of additional criteria are met relating to density, pattern of development and dwelling size. This is to ensure the protection of local character, environmental quality and residential amenity.

The proposed dwellings (replacement and one new) will be visible from the Ballyhaft Road and also when viewed from neighbouring properties particularly nos. 4 and 9 Ballyhaft Road and 13, 15, 17 and 19 Alexander Park. The dwellings proposed are both two storey in height, finished in roughcast render with natural stone and front towards Ballyhaft Road. Access is proposed from the Ballyhaft Road and the front boundary will be denoted with a new boundary wall and pillars. The dwellings are designed with living accommodation on the ground floor and bedrooms on first floor. The proposed dwellings have a pitched roof finished with grey interlocking roof tiles,

black composite front doors, black UPVC rainwater goods and Grey UPVC windows. These materials are similar to those found in the surrounding area.



Fig 3: Dwelling to be replaced

The site context includes a mix of detached, semi-detached two and single storey dwellings. The character of the area includes a mix of form, materials and detailing in both the immediate and surrounding area. Dwellings are mostly finished with render however there are some examples of red brick in the wider area particularly along the Ballyblack road.

The ridge height of the proposed dwellings is approx. 7.63m with 5m eaves. The overall length of the main body is approx. 10.8m with 8m width and a footprint of approx. 78sqm. The proposed dwellings have FFLs of 30.715 (site 1) and 30.950 (site 2). Any development for new buildings will require groundworks or site levelling but, in this case, the levels are very similar with no significant change. I do not consider that the changes proposed are significant or will have an impact on the character of the area.

The two-storey design of the proposed dwellings is considered to be in keeping with the character of the surrounding area. The dwelling immediately adjacent to the application site at 9 Ballyhaft Road and opposite at 4 Ballyhaft Road are two storey as well as dwellings to the south of the site in Alexander Park. The proposal respects the building line. Therefore, the height, scale and massing of the proposed dwellings will have no unacceptable detrimental impact on the character of the surrounding area.



Fig 4: Proposed elevations (Site 1). The dwellings are handed for site 2.

The existing front boundary hedge will be removed and replaced by a rendered entrance wall and pillars, rendered walls form roadside boundaries at Nos. 9 and 4 Ballyhaft Road adjacent to the site.

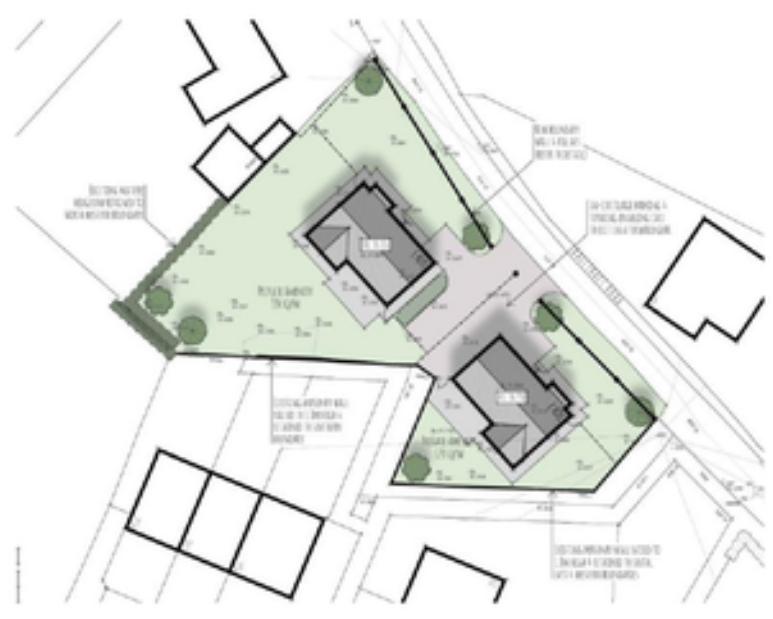


Fig 5: Proposed site layout plan

I consider that the proposed dwellings will continue to respect the established pattern of development within the existing residential area.

The site is situated within the Strangford and Lecale Area of Outstanding Natural Beauty (AONB). The proposed development must meet the tests of policy NH6 in PPS 2. Taking account that the site is within an existing Settlement Limit, and largely surrounded by residential development it is considered that a dwelling appropriate for and sympathetic to the special character of the AONB, and the surrounding area, would be unlikely to cause any harm.

Therefore, I can conclude that the proposed replacement dwelling and additional dwelling will not have an unacceptable detrimental impact on the character of the established residential area. The proposal is considered to be sympathetic to the established built form by way of its height, scale, massing and design. I am satisfied that the proposed dwellings have been appropriately designed and that the form, materials, and detailing are acceptable at this location. The proposal is in keeping with the existing properties on Ballyhaft Road and the residential properties in the wider area.

Density/ Plot Size

The proposal represents a density in keeping with the adjoining residential development. The plot is 0.13ha and 1 additional dwelling is proposed meaning the proposed density is not significantly higher than that found in the wider area. The approx. density is 15dph (2 units ÷ 0.13ha). A sample of the surrounding average density is 14.8dph (97 units ÷ 6.54 ha).

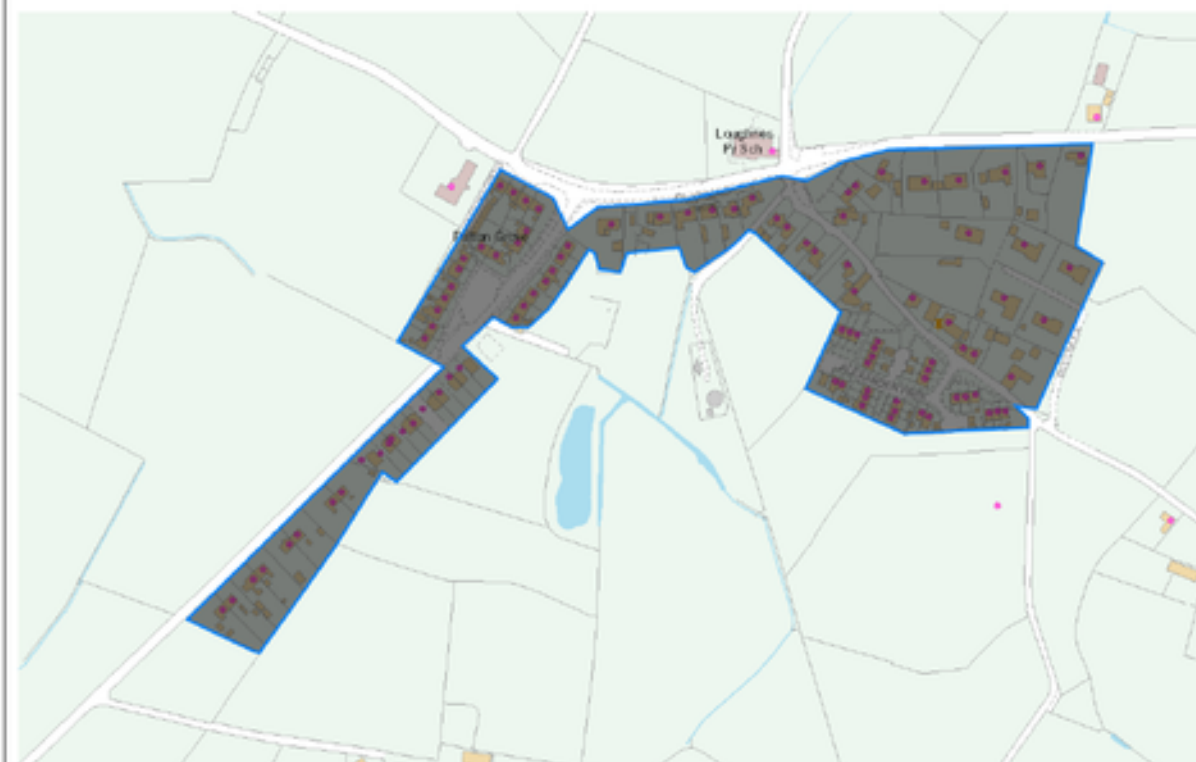


Fig 6: Average density

Density of a development is just one consideration of many which must be weighed up when assessing the overall impact of a development on the character of an area with the overarching test being primarily visual, in other words how the development will appear when viewed within its context. The visual impact of the development and its impact on the appearance of the area has been considered above.

Impact on Existing Trees/ Landscaping

The proposal involves the removal of the existing hedge and trees to the front boundary of the site (roadside boundary) and the existing mature hedge located on the northwest boundary with number 9 as indicated on the site layout plan to be retained. In total seven heavy standard oak and rowan trees are proposed to be planted with the site boundary, four of these trees are to be planted along the front boundary which will aid to soften the proposal. A condition will be added to ensure planting is carried out in accordance with the appropriate British standard and will commence in the first available planting season following occupation of the dwellings.

The site is not located in a conservation area and is not covered by a tree preservation order therefore permission to remove trees and hedging is not required.

Public Open Space

Not applicable for a scheme of this scale.

Private Amenity Space

Adequate provision is made for private amenity space to the rear of the proposed dwellings, 288sqm approx. (site 1) and 81sqm approx. (site 2). This is in compliance with the minimum of 70sqm set out in Creating Places guidance.

Landscaped areas are also proposed within the curtilages to form side and front gardens of the dwellings. The proposed private amenity to the rear is enclosed by 1.8 m boundary walls (existing boundary wall to have height increase to 1.8m) and the retention of the existing mature hedging along the northwest boundary with number 9. The curtilages of the surrounding residential properties are also well defined.

Impact on Residential Amenity

The demolition of the existing dwelling at No.11, and the erection of a dwelling at site one, is in my professional opinion a betterment for the relationship between number 9 to the north and the application site as it moves the dwelling away from the shared boundary. The dwelling will be located 8m approx. from the common boundary with number 9 and 13.6m approx. gable to gable.

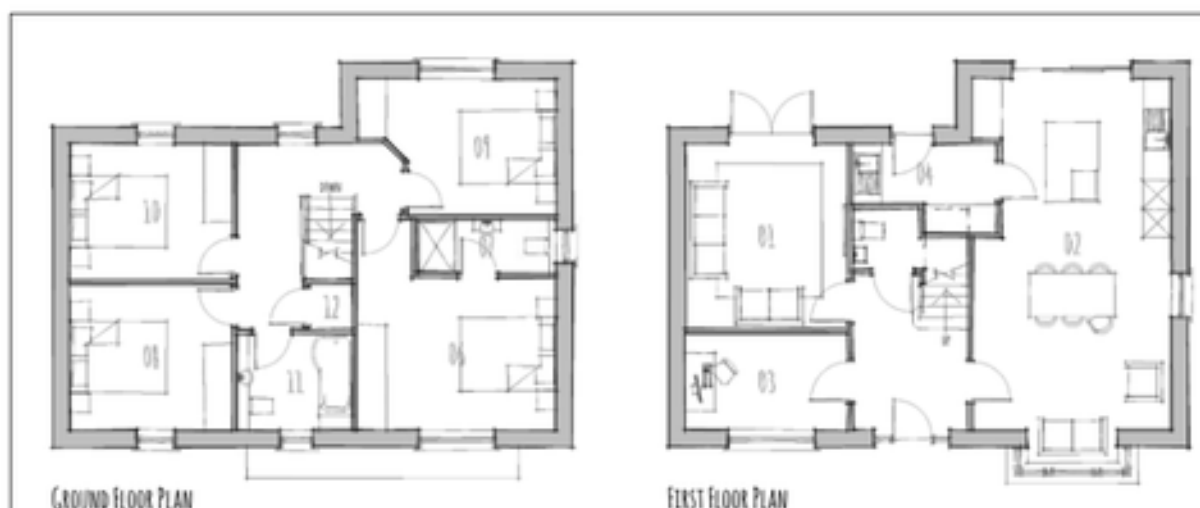


Fig 7: Proposed floor plans site 1.

The floor plans above show windows in the side elevation facing toward number 9 as serving a ground floor kitchen/dining and an ensuite at first floor. The ground floor window will have no overlooking impact due to its location and view towards the wall of the neighbouring outbuilding. The first floor ensuite (non-habitable room) window will be conditioned to be glazed with opaque glazing and permanently retained. Due to the orientation and separation distances of the proposed dwellings on both sites there will be no direct views towards the rear windows or private amenity spaces of any neighbouring dwelling in Alexander Park.

The dwelling on Site One is situated between 8.4m approx. and 16.6m approx. (when measured in a straight line from the rear elevation) from the southern boundary and between 22m approx. and 24m approx. from the rear elevation of 15, 17 and 19 Alexander Park. Any potential views from the first-floor windows (two bedrooms and 1 landing/hallway) of the proposed dwelling would be oblique and would not cause harm to the privacy of the neighbouring properties.

Similarly with Site Two, the orientation of the dwelling ensures no direct views towards the private amenity of No.13 Alexander Park. The proposed first floor windows on the rear elevation are 9m and 12.5m from the side boundary of No 13, this is considered to be satisfactory to ensure the proposed dwelling on Site Two does not unacceptably overlook or result in a loss of privacy to neighbouring dwellings.

The orientation of the dwellings on the site alongside adequate separation distances ensures the proposal will not have an adverse impact in terms of overshadowing, dominance, or loss of natural light to neighbouring properties.

Security from Crime

I am satisfied that the development is designed to deter crime and promote personal safety. Amenity areas to the rear and sides are enclosed and first floor windows to the front elevation overlook the access serving the proposed dwelling.

Local Neighbourhood Facilities

Not applicable for a scheme of this scale.

Dwelling Unit Size

The proposed dwellings are built to a size not less than those set out in Annex A. The proposed dwellings are detached and have 4 no. bedroom and a footprint of 78sqm.

There are no concerns with regards to proposed density, pattern of development or dwelling size. I consider that the proposal has been appropriately designed for this residential area.

Access, Road Safety and Parking

Car parking has been provided for the proposal in the form of 2 in-curtilage spaces per unit. There is ample room for additional parking and manoeuvring of vehicles in the driveway areas.

The design and access statement regards the current vehicular access to No. 11 as extremely substandard with splays of 2m x 4m and 2m x 5m available in both directions. The proposal offers a substantial betterment to the existing situation by improving the access to a standard of 2m x 29m and 2m x 33m respectively, and a new vehicular access to site 2 providing visibility of 2m x 33m in both directions.

DFI Roads has raised no objection subject to conditions therefore the proposal is not considered to prejudice road safety or significantly inconvenience the flow of traffic.



Figure 8: Plan showing existing access permanently closed off and proposed access to sites 1 and 2.

Historic Environment

The application site is within the historic settlement of Loughries (DOW 006:045). The recorded archaeological sites and monuments nearby are indicators of high archaeological potential for further, previously unrecorded archaeological remains which may be encountered within the application site. HED (Historic Monuments) has considered the impacts of the proposal. HED is content that the proposal satisfies PPS6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works.

Designated Sites/ Other Natural Heritage Interests

Policy NH1 of PPS2 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.

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.

Policy NH2 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. In terms of protected and priority species, Part 2 of the Checklist was referred to and it was concluded further surveys were necessary.

A dusk emergence survey was conducted by Ayre Environmental Consulting Ltd. and it concluded that although bats were visible within the application site there were no active roost sites. Para 7.10 of the report states '*No significant impacts upon bats are predicted to arise should the current proposals be granted considering no active roosting site(s) have been identified.*'

Sewage and Drainage Infrastructure

WMU has considered the impacts of the proposal on the water environment and has referred to standard advice. NI Water (NIW) has raised no objections in its response but has indicated that application to NIW is required to obtain approval to connect. A condition shall be included to that effect requiring a consent to discharge from NIW.

Flooding and Drainage

The proposed site is not affected by any watercourse. I have consulted the surface water layer on the councils GIS and flood maps NI and can confirm it is also not subject to surface water flooding or within a reservoir inundation area.

5. Representations

8 representations have been received from properties in Alexander Park and along Ballyhaft Road.

The main points raised in these objections have been summarised below and have been considered in the main body of this report.

- Privacy
- Increase in traffic
- Disruption and noise
- Danger for children
- Out of character/too modern
- No need for development in the area
- Road narrow and unsafe especially during school time.
- Adding more danger to already dangerous road.
- Children disrupted from going to school/clubs and being able to play freely in the street.
- House is a 'fixer upper'.

Noise and disruption during the construction is beyond the remit of planning.

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 vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with the approved plan, Drawing No.06, prior to the commencement of the 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.

3. The area within the visibility splays and any forward sight line shall be cleared prior to the commencement of development 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.

4. All hard and soft landscaping works shall be carried out in accordance with the details contained in drawing No 03 during the first available planting season following the occupation of the first dwelling hereby approved. All hard surface treatment of open parts of the site shall be permeable or drained to a permeable area.

Reason: In the interests of the character and appearance of the area.

5. Any existing or proposed trees or plants 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 with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council.

Reason: In the interests of the character and appearance of the area.

6. The dwellings hereby approved shall not be occupied until provision has been made within the curtilage of the site for the parking of 2 private cars per dwelling. The parking provision as approved shall be permanently retained thereafter.

Reason: To ensure adequate (in-curtilage) parking in the interests of road safety and the convenience of road users.

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 by the relevant authority.

Reason: To ensure no adverse effect on the water environment.

8. The proposed first floor windows on the side elevation of the dwellings as shaded YELLOW on Drawing Numbers 04A and 05A shall be fitted with obscure glazing prior to the occupation of the dwellings and shall be permanently retained thereafter.

Reason: To protect the private amenity of neighbouring properties.

9. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by 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.

10. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 9.

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

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

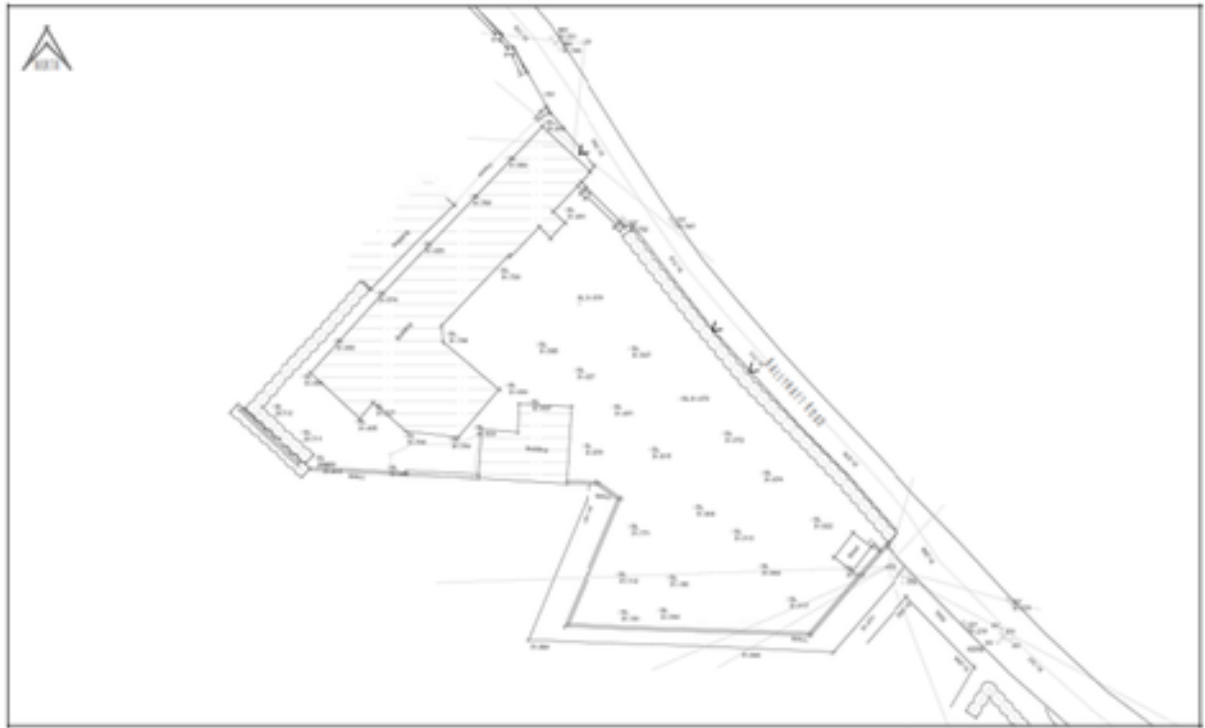
Informative

1. 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.

Plans accompanying planning application LA06/2023/1922/F



Drawing 01 – Site location plan



Topographical Survey by DESIGN CONSTRUCTION SERVICES - August 2022

Drawing 02 – Site survey



Drawing 03- Site layout and landscaping



Drawing 4A – Site 2 floor plans and elevations



Drawing 05A – Site 1 floor plans, elevations and boundary wall details



Drawing 06 – Access details

Site photographs



Photo 1: View of site from entrance of Alexander Park. Looking East to West along Ballyhaft Road.



Photo 2: Site is situated in the middle part of this photograph, showing existing boundary wall proposed to be increased in height to 1.8 metres.



Photo 3: Existing front hedge boundary of application site.



Photo 4: Proposed dwelling to be replaced at No 11 Ballyhaft Road



Photo 5: Existing site with Alexander Park in the background.



Photo 6: Existing dwelling at No 11 Ballyhaft Road close to boundary with number 9 Ballyhaft Road



Photo 7: View of application site travelling west to east on Ballyhaft Road



Photo 8: Pedestrian path adjacent to application site leading to rear of nos, 13, 15, 17 and 19 Alexander Park. Wooden fence forms side boundary of no. 13



Photo 9: View of application site from the rear of no 15 Alexander Park

Unclassified

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ITEM 5

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	11 June 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	24 May 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 5a - 2023/A0056 PAC decision Item 5b - 2022/A0161 PAC decision Item 5c - 2023/E0006 PAC decision

Appeal Decisions

1. The following appeal was dismissed on 24 April 2024.

PAC Ref	2023/A0056
Council Ref	LA06/2020/0483/O
Appellant	Mr John Gracey
Subject of Appeal	Refusal of outline planning permission for 2no. dwellings and detached garages
Location	Land immediately adjacent to and NE of No. 9 Corrog Lane, Portaferry

Not Applicable

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The application above was called into the Planning Committee meeting of June 2023 from the 09 May delegated list. The Council refused the above application on 23 June 2023 for the following reasons:

- i. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- ii. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, and would if permitted, result in the loss of an important visual break in built development and the creation of ribbon development along Corrog Lane.
- iii. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 criteria (a), (b), (d) and (e) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted, be unduly prominent in the landscape, result in a suburban style build-up of development when viewed with existing buildings, create a ribbon of development and the impact of ancillary works would damage rural character which would therefore result in a detrimental change to the rural character of the countryside.
- iv. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 criteria (a), (b) and (f) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted, result in prominent features in the landscape, the site would be unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape, would fail to blend with the landform and therefore would fail to integrate into this area of countryside.
- v. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the siting and scale of the proposal would not be sympathetic to the special character of the Area of Outstanding Natural Beauty in general and that of the particular locality.

The Commissioner agreed with the Council that the agricultural shed and No. 7a to the north of the appeal site take entry and egress onto Corrog Lane via two separate access laneways that converge to a single point circa 20m wide. An access does not constitute frontage for the purpose of Policy CTY 8 and therefore these buildings cannot form part of a substantial and continuously built-up frontage.

He also agreed that the appeal buildings would create a linear ribbon of development along Corrog Lane, removing an important visual break, and would result in a suburban-style build-up of development when viewed with existing buildings at nos.

Not Applicable

7 and 9 Corrog Lane. In this respect the Council's first and second reasons were sustained.

The Council's fifth reason was also sustained, however, the Commissioner considered that proposed ancillary works taken in isolation would have a damaging impact on the overall character and appearance of the area, not sustaining that element of refusal reason three. He further disagreed with refusal reason four in respect of integration, noting that compensatory planting/landscaping conditions could mitigate.



Site Location Plan Corrog Lane

2. The following appeal was dismissed on 12 April 2024.

PAC Ref	2022/A0161
Application ref	LA06/2021/0975/O
Appellant	Arlene Aston
Subject of Appeal	Refusal of planning permission for a single dwelling (equine business)
Location	Land adj to and to SW of 3 Castle Meadows, Carrowdore

The Council refused the above application on 10 August 2021 for the following reasons:

- i. The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside as it has not been demonstrated that the farm business is currently active and has been established for at least six years.
- ii. The proposal is contrary to Policies CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not

Not Applicable

been demonstrated that the proposed building is visually linked or sited to cluster with an established group of buildings on the farm.

- iii. The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside as no overriding reasons why this development is essential and could not be located in a settlement have been presented, and the site has not been otherwise allocated for development in the development plan.
- iv. The proposal is contrary to Policy AMP 2 of Planning Policy Statement 3, Access, Movement and Parking in that it has not been demonstrated that the access will not prejudice road safety or significantly inconvenience the flow of traffic.

The Commissioner agreed with the Council that the information provided by the appellant did not evidence the use of the appeal site as a commercial equine business, livery and stud farm over the key period of at least six years. Whilst information submitted related to horse passports for example, they could not be linked to the appeal site. The Commissioner stated that the onus is on the appellant therefore to sufficiently demonstrate compliance with policy CTY 10(a) of PPS 21. However, the submitted evidence did not prove that the equine business was active and established for six years.

In terms of CTY 10(c) the Council had stated that the shed being relied upon by the appellant did not benefit from planning permission nor had the appellant demonstrated that it is lawful. As such the Commissioner concluded that it cannot be counted, which left the existing dwelling (No.3 Castle Meadows Drive) as the sole building. CTY 10 (c) refers to a group of buildings. The Commissioner found that there were no verifiable alternative sites within the Appellant's lands and no solutions had been presented. The Commissioner agreed with the Council that the relevant criteria of policy CTY 10 had not been met.

The Commissioner further concluded that criterion (g) of policy CTY 13, which requires a new building to visually link or be sited to cluster with an established group of buildings on a farm had not been met.

Therefore, refusal reasons 1 and 2 had been sustained. The Commissioner further found that policy CTY 1 had not been met and refusal reason three was also sustained.

In terms of the fourth reason for refusal, the PAC detailed that policy AMP 2 (Access to Public Roads) of PPS 3 had been met. Therefore, this final reason had not been sustained and the appeal succeeded on this point.

- 3. The following appeal was dismissed and the Enforcement Notice upheld on 22 May 2024:

PAC Ref	2023/E0006
Council Ref	LA06/2021/0273/CA
Appellant	Marc George Louis Pedriel

Not Applicable

Subject of Appeal	Alleged (1) Unauthorised formation of an access (including gate) and laneway; (2) Material change of use of agricultural field to an area of stone hard standing being used in conjunction with oyster farming; and (3) Unauthorised parking of vehicles, siting of storage container and equipment associated with the oyster farming use.
Location	Land adjacent to entrance to private lane of 49, 51 & 53 Ringneill Road, Comber.

An appeal against an Enforcement Notice can be brought on any of the following grounds:

- a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- b) that those matters have not occurred;
- c) that those matters (if they occurred) do not constitute a breach of planning control;
- d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- e) that copies of the enforcement notice were not served as required by the relevant section of the Planning Act;
- f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- g) that any period specified in the notice falls short of what should reasonably be allowed.

The Enforcement Appeal was taken on grounds (a) and (f). Ground (a) is for the deemed planning application.

The Commissioner noted that the site is located within Strangford and Lecale AONB and bounds Strangford Lough Ramsar, Special Protection Area (SPA), Special Area of Conservation (SAC), Marine Nature Reserve (MNR) and Area of Special Scientific Interest (ASSI), which are located within Strangford Lough (with Ards and Down Area Plan silent on all the designations).

The appellant argues that the development represents an expansion of their existing oyster farming business as per policy PED 3 of PPS 4. The Council and a third party do not consider this policy to be relevant with policy CTY 1 of PPS 21 being applicable. Paragraphs 11-13 of the PAC Report sets out the appeal development context in terms of the appellant's case with Ringneill Quay being previously used for the loading of cages from boats (via broad wheel-based tractors) onto waiting

Not Applicable

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refrigerated HGVs until DAERA (who owns the Quay) ceasing the operation due to structural concerns of the Quay.

The Council and third party considered the site to be used solely for parking and storage uses however, the Commissioner concluded that the loading of oyster cages onto awaiting HGVs as evidenced by the appellant was also taking place at the site (although only across the four-month harvesting season).

In terms of policy PED 3 it states that there should be no major increase in the site area of the enterprise. The Commissioner concluded that the policy appears to be site specific meaning that the increase in site area relates to the core business site, which in this case, is in Downpatrick. As such the proposal offends PED 3.

The Commissioner did not accept the appellant's argument that the development did not harm the rural character or appearance of the local area and therefore the requirements of the first paragraph of PED 3 were not met. Under the fourth paragraph of PED 3 there are three exceptions listed. Whilst the Commissioner accepts that this business makes a significant contribution to the local economy, the farmed oysters are not brought directly ashore onto the site from the Lough.

Furthermore, there is no established relationship between the oyster farming and the site and consequently concludes that there is no persuasive evidence to demonstrate why the appeal site is the only suitable location for the loading of oysters onto HGVs from tractors and trailers. The use therefore cannot be considered an exception to the policy as it fails to meet the necessary tests as set out under policy PED 2.

Paragraph 38 of the PAC Report sets out that the Commissioner does not find there is persuasive evidence of a detrimental impact on the coast's natural environment and thus PPS 2 policies are not offended.

The PAC also concludes, in agreement with the Council, that PPS 2 policy NH6 'Areas of Outstanding Natural Beauty' is offended in that "the siting and scale of the appeal development is unsympathetic negatively impacting on the visual appeal of the coastal landscape and the character in this AONB location."

In terms of the access, post-hearing advice from DfI Roads (not rebutted by appellant) stated that the access does not comply with the requirements of DCAN 15 with the need for sight splays of 4.5m x 45m, with a 6m wide access and a 10.0m radii. From the Commissioner's own observations in addition to this advice, it is accepted that the existing access prejudices road safety and significantly inconveniences the flow of traffic, sustaining the associated reason for refusal.

It is concluded that ground (a) failed and deemed planning permission is not granted. In terms of ground (f) the removal of the gate and laneway, and the stopping up of the access does not exceed what is necessary to remedy the breach of planning control. Therefore the appeal under Ground (f) failed.

Finally, the appellant sought an extension of 6 months to comply with the remedial terms of the Notice, should the Enforcement Notice be upheld. The Commissioner concluded that "...sufficient time should be provided to relocate the storage and

Not Applicable

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maintain continuity for employment purposes. Without amendment, the timing of this decision will result in the compliance period ending during the harvesting season. I find it is reasonable to extend the period from 70 days to four months from the date of this decision to enable the continued use of the site during this upcoming harvesting season only. The ground (g) appeal therefore succeeds to the extent specified."

New Appeals Lodged

4. The following appeal was lodged on 17 May 2024.

PAC Ref	2024/A0019
Application ref	LA06/2019/0722/O
Appellant	Michael Cleland
Subject of Appeal	Refusal of planning permission for 2 no. infill dwellings and garages
Location	Site between 31 and 39 Florida Road, Killinchy

Details of appeal decisions, new appeals and scheduled hearings can be viewed at www.pacni.gov.uk.

RECOMMENDATION

It is recommended that Council notes the report and attachments.

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 58**

**Appeal by Mr John Gracey
against the refusal of outline planning permission for 2 no. dwellings and detached
garages on land immediately adjacent to and NE of No. 9 Corrog Lane, Portaferry,
BT22 1PZ.**

**Report
by**

Commissioner Kieran O'Connell

Planning Authority Reference: LA06/2020/0483/O

Procedure: Written Representations with Accompanied Site Visit on 5th March 2024

Report Date: 17th April 2024

1.0 **BACKGROUND**

- 1.1 Ards & North Down Borough Council received the application for Planning Permission on 11th June 2020.
- 1.2 By notice dated 23rd June 2023, the Council refused permission giving the following reasons: -
1. **The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.**
 2. **The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, and would if permitted, result in the loss of an important visual break in built development and the creation of ribbon development along Corrog Lane.**
 3. **The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 criteria (a), (b), (d) and (e) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted, be unduly prominent in the landscape, result in a suburban style build-up of development when viewed with existing buildings, create a ribbon of development and the impact of ancillary works would damage rural character which would therefore result in a detrimental change to the rural character of the countryside.**
 4. **The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 criteria (a), (b) and (f) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted, result in prominent features in the landscape, the site would be unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape, would fail to blend with the landform and therefore would fail to integrate into this area of countryside.**
 5. **The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the siting and scale of the proposal would not be sympathetic to the special character of the Area of Outstanding Natural Beauty in general and that of the particular locality.**
- 1.3 The Commission received the appeal on 18th September 2023 and advertised it in the local press on 5th October 2023.

- 1.4 Eleven representations were received from third parties during the processing of the planning application. The Council forwarded these to the Commission. A statement of case was also received from third parties at appeal stage.

2.0 SITE AND SURROUNDINGS

- 2.1 The appeal site is located off the A20 Deer Park Road and is accessed by an extended concrete laneway known as Corrog Lane. The appeal site comprises a roughly rectangular section of a larger agricultural field.
- 2.2 The western boundary adjacent to Corrog Lane is defined by a hedgerow approximately 1.7m in height. Two agricultural gates are positioned roughly central along this boundary. The northern boundary is defined by gorse and hedgerow approximately 2m high, with intermittent trees approximately 6m high within. The eastern boundary to the rear of the site is undefined and open to the wider host field. The southern boundary is adjacent to the common boundary with No. 9 Corrog Lane and is defined by a staggered concrete block wall approximately 2m high and the garage of No. 9. The appeal site comprises rough grass and gorse and undulates throughout, rising in an easterly direction away from Corrog Lane.
- 2.3 No. 9 Corrog Lane lies to the south of the appeal site. It contains a bungalow-styled dwelling with accommodation within the roof and a detached garage in the northern corner of its plot.
- 2.4 Immediately to the north of the appeal site, there is an access point onto Corrog Lane that splits into two separate access laneways. One serves an agricultural shed and the other serves No.7a. Both buildings are set back from Corrog Lane. No. 7a is a one-and-a-half-storey-chalet bungalow-styled dwelling. No. 7 Corrog Lane sits further to the north. It is a bungalow-styled dwelling with accommodation within the roof. It also has a single-storey double garage adjacent to its southern boundary.
- 2.5 The wider area consists of a rolling drumlin landscape, with Corrog Wood a notable landmark to the north of the appeal site. The pattern of development in the area is generally one of dispersed single dwellings and farmsteads, either adjacent to public roads or along extended laneways. The settlement of Portaferry is approximately 1.5 miles south of the appeal site.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 The appeal site is located to the northeast of Portaferry and is within the countryside outside a defined settlement as per the Ards and Down Area Plan 2015. It is situated within the Strangford and Lecale Area of Outstanding Natural Beauty. The site comprises lands between No. 7 and No. 9 Corrog Lane, which undulates and comprises rough grass and gorse. The surrounding area is rural and characterised by drumlins and pockets of woodland interspersed with farms and dwellings. Corrog Wood (Woodland Trust) is nearby.
- 3.2 Planning application, LA06/2020/0483/O, was considered by the Planning Committee due to the volume of representations/objections from neighbours – eleven from six separate addresses.

- 3.3 Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically those in PPS 21. The proposal does not comply with planning policy for the reasons stated in the Decision Notice. The relevant policy is considered under each refusal reason below.
- 3.4 Policy CTY 1 of PPS 21 identifies a range of types of development which in principle, are considered to be acceptable in the countryside. The two proposed dwellings do not fall within any of the types listed and consequently would create a ribbon of development, which, as per Policy CTY 8, is detrimental to the character, appearance, and amenity of the countryside. Whilst this is considered in greater detail under refusal reason two, it should be noted that in the written justification to Policy CTY 8 paragraph 5.32, highlights that "...such development can make access to farmland difficult and cause road safety problems." At the time of site inspection, the appeal site was being grazed by cattle. To facilitate the agricultural use of this land, a new farm gate has been inserted along the Corrog Road boundary of the appeal site under agricultural Permitted Development (PD). The gate is inserted at the proposed access point for the proposed dwellings, as shown on the Indicative Layout.
- 3.5 It is considered that there are no overriding reasons why the proposed residential development could not be located within a settlement.
- 3.6 The proposed residential development of this site would inhibit the continued agricultural use and access of this land to the rear of the proposed site, which is included within the ownership of the Appellant as shown on the site location plan.
- 3.7 As stated above, Policy CTY 1 of PPS 21 identifies a range of types of development which, in principle are considered to be acceptable in the countryside and which will contribute to the aims of sustainable development. One such type of development is the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY 8.
- 3.8 Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will, however, be permitted for the development of a small gap site (sufficient only to accommodate up to a maximum of two houses) within an otherwise substantial and continuously built-up frontage, provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
- 3.9 The definition of a substantial and built-up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear. Along this road frontage, there are two dwellings, No. 7, and No. 9, each with detached garages located to the sides of the dwellings. These dwellings and their garages have direct frontage to Corrog Lane.
- 3.10 There is also an outbuilding to the rear of No. 7 and north of the site, which is set back approximately 80m from the road. This outbuilding is adjacent to the recently constructed dwelling at No. 7a Corrog Lane, which is sited within its curtilage behind No. 7. No. 7a does not have a road frontage, neither it nor the separate outbuilding's curtilages extend to the road. Rather, only their access lane does. As such, they

cannot be considered to have a frontage to the road. Both the site layout plan and aerial photography clearly show that the frontage is broken, physically and visually, by the two lanes. The proposal fails to meet the first test of Policy CTY 8 in that there is no substantial and continuously built-up frontage.

- 3.11 This consideration is supported by previous PAC decisions. For example, in appeal decision 2018/A0191, one of the existing dwellings alleged to be within the established frontage had an access from the road leading to the dwelling. The curtilage of the dwelling was set back and did not adjoin the road. Therefore, the access by itself was not considered to constitute a building along the frontage.
- 3.12 Policy CTY 8 only facilitates an infilling opportunity for the development of a small gap site sufficient to accommodate up to a maximum of two houses. If the PAC considers this site part of a substantial and continuously built-up frontage, Paragraph 5.34 of PPS 21, states that it is the gap between buildings rather than the application site that should be considered. In this instance, the gap is considered to be between the detached garage of No. 7 to the northwest and the detached garage of No. 9 to the southeast. This gap extends, well beyond the red line boundary of the appeal site across both laneways. The total distance between these buildings is circa 113m. It must be determined whether or not this gap of 113m is small enough to accommodate up to a maximum of two dwellings while respecting the existing pattern of development. To assess this, the plot sizes and frontage widths of the existing dwellings within the frontage must be considered.
- 3.13 Policy CTY 8 requires that a proposal for infill development respect the existing development pattern along the frontage in terms of size, scale, siting, and plot size. No. 7 and No. 9 Corrog Lane each have a plot width of circa 50m. Within the gap of 113m, two plots, each with a width of 56.5m, could be accommodated, when considering a proposal for two infill sites such as this one. The Building on Tradition-A Sustainable Design Guide for the Northern Ireland Countryside (BoT) advises that when a gap is more than twice the length of the average plot width in the adjoining ribbon, it is often unsuitable for infill with two new plots. In this case, the gap is 113m and the average plot width is 50m, meaning the gap exceeds twice the length of the average plot width by 13m against advice. When taking this into account, it is evident that this gap is large enough for more than two dwellings, and it is not therefore a small infill gap site, thereby contrary to policy.
- 3.14 Policy CTY 8 also requires an assessment of whether the gap represents an important visual break and whether its loss would result in a material change in the developed appearance of the local area. Many frontages in the countryside have gaps between houses that provide relief and visual breaks in the developed appearance of the locality that help maintain rural character. The infilling of these gaps will not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built-up frontage.
- 3.15 Further guidance on the interpretation of CTY 8 has been provided in the recent judicial judgement (Gordon Duff V. Newry, Mourne and Down District Council (2022) NIQB 37] which states that where there is a small gap site, the authority should nonetheless consider whether, by permitting that site to be infilled, it is acting in accordance with, or contrary to the purpose of the exception within Policy CTY 8 (which is to permit development where little, or nothing is lost in terms of rural

- character because of the existing and continuously built-up frontage). Consistent with the guidance in BoT, this should include consideration of whether the grant of permission will result in the loss of an important visual break in the developed appearance of the local area.
- 3.16 In this recent judgement, Justice Scoffield KC held that whether a site offers a visual break of such importance or significance is a matter of planning judgment; but it is a matter of common sense, and consistent with the guidance contained in BoT, that the larger the site, the more likely it is to offer an important visual break. As the reference to framing viewpoint (BoT page 73) illustrates, however, the size of the gap alone will not be determinative. The gap between the existing buildings is perceived from two main public viewpoints; one from Corrog Lane and the other from the nearby main road, Deer Park Road, to the south.
- 3.17 From Corrog Lane, it is considered that the gap forms an important visual break between the existing development at No. 7 and No. 9. The site reads as an integral part of the surrounding rural landscape. It has road frontage bound by hedges with large areas of gorse scrub within the site itself and these contribute to the visual relief between the two dwellings. The development of two dwellings on the site would eradicate the existing visual break, which in this case is an integral rural landscape character and will create a continuous ribbon of development along this side of Corrog Lane. Further, given that the site is elevated above the lane and the dwellings would have a finished floor level approximately 2m above the lane, they would therefore have a significant visual impact.
- 3.18 The site is also visible from Deer Park Road. Although this critical view is more distant, the site is perceived from this viewpoint within the wider landscape context of the Area of Outstanding Natural Beauty (AONB). When travelling along Deer Park Road, the site is visible in the landscape over a distance of approximately 520m from No. 5a Deer Park Road to the Wastewater Treatment Works.
- 3.19 The rural character of the site, and gorse, can be seen and the extent of the gap provides visual relief between the two existing dwellings from this view within the wider landscape setting. Two dwellings on this site will result in a detrimental visual impact, causing skyline development and would be visible as a ribbon of development, intervisible with No. 7 and No. 9. In conclusion, it is considered that the site represents an important visual break in development.
- 3.20 With regard to the third reason for refusal, following the detailed assessment earlier in this statement of case of how the proposed development would sit within the landscape, it is considered that the proposal for two dwellings at this location fails to meet the requirements of Policy CTY 14.
- 3.21 The rural character comprises drumlins with fields, hedges, and patches of gorse. The two new houses plus detached garages would, if permitted, be unduly prominent in the landscape and skyline, resulting in a suburban-style build-up of development when viewed with existing buildings, creating a ribbon of development, which is detrimental to the established rural character. This is contrary to criterion (a), (b), (d), and (e) of Policy CTY 14. Access and visibility splays would be a further intrusion, resulting in the removal of natural vegetation. The existing site is open and elevated, where the existing boundaries and vegetation are unlikely to provide screening or aid

- integration. There is no natural backdrop to prevent the prominence of the appeal development from altering the rural character as the open agricultural field falls away towards the back of the appeal site with a continuing rural landscape beyond.
- 3.22 Further to the assessment above of how the proposed development would sit within the landscape, it is considered that the proposal for two dwellings at this location fails to meet the requirements of Policy CTY 13.
- 3.23 The site occupies a prominent position in the landscape when viewed both from Corrog Lane and Deer Park Road. While only outline planning permission is sought at this stage, an indicative layout has been submitted, Drawing No. 02, clearly showing how the dwellings would sit approximately 2m above the level of the lane. The dwellings would occupy a prominent skyline position in the landscape when viewed from both Corrog Lane and Deer Park Road, contrary to criterion (a) of Policy CTY 13.
- 3.24 As existing, the site is unable to provide a suitable degree of enclosure for the proposed buildings to integrate, contrary to criterion (b) of Policy CTY 13. The development of the site would also necessitate the removal of large areas of roadside hedgerow, to accommodate the access, and gorse scrub within the site further opening up the site to views and resulting in a complete lack of screening or natural means of enclosure or natural features forming a backdrop, contrary to criterion (f). The field undulates into the open rural landscape beyond. It would therefore rely extensively on new planting to hide [sic]. While Corrog Lane is a narrow unadopted access road, it nevertheless already serves several dwellings and therefore views from the lane are considered to be public and the impact of the proposed development would be perceived by anyone travelling along the lane.
- 3.25 Paragraph 2.2 of PPS 21 highlights that the RDS "states that the cumulative impact of development in the countryside has the potential to reduce its value as a regional asset by damaging landscape, biodiversity and natural habitats". Sites such as the appeal site would create a precedent for this.
- 3.26 The Appellant concedes in paragraphs 18 and 30 of their Statement of Case that, it will take site works for the development not to result in a suburban style of development. Furthermore, the site itself is unable to provide a suitable degree of enclosure for the buildings to integrate, thus reinforcing the concerns raised within refusal reasons 3 and 4.
- 3.27 The fifth reason for refusal addresses concerns relating to the impact the appeal development would have on the AONB. The appeal site is located within the Strangford and Lecale AONB, a landscape of distinctive character and special scenic value. This part of the AONB is characterised by a shallow drumlin landscape and gorse in close proximity to the Lough.
- 3.28 Paragraph 5.15 of PPS2 states: "The quality, character and heritage value of the landscape of an AONB lies in their tranquillity, cultural associations, distinctiveness, conservation interest, visual appeal and amenity."
- 3.29 In recognising the importance of sustaining local identity, the Northern Ireland Environment Agency (NIEA) commissioned and published Landscape Character

Assessments, 2016. Paragraph 5.16 of the written justification to Policy NH 6 of PPS 2 states in assessing proposals account will be taken of Landscape Character Assessments (LCAs), and any other published guidance. The relevant Landscape Character Assessment for this area is No. 26, Strangford, Ards and Lecale which highlights "the presence of the AONB designation places Strangford and Ards among Northern Ireland's most valued landscapes". This is a scenic area with undulating shallow drumlins and scattered areas of heathland with clumps of gorse. This appeal site is integral to the rural character of the area.

- 3.30 The indicative site layout plan and Design and Access Statement suggest that the proposed dwellings will be modest in size and that the design and finishes could be conditioned to be appropriate to the AONB setting. As outlined above, it is the proposed prominent siting of the dwellings, the lack of integration and the resulting suburban style of ribbon development that would be considered to harm the character and landscape setting of this particular part of the AONB. The appeal site reads as an integral part of the rural landscape.
- 3.31 In particular, the development will form a ribbon of development visible in the skyline from Deer Park Road over a significant distance in excess of 500m. The AONB in this area has managed to retain a predominantly dispersed pattern of settlement. It is considered that the formation of a visible ribbon of development on this prominent site would harm the rural character of the AONB. It is therefore considered that the proposal fails to meet criteria (a), (b) & (c) of Policy NH 6 of PPS 2 which states "Planning permission for new development within an Area of Outstanding Natural Beauty (AONB) will only be granted where it is of an appropriate design, size and scale for the locality...", sympathetic to its special character, conserving features of importance and respecting local architectural styles and traditional boundary details including hedges.
- 3.32 If the Commission determines that planning permission should be granted, the following conditions are recommended:
- Time limits;
 - Requirement for submission of plans illustrating the siting, design, and external appearance of the buildings, the means of access thereto, and the landscaping of the appeal site. However, there is no need for an express siting condition as this can be dealt with at Reserved Matters stage;
 - The requirement for submission of plans for vehicular access, visibility splays, and forward sight lines to be submitted at Reserved Matters Stage;
 - Requirement for the access arrangements to be provided in accordance with the approved plans prior to the commencement of development;
 - Details of floor levels of the proposed dwellings and garages in relation to existing and proposed ground levels to be submitted to the Council;
 - A detailed landscaping scheme shall be submitted at the Reserved Matters stage;
 - Requirement for replacement planting of any planted tree, shrub, or hedge is removed, uprooted, or destroyed or dies or becomes seriously defective;
 - Requirement for the retention of existing vegetation except for the provision of visibility splays; and
 - Maximum ridge height of 6.5 m above existing ground level at the lowest point within its footprint.

4.0 THIRD PARTIES' CASE

- 4.1 The signatories all agree that the Case Officer's report and subsequent Planning Committee clearly detailed the reasons for refusal as it contravenes Policies CTY 1, 8, 13 and 14 of Planning Policy Statement 21, and Policy NH 6 of Planning Policy Statement 2 and fully supports its conclusions. In addition, all the previous submissions to the Planning Authority relating to the objection to the planning application should be considered extant, relevant, and supported.
- 4.2 The issue relating to the threat of overdevelopment of Corrog Lane and the risk to residents from increased traffic flow and overdevelopment has not been correctly addressed. The case officer has limited the risk of overdevelopment to just the site for development and not to the whole of the lane and the impact on said lane. In the Dfl Roads' consultation, they stated that "there should be a limit to the number of dwellings that this rural lane serves. Dfl Roads is concerned that this lane is becoming built up and that the Private Streets Order should be applied. To do this would be extremely difficult, and it would not be possible to comply with the new Design Guide."
- 4.3 This case officer then asked Dfl Roads to clarify their response, in which they said that they had no objection to the application and that there were no plans to impose the Private Street Order on the lane.
- 4.4 In conversation with Dfl Roads on 23rd March 2021, it became apparent that Dfl Roads' representations have been taken out of context, for clarification:
1. Dfl Roads' area of responsibility relates to the 10 metres around the access to the proposed development from Corrog Lane and the 10 metres around the access of Corrog Lane onto Deer Park Road (A20). In relation to these specific areas, Dfl Roads have no objections.
 2. Dfl Roads have a duty of care to bring to the attention of the Planning Office their concerns regarding the overdevelopment of Corrog Lane. Their comments about the lane as a whole remain extant. The case officer has incorrectly applied this to just the site the appeal relates to and not the whole lane, as stated in their representation.
 3. Dfl Roads stated that although they can bring it to the attention of the Planning Office, decisions over the implementation of the Private Street Order lie solely with the Planning Office and not DFI Roads.
 4. Dfl Roads clarified that as there are more than five houses built on Corrog Lane, if a planning application had been submitted for the whole lot, under the new Design Guide, the Planning Office would insist on the lane being upgraded and suitable for adoption as a public road.
- 4.5 The residents of Corrog Lane do not expect the Council to implement the Private Streets Order as it would not represent value for taxpayers' money. The cost to bring the lane up to the new design guide would be prohibitive as parts of the lane are only three metres in width with high mature hedges on both sides and very limited fields of view whilst driving along it. Instead, the Council should prevent any new sites from

being granted planning permission along the section between No. 3 and No. 12. The residents believe that, and as confirmed by DfI Roads, the Council holds a duty of care to protect the local residents from increased traffic flow and overdevelopment by stopping this appeal and any other new sites from being granted planning permission.

- 4.6 If the Commission do not accept the recommendation for refusal, then the residents believe a condition should be added, forcing the developer to bring the whole of the lane up to the new Design Guide at their expense before any new sites along this section are granted planning permission.
- 4.7 Third parties at the application stage raised concerns with the impact on the character of the area and AONB, ribbon development, prominence, lack of integration, build-up, road safety, impact on children using the lane for recreational purposes and the impact on a child with complex medical needs, potential precedent for further development, and the impact of construction works.

5.0 APPELLANT'S CASE

- 5.1 The main issues in this appeal are whether the proposed development is acceptable in principle and would adversely impact on rural character and pattern of development in the area.
- 5.2 The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing planning policy statements and among these is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) which provides the relevant policy context for the appeal proposal.
- 5.3 Policy CTY 1 of PPS 21 sets out 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. A number of instances when planning permission will be granted for a dwelling are outlined. The appeal proposal represents an infill opportunity in accordance with Policy CTY 8 of PPS 21.
- 5.4 Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Criterion (d) of Policy CTY 14 repeats this test and states that a building, which creates or adds to a ribbon of development, can cause a detrimental change to, or further erode the rural character of an area.
- 5.5 Whilst the main thrust of Policy CTY 8 is to resist ribbon development, it exceptionally provides for the development of a gap site where the following four specific criteria are met: (a) The gap site is within an otherwise substantial and continuously built-up frontage; (b) the gap site is small sufficient only to accommodate up to a maximum of two houses; (c) the proposal respects the existing development pattern along the frontage in terms of size, scale, siting and plot size; and (d) the proposal meets other planning and environmental requirements.
- 5.6 For the purposes of the policy, the definition of a substantial and continuously built-up frontage includes a line of three or more buildings along a road frontage without

accompanying development to the rear. A building has frontage to the road if the plot in which it stands abuts or shares a boundary with the road.

- 5.7 The appeal site is located on lands abutting onto Corrog Lane and between No. 7 and No. 9 Corrog Lane. The buildings that are considered to make up the substantial and continuously built-up frontage in this case are shown on the attached plans and photographs. The dwellings known as No. 7 and No. 9 Corrog Lane and the existing outbuildings of these properties are located on either side of the appeal site. No.7a along with the large agricultural shed both have their own access that form one circa 20m wide access frontage to the lane. All six of these buildings constitute a substantial and continuously built-up frontage in accordance with the first element of Policy CTY 8. Even if No. 7a and the large agricultural shed are discounted there is still more than the requisite three buildings required for a substantially and continuously built-up frontage. The substantial and continuously built-up frontage at the appeal site cannot be disputed. Both scenarios allow the appeal site to be seen as an infill development opportunity.
- 5.8 The second element of Policy CTY 8 requires that the gap site be small, sufficient only to accommodate up to a maximum of two houses. The justification and amplification text in paragraph 5.34 is clear that the gap site is between houses or other buildings. As such, for the purposes of the policy, the said gap is the distance between the buildings at No. 7 and No. 9 Corrog Lane. The appeal site (as stated within the Rebuttal Statement) measures approximately 79m metres in width along the road frontage, with an individual plot size of approximately 39.5m for each plot of the proposed two detached dwellings and garages. The appeal site is small enough to accommodate only two detached dwellings and garages, therefore satisfying the second element of Policy CTY 8.
- 5.9 The third element of Policy CTY 8 requires that the proposal respects the existing development pattern along the frontage in terms of size, scale, siting, and plot size. The appeal site fully respects the plot sizes and existing development pattern, and fits within an otherwise substantial and continuously built-up frontage along Corrog Lane and the immediate locality. There are a variety of frontage widths and plot sizes along the substantial and continuously built-up frontage within which the appeal site sits. The plot frontage sizes range from 50m to over 60m in close proximity to the appeal site. The appeal site would create plots with a frontage width of approximately 39.5m (as stated within the Rebuttal Statement) which would not differ significantly from surrounding plots. They would be very similar to the frontage provided by the existing properties of No. 7 and No. 9 Corrog Lane. The appeal development would also be located on an approximated 0.4 hectare site for the two detached dwellings and garages which is very similar to the plot sizes of existing dwellings in very close proximity to the appeal site.
- 5.10 While the Council has indicated concerns with plot sizes, these points can be easily rebutted. The appended map gives details of a newly built dwelling frontage just south of the appeal site which has approximately 60m in frontage. This is greater than the 56.5m approximate average plot length the Council are advising on from the Garage of No. 7 Corrog Lane and the Garage of No. 9 Corrog Lane. Therefore, in this context, the proposal would respect the plot size and development pattern along this roadside frontage of development and meet the applicable criterion of Policy CTY 8.

- 5.11 The SPPS and Policy CTY 1 cited as a reason for refusal in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement, is inaccurate. As the proposal meets the requirements of Policy CTY 8, it is one of the specified types of development considered to be acceptable in the countryside under Policy CTY 1 and as such will not set a precedent for proposed new developments along Corrog Lane.
- 5.12 The proposed detached dwellings, traditional in style and positioned and viewed alongside the continuous building line of the existing buildings would successfully integrate into the application site. The proposed dwellings would not be visually intrusive and would nestle and integrate into the landscape and with the existing buildings which front onto Corrog Lane.
- 5.13 Whilst the Council argue that the appeal development would inhibit the continued agricultural use and access of the land to the rear of the appeal site, there are other agricultural access points to this land. There is no reliance on the appeal site for access.
- 5.14 The appeal site, due to the existing buildings in close proximity to it, has to be viewed as a gap site. The appeal site is viewed, linked, and bounded by buildings on either side and also has a suitable degree of enclosure from the existing mature trees and vegetation.
- 5.15 The third reason for refusal states that the proposed development would conflict with Policy CTY 14 as the introduction of two dwellings and garages would result in a detrimental change to the rural character of the countryside.
- 5.16 The proposed development aligns with the Strategic Planning Policy Statement (SPPS) and Policy CTY 14 criteria (a), (b), (d), and (e) of PPS 21 - Sustainable Development in the Countryside for the following reasons.
- 5.17 Criterion (a) - Unduly Prominent in the Landscape: the proposed development has been carefully designed to minimise its visual impact on the surrounding landscape. The buildings will be situated in such a way that they will not be unduly prominent when viewed from key vantage points. The design incorporates materials and colours that blend harmoniously with the natural surroundings, ensuring that the development seamlessly integrates into the landscape.
- 5.18 Criterion (b) - Suburban Style Build-up of Development: the proposed development, comprising only two dwellings and detached garages, is modest in scale and does not result in a suburban-style build-up of development. It is in harmony with the existing buildings in the vicinity and maintains the rural character of the area. The development respects the established density of the locality and does not compromise the existing rural environment.
- 5.19 Criterion (d) - Ribbon of Development: the development does not create a ribbon of development. It is situated in a manner that respects the existing layout of the area, ensuring that it does not extend or create a continuous linear form of development. The site layout has been carefully planned to mitigate any potential ribbon development concerns.

- 5.20 Criterion (e) - Impact of Ancillary Works on Rural Character: the impact of ancillary works associated with the proposed development has been assessed thoroughly. Measures have been put in place to ensure that these works do not harm the rural character of the countryside. Necessary landscaping and screening will be implemented to minimise any potential impact, thus preserving the rural character of the area.
- 5.21 The photographs on page 11 of the Council's Statement of Case depicting landscape views to the front and rear of the appeal site include an image not taken on or near the proposed site. Instead, it appears to be captured from another part of the field, approximately 300 metres away. It is unclear why a photograph from a distant location would be submitted as representing the landscape views of the appeal site.
- 5.22 The approval of two detached dwellings and garages on the appeal site would make no difference to the rural character of this area. A carefully sited proposal, respecting landform, vegetation, pattern, and nature of development would not result in a detrimental change of character at this location.
- 5.23 It has to be stressed that this is an outline planning application and more thought and design will be put to the Council at Reserved Matters stage. The proposed dwellings and garages through design and a mature planting landscaping plan could be satisfactorily sited and orientated to prevent any detrimental impact on the residential amenities of neighbouring properties and the local landscape. Levels, orientation of windows and the retention of existing mature hedgerows around the plot could also be controlled by way of conditions to ensure that no loss of privacy would result and as little of an impact on the local landscape as possible.
- 5.24 Furthermore, with some small site works, the appeal site could easily accommodate the development proposal. Therefore, it would respect the traditional pattern of development in this locality and not result in a suburban-style build-up of development when viewed with existing and approved buildings. The appeal proposal will complement the disposition of the buildings.
- 5.25 Again, as the appeal proposal would respect the traditional pattern of development and meet the exceptional test under the infill policy, the Planning Appeals Commission has to be content that the appeal proposal would comply with Policy CTY 14 of PPS 21.
- 5.26 The Council's fourth reason for refusal relates to Policy CTY 13 of PPS 21. The design and layout of the development have been thoughtfully crafted to minimise visual prominence, provide suitable enclosure, and blend seamlessly with the landform and countryside character. The appeal development, however, aligns with Policy CTY13 criteria (a), (b), and (f) for the reasons stated below.
- 5.27 Criterion (a) - Prominent Features in the Landscape: the proposed development has been meticulously designed to ensure that it does not result in prominent features in the landscape. It is worth noting that the agricultural buildings at No's 7, 7a, and 9 are all situated higher in the landscape than my proposed development. I would also direct the PAC's attention to application X/2013/0034/F, which approved a dwelling at 7a Corrog Lane on land even more prominent and elevated than my site. The site can be developed with floor levels and ridge heights similar to those at No. 9 Corrog

- Lane. Furthermore, the buildings will be situated in a manner that minimises their visual impact on the surrounding environment and will be no more prominent than the buildings on either side of the appeal site. The architectural design and materials have been carefully chosen to blend seamlessly with the natural beauty of the area. The development will enhance, rather than disrupt, the existing landscape.
- 5.28 Criterion (b) - Suitable Degree of Enclosure: the site has been designed to provide a suitable degree of enclosure for the buildings, allowing them to integrate harmoniously into the landscape. Natural features such as existing vegetation and topography have been considered in the layout, ensuring that the development does not appear incongruous or obtrusive. The proposed development respects the character and contours of the land, maintaining the area's aesthetic appeal. Furthermore, hedges that may need to be removed will be replanted. Over one thousand metres of hedgerow have been planted under the Countryside Management Scheme.
- 5.29 Criterion (f) - Integration into the Countryside: the proposed development will not fail to blend with the landform. It will successfully integrate into this area of the countryside. The choice of building materials, colours, and architectural style has been made with great care to ensure that the development complements the surrounding natural environment. By doing so, the development contributes positively to the rural character of the area.
- 5.30 The proposed development aligns with Policy NH 6 of Planning Policy Statement 2 (PPS 2) - Natural Heritage, specifically in relation to the siting and scale of the proposal being sympathetic to the special character of the Area of Outstanding Natural Beauty (AONB) in general and that of the particular locality.
- 5.31 Policy NH 6 of PPS 2 emphasises the importance of protecting and conserving natural heritage, particularly in areas designated as AONBs. It calls for development to be sympathetic to the special character of such areas. The appeal development satisfies these criteria in the following ways:
- 5.32 Siting and scale sympathetic to the AONB: the siting of the proposed development has been carefully considered to ensure that it is in harmony with the special character of the AONB. The design and layout have been meticulously planned to minimise any adverse visual impact on the landscape. The buildings will be discreetly positioned within the site, ensuring that they do not dominate or detract from the natural beauty of the AONB.
- 5.33 Preservation of AONB character: the development has been designed to complement and preserve the unique character of the AONB in the locality. The architectural design and materials have been selected to blend seamlessly with the natural surroundings, enhancing rather than disrupting the special qualities of the area. The development respects the intrinsic value of the AONB, and its scale is in keeping with the existing built environment.
- 5.34 Contribution to AONB enhancement: the proposed development will contribute positively to the enhancement of the AONB. By adhering to the principles of Policy NH 6, the development will not only protect the natural heritage of the area but also provide an opportunity to showcase sensitive and responsible development within an

AONB. This can serve as an example of how development can coexist harmoniously with the special character of such areas.

- 5.35 With regard to the third party representation, the Commission's attention is drawn to application LA06/2023/2153/O for a dwelling on Corrog Lane, which sits at a much higher elevation than my proposal. Interestingly, this application did not receive any objections from the six individuals mentioned in the representation. The third party's involvement appears to stem from a dispute concerning boundaries. It is inaccurately stated that the lane's width is only three metres. It consistently measures at least four metres along Corrog Lane. Additionally, the hedges are routinely trimmed to comply with regulations and stand at approximately five feet in height. Furthermore, a third party claimed to have had a conversation with road services on 23rd March 2021. However, it is evident that several locals have engaged in discussions with officials in an attempt to oppose my application.
- 5.36 We kindly request that you reconsider this planning appeal in light of the above-mentioned factors and grant the necessary planning permission for this development. This development will not only adhere to the policy requirements but also contribute positively to the preservation and enhancement of the AONB. To ensure minimal impact of the new dwellings, appropriate conditions in terms of siting, landscaping, height and size of the dwellings, access point and curtilage could easily be applied.

6.0 CONSIDERATION

- 6.1 The main issues in this appeal are whether the proposal would:
- be acceptable in principle in the countryside,
 - result in ribbon development;
 - be visually prominent; and
 - have an adverse impact on rural character and the AONB.
- 6.2 Section 45(1) of the Act requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. Section 6(4) of the Act states that where regard is to be had to the Local Development Plan (LDP), the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.3 The Ards and Down Area Plan 2015 (ADAP) operates as the LDP for the area within which the appeal site lies. In it, the appeal site is within the countryside and outside of any settlement limit. The appeal site is also within an area of mineral constraint, the Greenbelt and Strangford and Lecale Area of Outstanding Natural Beauty. The LDP directs that the final Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) will take precedence over the plan with regards to single houses in the countryside. Therefore, the rural policies of the LDP are outdated and no determining weight can be given to them.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as the local Council adopts a Plan Strategy (PS). No PS

has been adopted for this area. The SPPS sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. The retained policy of relevance to this appeal is Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) and Planning Policy Statement 2 'Natural Heritage' (PPS 2). As no conflict arises between the policy provisions of the SPPS and retained policy in so far as it relates to the appeal proposal, the latter provides the relevant policy context. Additional guidance is provided in Building On Tradition: A Sustainable Design Guide For The Northern Ireland Countryside (BoT).

- 6.5 Policy CTY 1 of PPS 21 states that there are a range of types of development that are considered in principle to be acceptable in the countryside that contribute to the aims of sustainable development. One of these is the development of a small gap site sufficient only to accommodate up to two houses within an otherwise substantial and continuously built-up frontage, in accordance with Policy CTY 8 of PPS 21. It follows that if Policy CTY 8 is met, then Policy CTY 1 is also satisfied.
- 6.6 Policy CTY 8 of PPS 21 is entitled 'Ribbon Development'. It states that planning permission will be refused for a building which creates or adds to a ribbon of development. It continues that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting, and plot size and meets other planning and environmental requirements. For the purpose of this policy, the definition of a substantial and built-up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.
- 6.7 The first step in determining whether the proposal constitutes an exception in accordance with Policy CTY 8 is to determine whether there is a substantial and continuously built-up frontage. There is no dispute between the parties that No. 9 and its ancillary outbuilding have frontage to Corrog Lane, as is the case with No. 7 and its outbuilding. The dispute centres on whether the buildings to the north of the appeal site contribute to the substantial and continuously built-up frontage, or whether the access splits the frontage. From my observations on site, the agricultural shed and No. 7a to the north of the appeal site both take entry and egress onto Corrog Lane via two separate access laneways that converge to a single point circa 20m wide. An access does not constitute frontage for the purpose of the policy. Those buildings do not have a frontage to Corrog Lane and therefore do not form part of a substantial and continuously built-up frontage.
- 6.8 The exceptional test within Policy CTY 8 refers to a small gap site within an otherwise substantial and *continuously* (emphasis added) built-up frontage. It follows that where there is a feature that interrupts or ends a line of buildings along a frontage, then any development beyond that cannot be considered to form part of a substantial and continuously built up frontage.
- 6.9 Given the sizeable physical gap created by the two accesses belonging to No. 7a and the agricultural shed, I agree with the Council that they act as a notable break in development along this part of Corrog Lane. As No. 7 and its outbuilding lie immediately north of this break, they do not form part of a substantial and

continuously built-up frontage. The gap created by those accesses and the separation of No. 7 from the appeal site and No. 9 is such that there is no bookend building north of the appeal site. Consequently, there is no substantial and continuously built-up frontage.

- 6.10 Given the above, I conclude that no infill opportunity arises at the appeal site and as such, matters of frontage width, plot size and development pattern do not need to be considered. The proposed development fails to satisfy the provisions of an exception within Policy CTY 8 of PPS 21.
- 6.11 The Council also argue that the appeal development would create a ribbon of development along Corrog Lane that is contrary to Policy CTY 8 and criterion (d) of Policy CTY 14 of PPS 21. Policy CTY 8 as set out above states that planning permission will be refused for a building that creates or adds to a ribbon of development. Paragraph 5.32 of the policy says that ribbon development is detrimental to the character, appearance, and amenity of the countryside. Further, Paragraph 5.33 states that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back staggered, or at angles and with gaps between them can still represent ribbon development if they have a common frontage, or they are visually linked. Policy CTY 14 of PPS 21 'Rural Character' further states that a new building will be unacceptable where it creates or adds to a ribbon of development.
- 6.12 The appeal buildings when viewed in transit along Corrog Lane would be visually linked sequentially with the dwelling and garage at No. 7 Corrog Lane, the agricultural building set back from Corrog Lane and the dwelling and garage at No. 9 Corrog Lane. The appeal buildings would therefore create a linear ribbon of development along this section of the Corrog Lane, removing an important visual break that helps maintain the predominantly dispersed rural character of the area. No. 7a Corrog Lane does not contribute to the linear pattern of development as it is to the rear of No. 7 Corrog Lane. Furthermore, as the appeal buildings irrespective of their design would create a ribbon of development, they would also result in a suburban-style build-up of development when viewed with the existing buildings at No. 7 and No. 9 Corrog Lane. The appeal buildings would therefore result in a detrimental change to the rural character of the area by reasoning of ribbon development and build-up. The development would not comply with the requirements set out by Policies CTY 8 and CTY 14 of PPS 21. The Council's and third parties concerns on these matters are therefore sustained to the extent specified.
- 6.13 The Council's third reason for refusal in part raises concerns regarding the impact of ancillary works on rural character, specifically, the site works and the provision of access and visibility splays. Criterion (e) of Policy CTY 14 states that a new building is unacceptable where the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.
- 6.14 The Council has not indicated either the nature or the extent of the ancillary works that would have a detrimental impact on the character of the area. While access provision to both sites (excluding visibility splays) would open up the site frontage and raise awareness of the appeal development, I am not persuaded that this element taken in isolation would have a damaging impact on the overall character or appearance of the area, or that it would be at odds with other developments along

Corrog Lane. A carefully sited and designed scheme would ensure that any ancillary works associated with the appeal development would not result in a detrimental change to the rural character of this area. The Council's objection in this regard is not sustained.

- 6.15 Policy CTY 13 of PPS 21 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 specifies several instances where a new building will be unacceptable. The Council has raised concerns within its third reason for refusal relating to three criteria: (a) it is a prominent feature in the landscape; (b) the site lacks long-established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and (f) it fails to blend with the landform, existing trees, buildings.
- 6.16 Notwithstanding my conclusions above regarding the principle of development, the Council argues that the indicative Site Plan, Drawing No. 02 provided by the Appellant shows that the dwellings on the appeal site would sit approximately 2m above Corrog Lane and occupy a prominent skyline position. The northernmost site has an indicative Finished Floor Level (FFL) of 51.8, with Corrog Lane between datum points of 50-50.45 adjacent to this site. The landform continues to rise in a northerly direction to a datum point of 54.85 and beyond towards the agricultural shed and No. 7a Corrog Lane. These buildings sit on an elevated position relative to the appeal site. The southernmost appeal site has an indicative FFL of 51.00 with Corrog Lane at a datum point of 48.53-49.81 adjacent to this site. No levels have been provided to the rear (east) of either site. In order to avoid the dwellings being prominent in the landscape, they could be cut into the landform, similar to No. 9 Corrog Lane. This would ensure that they do not occupy a top-of-slope location and could be secured by way of planning conditions in the event of planning permission being granted.
- 6.17 The appeal development is also framed to the south by a wall approximately 2m high along the southern boundary adjacent to and including No. 9 Corrog Lane and by mature hedgerows and hedgerow trees along the northern boundary of the site. The appeal site is undefined along the rear eastern boundary. This is not unusual with dwellings in the countryside and could be overcome by landscaping conditions. Whilst I accept that some vegetation along the western lane-side boundary may be required to be removed to facilitate access, I am not persuaded that this would be significant, and would only be viewed along a short section of Corrog Lane itself. This would not be dissimilar to other properties along Corrog Lane. For the reasons given above, I also consider that compensatory planting as suggested by the Appellant would mitigate the visual impacts of the loss of vegetation from this boundary.
- 6.18 Views of the proposed development from Deer Park Road would be restricted given the drumlin landscape, intervening vegetation between the site and public road, as well as the angled view relative to the direction of travel along the road itself. For the reasons given above I am not persuaded that from this long distance viewpoint, the appeal development would lack enclosure or fail to blend with the landform, trees, buildings, and slopes.

- 6.19 Furthermore, following my on-site observations, I agree with the Appellant that appropriately sited and suitably designed buildings would ensure that they would not be any more prominent than the grouping of buildings surrounding No. 7 Corrog Lane or No. 9 Corrog Lane. Nor would they be so prominent as to result in a detrimental impact on the character or appearance of the area or that they would lack the necessary integration into the landscape, particularly from longer distance views. The Council's concerns regarding Policy CTY 14 Criterion (a) and their fourth reason for refusal are not sustained.
- 6.20 The fifth reason for refusal relates to the impact the development may have on the Strangford and Lecale Area of Outstanding Natural Beauty (AONB). Policy NH 6 of PPS 2: Natural Heritage (PPS 2) states that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size, and scale for the locality and all the following criteria are met:
- a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and
 - b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance, or heritage of the landscape; and
 - c) the proposal respects:
 - local architectural styles and patterns;
 - traditional boundary details, by retaining features such as hedges, walls, trees, and gates; and
 - local materials, design, and colour.
- 6.21 The Council's concerns, as stated on its decision notice, relate to criterion (a), however, I also note that additional concerns relating to criteria (b) and (c) of Policy NH 6 of PPS 2 have been raised within their statement of case.
- 6.22 The Council's concerns, relating to criterion (b) have not been substantiated to any significant extent, however, it is inferred that their concerns relate to the impact on the undulating shallow drumlins and scattered areas of heathland and gorse that characterise the area generally. From my on-site observations, I am not persuaded that the appeal development, which would entail the removal of a small area of gorse from the site itself, would impact on the identified landscape features to such an extent as to have a detrimental impact on the AONB either generally or specifically within this area.
- 6.23 The Appellant argues that the appeal development has been carefully and meticulously planned to minimise any adverse impact on the AONB landscape. It is further argued that the appeal development has been designed to complement, preserve, and enhance the unique character of the AONB. Notwithstanding my conclusions above, while no detailed drawings have been provided beyond an indicative site plan to demonstrate how this would be the case, I agree with the Appellant that, in the event of permission being granted, design matters could be conditioned to be appropriate to the AONB setting. The Council's concerns regarding Criterion (c) of Policy NH 6 are therefore not sustained.
- 6.24 With regard to criterion (a) of Policy NH 6, given my earlier conclusions regarding the impact the appeal development has on the rural character, by way of ribbon

development and suburban-style build-up, I agree with the Council that given the siting of the proposal, the appeal development would also be unsympathetic to the special character of this AONB landscape generally and at this particular locality. The appeal development therefore fails to comply with the policy provisions of criterion (a) of Policy NH 6 of PPS 2. The Council's fifth reason for refusal and related third party concerns are sustained to the extent specified.

- 6.25 Third party concerns regarding road safety relate to the access arrangements along the laneway and the need to potentially upgrade Corrog Lane to adoptable standards due to the number of properties accessing it. I note that the Council, following consultation with DfI Roads, has not objected to the appeal development on road safety grounds. From my observations on site, while the laneway, is narrow there are a number of places along the laneway for vehicles to pass one another with care. As such, I am not persuaded that the additional traffic generated by two additional dwellings would singularly or cumulatively prejudice road safety along Corrog Lane. Nor would it necessitate the need for Corrog Lane to be brought up to adoptable standards. I am therefore satisfied that the appeal development would not prejudice road safety or significantly inconvenience the flow of traffic or pedestrians that would use Corrog Lane. The objections raised on road safety would not warrant withholding of planning permission.
- 6.26 The third parties also indicate that any new sites along Corrog Lane should be prevented. However, each planning application must be assessed on its own merits against the prevailing planning policy, therefore, this matter taken in isolation would not merit the withholding of planning permission.
- 6.27 The parties referred to judicial review decisions, appeal decisions and planning application decisions in support of their position. However, these have not been provided within their evidence and as such, I cannot draw direct comparisons with the appeal development. In any event, it is rare that direct comparisons can be made between proposals, given that the site-specific circumstances of each case are different.
- 6.28 Although not specified in the reasons for refusal, the Council raised concerns that the appeal development would create a precedent for damage to the landscape, biodiversity, and natural habitats, should planning permission be granted, however, given my conclusions above, no such precedent would occur in this case.
- 6.29 The Council argue that the appeal development would inhibit the continued use and access to the lands to the rear of the appeal site. I agree with the Appellant that other access points could be created on lands within the Appellant's control that would allow for access and egress to them. This matter, therefore, would not merit the refusal of planning permission in its own right.
- 6.30 A third party raised concerns at the application stage that the appeal development would have a detrimental impact on an individual with complex medical needs. No medical evidence has been provided in support of this position, as such, I am not persuaded that the personal and domestic circumstances put forward by the third party would warrant the withholding of planning permission taken in isolation.

- 6.31 Concerns regarding the impact of construction works were also raised at the application stage by third parties, however, such works are short-term and could be managed and controlled by planning conditions in the event of planning permission being granted to ensure that there would be no significant public safety or amenity impacts on existing residents.
- 6.32 For the reasons given above, the development fails to satisfy prevailing planning policy. No overriding reasons have been presented to demonstrate why the appeal development is essential and could not be located in a settlement. The appeal proposal is therefore contrary to Policy CTY 1 of PPS 21. The first reason for refusal is sustained. The Council's reasons for refusal and the related concerns of the third parties have been sustained in so far as stated.

7.0 RECOMMENDATION

- 7.1 I recommend to the Commission that the appeal be dismissed.
- 7.2 This recommendation relates to the following drawings: -
- 1:2500 scale, Site Location Plan, Drawing No. 01 date stamped received 11th June 2020.
 - 1:500 scale, Existing and Proposed Site Layout, Drawing No. 02 date stamped 11th June 2020.

List of Appearances

Planning Authority: - Sharon Brown Ards and North Down Borough Council

Appellant: - John Gracey
Patrick O'Reilly NI Planning Permission

List of Documents

Planning Authority: - Statement of Case Ards and North Down Borough Council.

Appellant: - Statement of Case by NI Planning Permission

Third Parties: - Statement of Case by residents of Corrog Lane
Mr M Quigley
Mrs L Hughes
Mr & Mrs Gordon
Mr & Mrs Gowdy
Mr & Mrs Waters
Mr & Mrs Coleman

PLANNING APPEALS COMMISSION**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 58****Appeal by**

Ms Arlene Aston for a single dwelling (equine business) at land adjacent to and to the southwest of 3 Castle Meadows Drive, Carrowdore, BT22 2TZ

Report**by****Commissioner Gareth McCallion****Planning Authority Reference: LA06/2021/0975/O****Procedure: Written Representations****Commissioner's Site Visit: 5th March 2024****Report Date: 5th April 2024**

1.0 **BACKGROUND**

- 1.1 Ards and North Down Borough Council received the planning application on 10th August 2021. By notice dated 8th August 2022 the Council refused outline planning permission, giving the following reasons: -
1. **The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside as it has not been demonstrated that the farm business is currently active and has been established for at least six years.**
 2. **The proposal is contrary to Policies CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposed building is visually linked or sited to cluster with an established group of buildings on the farm.**
 3. **The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside as no overriding reasons why this development is essential and could not be located in a settlement have been presented, and the site has not been otherwise allocated for development in the development plan.**
 4. **The proposal is contrary to Policy AMP 2 of Planning Policy Statement 3, Access, Movement and Parking in that it has not been demonstrated that the access will not prejudice road safety or significantly inconvenience the flow of traffic.**
- 1.2 The Commission received the appeal on 5th December 2022 and advertised it in the local press on 23rd March 2023. The Commission received two representations at appeal stage.

2.0 **SITE AND SURROUNDINGS**

- 2.1 The appeal site is located approximately 270 metres southeast of the junction of Castle Meadows and Main Street, Carrowdore.
- 2.2 The appeal site consists of a grassed field which climbs in a southeasterly direction. It is bounded to the southwest by an established hedgerow, which is interspersed with mature trees. The southeastern and northeastern boundaries are defined by a post and wire fence. Beyond the southeastern boundary, is an area of grassland, which is bordered by a mature, pruned hedgerow, running atop a ridgeline. The northwestern boundary of the appeal site is enclosed by a mixture of hedgerows, scrub and fencing.
- 2.3 Northeast and adjacent to the appeal site is the Appellant's dwelling, No. 3 Castle Meadows Drive. This is a single storey, rendered finished house, with a south easterly facing rear garden and patio area. To the northwest of the dwelling, is a quadrangular paddock, which has been layered with sand and fine soils. The paddock is predominantly enclosed with post and rail fencing, which is punctuated in places with floodlights, standing at c. 2.5 metres. Equestrian jump stands and poles

were positioned against the fence in the northern most corner of the enclosure. North of the paddock, there is a segment of land, enclosed with post and wire fencing, which is used as a holding or grazing area.

- 2.4 Adjacent and north-east of the dwelling is a large, rendered shed with a dark coloured tin roof. This building has a large black roller door to the west of the front facade and several window openings, also located along its front and sealed with black shutters. The shed has a 'lean to' located against the north westerly gable wall and used for storing logs. Adjacent to the southeastern gable is an enclosed area containing a horse box, hay, feed, and other pieces of equestrian equipment. Access to the property, including the paddock and shed, is taken off Castle Meadows Drive, a cul-de-sac within the larger housing development of Castle Meadows, via a gravel drive.
- 2.5 Access to the appeal development is proposed to be taken from Main Street via an existing private laneway, Ballyrawer Avenue. The entrance to Ballyrawer Avenue is located some 300 metres, as the crow flies, from the appeal site, and some 190 metres southwest of the junction of Castle Meadows and Main Street. There are several properties located off Ballyrawer Avenue. The surface of the laneway largely comprises of gravel, interpolated with patches of tarmac. Beyond the dwelling at No. 6A Ballyrawer Avenue, the laneway progresses into an agricultural/informal trail. The new access from the Ballyrawer Avenue is proposed to head in a north easterly direction, traverse c. 100 metres of agricultural land, running parallel with the northwestern field boundaries of three agricultural fields, into the appeal site. These northwestern field boundaries are defined by a combination of hedgerows and large, mature trees.
- 2.6 Beyond the appeal site, to the north, is No. 2 Church Lane. A large green painted barn is located just over the fenced boundary between No. 3 Castle Meadows Drive and No. 2 Church Lane. To the northwest of No. 3 Castle Meadows Drive is the housing development (Castle Meadows) which, as a datestone at the entrance to the development indicates, was established in 1997. The housing development comprises of predominantly modest sized, red brick homes, containing both single and two storey dwellings. Most of the dwellings have private offroad parking. Access to the housing development is taken from Main Street. There are no through roads, with the access roads, servicing the dwellings, culminating in cul-de-sacs. The lands to the southeast of the appeal site are predominantly agricultural and extend towards an existing substantial gritstone quarry.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires that regard is to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6(4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the Local Development Plan unless material considerations indicate otherwise.
- 3.2 The appeal site is in the countryside, but it abuts the settlement limit of Carrowdore as designated in the Ards and Down Area Plan 2015 (ADAP). The ADAP contains no specific policies relating to dwellings in the countryside at this location. Therefore, the relevant policy context is provided by Planning Policy Statement 21 'Sustainable

Development in the Countryside' (PPS21), which, as made clear in the Strategic Planning Policy Statement (SPPS), is a retained policy document.

- 3.3 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. The circumstances where planning permission will be granted for an individual dwelling house are set out. This includes a dwelling on a farm subject to complying with criteria listed in Policy CTY10. Criterion (a) requires that the farm business is currently active and has been established for at least six years. Criterion (c) requires that the new building must be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Proposing a dwelling elsewhere on the farm may be considered in exceptional circumstances.
- 3.4 Criterion (a) requires that the farm business is currently active and has been established for at least 6 years. Paragraph 5.38 of the justification and amplification of the policy reiterates this, stating that new houses on farms will not be acceptable unless the existing farm business is both established and active. The applicant will therefore be required to provide the farm's Department of Agriculture and Rural Development (DARD), now the Department of Agriculture, Environment and Rural Affairs (DAERA), business ID number along with other evidence to prove active farming over the required period. A business ID number was provided on the P1C form. However, the Countryside Management Inspectorate Branch of DAERA advised that *"the name of owner of the active farm business has not been quoted on P1C at Q 1 (b). In addition, the name of the person who signed P1C does not relate to the business ID quoted at Q 1(d)(i). Therefore, unable to process Consultee Response"*. Whilst the ID number provided no evidence of an active farm business, the policy does advise that other evidence should accompany the business ID number.
- 3.5 The applicant is seeking permission for a farm dwelling based on an equine business. The present use of the land according to Question 4 of the planning application (P1) form is – equine business, livery and stud farm. The Design and Access Statement stated that the equine business comprises:
- Livery, the day-to-day routine of the provision of shelter, exercise, care, training and sustenance; alongside
 - Breeding – in this case the foundation source of a rare horse breed.
- 3.6 Paragraph 5.43 of the 'justification and amplification' to Policy CTY 10 states that an equine business is to be afforded the same benefits as an established and active farm. Such businesses will include horse breeding and training and the operation of livery yards, trekking centres and riding schools. Applicants will have to provide sufficient information to demonstrate a level of involvement commensurate with commercial activity over the requisite period of 6 years.
- 3.7 The appellant submitted a photocopy of two passports:

1. The Spotted Badger (Stallion) (Foaled 1993 – 30 years old) – Category: Kerry Bog Pony, however, no breeding recorded. Passport issued to Arlene Aston (appellant)
 2. Bog Moneen Kathleen (Female) (Foaled 2001 – 22 years old) – Category: Kerry Bog Pony. Sire: Dempsey Bog Dam: River Reed.
- 3.8 The submission of the two passports does not demonstrate that a stud business is operating. Horse passports are for identification purposes and do not prove ownership. It is acknowledged that the passport for the Spotted Badger was issued to the Appellant, but no name was provided on the photocopy of Bog Moneen Kathleen. If breeding has been occurring for both these horses, no evidence has been provided to demonstrate this within the 6 year period prior to the submission of the application. It is noted that both ponies are aged 22 and 30 years old.
- 3.9 Screenshots of the 'marking pages' of horse passports were submitted. These screenshots have Liam Condon's name (Chairman of the Kerry Bog Pony Society) at the top. The screenshots do not provide breeding records (sire or dam) or ownership, so it is not clear why they were submitted. An application for the registration of a foal, named, Meadow Farm Bog Polly Anna dated 22nd October 2013 and subsequent registration of the foal to a new owner, dated and signed 1st February 2016, were also submitted.
- 3.10 Other information was submitted in support of the planning application. This included the front page of the Certificate of Service for 2014, 2015, 2016 and 2019. These front pages have the Spotted Badger written at the top. However, no further pages were submitted to show that the stallion is active and has covered mares on those particular years. The Council is unable to attach any determining weight to the front pages alone to support that a breeding business is occurring on the holding.
- 3.11 An A4 page was submitted from Heather Brett of 3 Main Street, Carrowdore. Ms Brett advised that over the past several years she had brought her mares to be covered by stud horses at Meadow Farm, 3 Castle Meadows Drive. This page was not supported by any further documentation to demonstrate that the appellant's horses had covered Ms Brett's mares.
- 3.12 An email from Liam Condon, Chairman of the Kerry Bog Pony Society, dated 23rd September 2021 advised that he had used the Spotted Badger in his breeding programme over the years and back as far as 2008. Unfortunately, no further evidence was submitted to support this comment. It is noted that in his last paragraph he states, "*I'm hoping he will once again be available for stud services*". One could assume from this comment that the Spotted Badger is not currently active as a servicing stallion. An email from Beverley Steele, veterinary surgeon dated 27th August 2021, confirmed that she has serviced the stud from 2012 to the present day. The services included examination of mares prior to cover, scanning mares and routine veterinary examinations. No invoices for such services accompanied the application.
- 3.13 A letter from Ball State University addressed to Ms Arlene Aston at 2 Church Lane, Carrowdore and dated 4th March 2012 regarding a request about a research project they were working on. The Spotted Badger is mentioned as a foundation stallion and that his use will contribute to the maintenance of the natural variation of this breed

and keep a full range of coat colouration phenotypes present in progeny of the international community of breeders. Whilst it is noted that the Spotted Badger may be a rare breed, this does not demonstrate that there is an active breeding business operating at the holding.

- 3.14 A British Horse Society membership card for Richard Donnan was submitted. Two further screenshots for British Horse Society membership were submitted for people called Michelle and Heather. None of these people have been listed as being associated with the farm business and are not the appellant. Anyone can become a member of the British Horse Society so this would not prove that an equine business is operating even if in the Appellant's name.
- 3.15 Sale dockets from George Shanks & Son dated 2015 for horse meal and haylage were submitted. These dockets are not named or addressed and therefore cannot be considered as evidence. The dockets also do not cover the entire 6-year period which is under assessment.
- 3.16 A feature article dated January/February 2008 was submitted which talks about the appellant and The Spotted Badger. The article talks about the breed and that the appellant's hobby has led her to having her own small Kerry Bog Pony Stud in Co. Down. This article is 13 years prior to the submission of the application. An article in The Original Horse Bible was submitted. There is a short article in it about the Kerry Bog Pony, which does not appear to support the appeal. The front cover of a book called Breaking the Silence was submitted along with pages 134-135 which mentions the appellant and her role as the treasurer of the Kerry Bog Pony Society. The book mentions her first purchase of a Kerry Bog Pony and that they have represented their stock at local horse shows for review. This does not demonstrate an active business within the required time period.
- 3.17 A Kerry Bog Pony Sketches and Colouring Book was submitted which has a sketch of The Spotted Badger in it. No determining weight can be attached to this colouring book.
- 3.18 The evidence submitted above has been considered and there is no doubt that the appellant has horses and cares for them. However, other than owning a stallion no evidence has been supplied to demonstrate that a stud farm or breeding business is operating on the holding. 'Livery' was also stated as part of the equine business. A livery yard/stables is where a horse owner can pay to keep their horse at a premises which is not under their ownership. A typical livery yard will provide a stable, turnout for the horse, an area to exercise the horse and a secure area for livery clients to store their belongings. Many livery customers would also store their horseboxes at the livery yard. A site visit was carried out during the processing of the application, and it was noted that there were 6 No. horses/ponies in the outbuilding adjacent to the appellant's dwelling and a further 3 No. in the paddocks to the rear of the dwelling. The Appellant's property does offer individual stables, paddocks, a sand arena suitable to exercise horses and there was one horse box. There was no evidence on the site that gave the appearance that there was a livery business in operation. There was no evidence of individual areas for each customer or signage at the entrance to suggest the location of a livery yard. No accounts, livery bills or bank statements were provided to demonstrate that a livery business was operating on the site.

- 3.19 There is also no planning permission for a livery business to operate at this location and many of the objections received from the neighbouring residents raised concern about an equestrian business starting at this address. The neighbours did not appear to be aware that an equine business was already meant to be operating at the premises.
- 3.20 The Council did advise the planning agent that there was no evidence at the time of the site visit that an equine business was operating from the premises. Fred Moore responded on behalf of the planning agent and advised that "at any time I had visited there were always horses in livery, care, schooling or whatever". He continued to advise that he had counted 13 horses on the premises and provided photographs of the horses. Whilst it is noted that only 2 No. horse passports were submitted and 13 horses were counted on the site, this in itself does not demonstrate that these other horses/ponies are paying customers, as no evidence of a livery business has been demonstrated. Policy CTY 10 refers to a farm business but no evidence has been submitted to demonstrate that a business is operating at this site. There is no doubt that the appellant has horses on the premises but the nature of the site would resemble a use which is commensurate with a domestic/hobby scale of operation and not a commercial activity. Criterion (a) of Policy CTY 10 of PPS 21 has not been met.
- 3.21 In relation to criterion (c) of policy CTY 10, it states that the new building is visually linked or sited to cluster with an established group of buildings on the farm. The policy cites the plural word 'buildings' and therefore the established group of buildings must comprise of at least 2 buildings. Policy CTY 13 criterion (g) also refers to the same criteria as above. The proposed site is located adjacent to the applicant's dwelling and a stable building. The stable building does not appear to benefit from planning permission and therefore is unauthorised. The Commissioner in appeal reference 2014/A0014 stated that as the buildings in that particular case were unauthorised, "*I cannot consider these structures as constituting an established group of buildings under Policy CTY10*". Whilst the building may be immune from enforcement action, the appellant has not demonstrated that the building is lawful. An unauthorised building cannot be counted as a second building on the holding. The application site therefore can only cluster with one building and criterion (c) of CTY 10 and criterion (g) of CTY 13 of PPS 21 are also not met.
- 3.22 Policy CTY1 goes on to state that other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. No such case has been advanced and therefore the appeal proposal is also contrary to Policy CTY 1 of PPS 21.
- 3.23 The access to the site is off Main Street, via Ballyrawer Avenue. DfI Roads requested for the appellant to provide an amended plan clearly showing access details i.e. visibility splays, access width. The planning agent was advised of the request on 10 March 2022 and no amended plans have been submitted. The proposal is therefore contrary to Policy AMP 2 of PPS 3 as it has not been demonstrated that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.

- 3.24 The Council considers that insufficient evidence has been provided to support the assertion that an equine business is currently active at 3 Castle Meadows and that it has been established for at least 6 years. The involvement in equines would appear to be commensurate with a domestic/hobby scale of operation and not a commercial activity. As it has not been demonstrated that the stable building and its use are lawful, the Council cannot consider an unauthorised building in its assessment with regards to the number of buildings to cluster with. Lastly the appellant has not demonstrated that a safe access can be provided to the site via Ballyrawer Avenue. The Council considers the proposal is contrary to the provisions contained in the PPS 21 and PPS 3 and therefore respectfully requests that the appeal is dismissed on this basis.
- 3.25 Should the appeal be allowed the Council offered the following conditions on a without prejudice basis:
- Time limit.
 - Details regarding the design and external appearance.
 - Floor levels and ridge heights of no greater than 5.5metres and an underbuild depth of no more than 0.45 metres.
 - Landscaping scheme.
 - Access arrangements, including sight visibility splays of 2.0 metres by 60 metres.

4.0 THIRD PARTIES' CASE

- 4.1 The proposal is vague and has upset several residents of Castle Meadows, some of whom are elderly and who may not have certain technical means, or computer literacy, to engage with the planning/appeal process and consequently feel helpless. The Appellant has not directly approached/engaged with the residents regarding the proposal. The Appellant has employed professional parties. Residential representatives do not have this advantage.
- 4.2 It is suggested that the Appellant wishes to extend their equestrian business with access to the appeal site coming through Castle Meadows and/or Ballyrawer [Lane]. Our homes are 100 metres from the appeal site and the proposed extension would have a serious impact on the area. We have been informed that due to our homes being more than 90 metres away from the entrance to the Appellant's property there was no obligation to notify us.
- 4.3 This is a quiet residential cul-de-sac with numerous young children residing. The equine business is not in keeping with the residential setting. The planning application is likely to be an underhanded way of establishing rights for future development i.e. housing. The grant of planning permission will set a precedent for expansion. The business could be sold, no longer be family run and expanded with no regard to impacts on residents. The main reasons of concern for all the residents of Castle Meadows and Ballyrawer will be the negative effect and loss of amenity by impacts from noise, dirt, increased traffic and on privacy and security. A petition, signed by local residents, has been submitted to the appeal.

- 4.4 Noise already comes from a variety of sources, including horses in season/breeding and those fighting to establish a pecking order, and will get worse. Horses come into season every three weeks. If stallions are close by, they are very noisy. The moving/herding of animals requires loud vocal commands. Specialist waste handlers, operating at early hours of the day, may be required to address recycling. This is not in keeping with any residential area. The raised sloping elevation of the appeal site unfortunately causes any sound to be projected into Castle Meadows.
- 4.5 Animals have escaped and made their way onto public and private property. Photographs have been provided to demonstrate this issue. The Appellant is unable to control the livestock currently on her property. There is no guarantee that animals will not escape. Given the unpredictable nature of animals, particularly horses spooked by unfamiliar setting and people, they could cause harm to people and property.
- 4.6 Concerns are raised regarding increased traffic and types of vehicles, including concrete mixers, tractors, diggers, trailers, horse boxes and other vehicles associated with the works and the appeal site. These would cause significant damage to the road. The Ballyrawer Lane is too narrow and is maintained by local residents. Castle Meadows would become the main access point if permission was granted. Reversing alarms from large delivery lorries, like those employed on vehicles within the quarry when it was active, would be audible and lead to a loss of amenity for residents. Horse events are typically held at weekends. This would mean an early start and late finishes for the livery yard. Noise levels associated with horse boxes and large diesel towing vehicles at this typically quiet time is not acceptable.
- 4.7 There will be overlooking issues with those properties next to the appeal site including the access route. The access would overlook numerous back gardens and would impact on privacy and the quiet environment that residents currently experience. Large vehicles with raised cabs will have a direct line of sight into these properties. Concern regarding "overlook" are "very high" and must not be underestimated and spending time in the back garden is no longer a pleasant experience.
- 4.8 The number of animals required to make a viable business means that the ground will soon become muddy, and it will no longer be grass-pastures. This will create an eye sore. The mud will permeate out of the premises onto the roads if strict cleaning of paved surfaces is not regularly performed. Several residents are particular about their vehicles, and some use their cars for business purposes. Farmyard dirt in Castle Meadows has already led to a loss of amenity for residents.
- 4.9 The Appellant has not been able to demonstrate an established business of over 6 years. The proposal is contrary to Policies CTY10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside and has not been demonstrated that the proposed building is visually linked or sited to cluster with an established group of buildings on the farm.
- 4.10 The application is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside as no overriding reasons why this development is essential and could not be in a settlement have been presented, and

the site has not been otherwise allocated for development in the development plan. Furthermore, the application is contrary to Policy AMP 2 of Planning Policy Statement 3, Access, Movement and Parking in that it has not been demonstrated that the access will not prejudice road safety or significantly inconvenience the flow of traffic.

- 4.11 If approved there must be strict caveats to ensure vehicular surfaces are properly paved, so that they can be cleaned, to reduce the amount of mess leaving the premises and to reduce issues with dust and noise. Burning of waste materials would be totally unacceptable. Feedstocks, primarily processed feeds or industrial food waste, can attract vermin including seagulls resulting in mess across properties. Vermin control will be required without the use of poisons which would affect local wildlife.

5.0 APPELLANT'S CASE

- 5.1 The Appellant did not submit a Statement of Case.

6.0 CONSIDERATION

- 6.1 The main issues in determining this appeal are whether the proposed development would:
- be acceptable in principle in the countryside;
 - prejudice road safety; and
 - adversely impact on neighbouring residential amenity.
- 6.2 Section 45(1) of the Planning Act (Northern Ireland) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard to the local development plan (LDP) so far as material to the appeal, and to any other material considerations. Section 6(4) of the Act states that where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.3 The Ards and Down Area Plan 2015 (ADAP) operates as the LDP for the area within which the appeal site lies. Within it, the proposed site is located outside but in proximity to the settlement limit for Carrowdore and is in the countryside within the Greenbelt. The LDP directs that the final Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) will take precedence over the plan with regards to single houses in the countryside. Therefore, the rural policies of the LDP are outdated and no determining weight can be given to them.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy (PS) for their council area. No PS has been adopted for this Council area. During the transitional period, the SPPS retains certain existing Planning Policy Statements including PPS 21 and Planning Policy Statement 3 'Access, Movement and Parking' (PPS 3). There is no conflict between the provisions of the SPPS and those of the retained policy documents, PPS 21 or PPS 3, regarding issues relevant to this appeal. In line with the transitional arrangements, as set out in the SPPS, retained policies contained within PPS 21 and PPS 3 provide the relevant policy

- context for determining this appeal. Development Control Advice Note 15 'Vehicular Access Standards' (DCAN 15) is also a material consideration within the context of this appeal.
- 6.5 The appeal proposal is situated within lands which the Appellant refers to as an equine business. However, as per the planning application and appeal forms, the proposal is for a "**single dwelling**" (emphasis added) at this location. There is no proposal before the Commission in relation to the extension an equine business or any increase in the numbers of animals being kept at the premises.
- 6.6 Policy CTY 1 'Development in the Countryside' (Policy CTY1) of PPS 21 states that "*there are 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*". One type is "a dwelling on a farm" pursuant to Policy CTY 10. The Policy advises that planning permission will be granted for a dwelling house on a farm where three criteria, as listed in the Policy, are met. The Policy also states that "*a proposal for a dwelling by those involved in the keeping and breeding of horses for commercial purposes will also be assessed under the criteria set out in this policy*". The only criteria, of the Policy, in dispute are (a) and (c).
- 6.7 Criterion (a) requires that the farm business is currently active and has been established for at least 6 years. Paragraph 5.38, of the justification and amplification of Policy CTY 10, requires the Appellant to provide the farm's DARD (now DAERA) business ID number along with other evidence to prove active farming over the required period. Additionally, paragraph 5.43 confirms that under this policy an equine business is to be afforded the same benefits as an established active farm. Such business will include horse breeding and training and the operating of livery yards, trekking centres and riding schools. Paragraph 5.43 states that, "*applicants will have to provide sufficient information to demonstrate a level of involvement commensurate with commercial activity over the requisite 6 years*". Such information should include a statement of commercial rateable history for the business, copies of appropriate insurance, horse passports (if applicable) and any other information considered relevant to the particular case. It is advised that, those keeping horses and/or ponies for hobby purposes will not satisfy the requirements of this policy.
- 6.8 Following consultation with DAERA, Countryside Management Inspectorate advised that, at the planning application stage, the name of the owner of the active farm business was not quoted by the Appellant, on the requisite application form. In addition, the name of the person who signed the application form did not correspond to the business ID as quoted on the same form. DAERA concluded that they were unable to process the consultation. Therefore, as presented, the business ID has not been confirmed.
- 6.9 The Appellant's submitted horse passports related to two horses; The Spotted Badger (Stallion), category Kerry Bog Pony (Foaled 1993), Sire and Dam not recorded, and Bog Moneen Kathleen (Female), category Kerry Bog Pony (Foaled 2001) Sire: Dempsey Bog, Dam: River Reed. Both passports were addressed to Arlene Aston (the Appellant) at **Church Farm, 2 Church Lane, Carrowdore** (emphasis added). Whilst not referred to within the Council's statement of case, but submitted to the planning application by the Appellant, was information which contained details of an application for registration of a female foal, Meadow Farm

Bog Polly Anna, whose date of birth was 19th May 2013. The register, signed by Claire Ferris (Veterinarian) from Millisle and counter signed by the Appellant both on 22nd May 2013, provides proof of breeding between The Spotted Badger (sire) and Bog Moneen Kathleen (dam). The application was addressed to the Appellant at **Church Farm Stud, 2 Church Lane, Carrowdore** (emphasis added). A second application to the Irish Horse Register, regarding Meadow Farm Bog Polly Anna was also provided by the Appellant, at planning application stage, signed by Bruce Steele (Veterinarian) of Comber Road, Hillsborough on 11th April 2016. Details, stated within the application, advised that the owner/keeper of the horse was Stephen Pedlow, 3 Shawfield Lane, Whitehead, County Antrim. However, what is absent from the above documents is commensurate information pertaining to commercial services or rateable credentials associated with the breeding and any conveyancing undertakings regarding the sale of livestock, in this case the foal. Furthermore, the address on the application does not match that of the Appellant's purported equine business at 3 Castle Meadows Drive.

- 6.10 Copies of what appears to be, the front pages of Irish Horse Register (IHR) Certificates of Service, dated 2014, 2015, 2016 and 2019 provide no indication of address or commercial equine activities related to the Appellant's business. Whilst the "*name of sire: The Spotted Badger*" is detailed at the top of these submissions, together with the IHR number, there is no information within these documents regarding the Stallion's covering of mares at lands associated with the appeal site. The British Horse Society (BHS) membership cards, whilst containing the Appellant's name and providing proof of insurance up to 7th February 2022, provide no correspondence to the appeal address or evidence of commensurate commercial equine activities, having been carried out over a period of 6 years, at the location of the appeal site. The copied images of the BHS membership cards for 'Richard Donnan', 'Michelle' and 'Heather' provide no relative evidence of commercial equine use pertaining to the appeal site or associated lands.
- 6.11 The letter dated 4th March 2012, from Dr C Ann Blakey, Ball State University, addressed to Appellant at **2 Church Lane, Carrowdore** (emphasis added), following a request made to the University's research group, provided the Appellant with phenotypic/genotypic information. It advises that The Spotted Badger as a foundation stallion will continue to contribute to the maintenance of the natural variation of this breed (the Kerry Bog Pony). However, the letter does not provide any evidence of commercial breeding or equine business that would support the appeal proposal. Furthermore, whilst the emails from Liam Condon, of Limerick, Ireland, (a Kerry Bog Breeder) reference The Spotted Badger and the use of the stallion in his breeding programme, they do not provide commensurate evidence of commercial equine activities taking place, over a period of 6 years for the appeal site. An email from Beverly Steele, a veterinary surgeon of Bruce Steele Veterinarian, confers that the mares have been examined prior to cover, at the stud at "**No. 3 Castle Meadows Drive**" (emphasis added), since 2012. However, the email and information presented within it do not contain any viable commercial or rateable documentation to substantiate the active operation of a commercial stud farm at No. 3 Castle Meadows Drive, nor that it has been established for at least 6 years.
- 6.12 The sales dockets issued by George Shanks and Son dated 2016 - 2019, for feed and other products sold at that establishment, contain no names nor addresses

regarding the recipient of the merchandise. Even if they did contain the Appellant's corresponding address, the receipts, in and of themselves, would not demonstrate commensurate commercial equine activities having taken place in association with the appeal site for a period of 6 years. Indeed, these products could be purchased in association with an equine hobby.

- 6.13 The Appellant's planning application form advises that the address of 3 Castle Meadows Drive, Carrowdore and the lands to the southwest of it are being used as an equine business, livery and stud farm. The submission to the planning application by Fred Moore, dated 18th March 2022, provided information in the form of photographs of horses located within the shed building and paddocks associated with the appeal site. This confirms the use of the building, which is ancillary to No. 3 Castle Meadows Drive, as a stable and the paddocks for equine use at that time. However, the written submission, nor the photographs, do not provide persuasive evidence of established use of a commercial equine business at this location over a period of at least 6 years. Furthermore, the letter (not dated) by Heather Brett, of 3 Main Street, Carrowdore, which states that "*over the past several years I have brought many mares to be covered by stud horses at Meadow Farm, 3 Castle Meadows Drive, Carrowdore, BT22 2TT*", does not support this proposal in the policy context. It provides an anecdotal account but does not corroborate this with any commercial or rateable evidence to support an established and ongoing equine or stud business at this location.
- 6.14 The article dated January/February 2008 discusses the Appellant and The Spotted Badger. The article mentions that the Appellant was about to lease the Kerry Bog Stallion to the USA for three years. Within the article, the Appellant discusses that the Stallion is "*going over there to push the breed forward and stand at stud*". The article also advises that the Stallion has "*other ties to America, his son, named 'Patriot' was the first Kerry Bog Pony to be born in the USA, he also has another son who is based in Andalucia, Spain*". The article concludes that "*Arlene's hobby has now led to her having her own small Kerry Bog Pony stud in Co. Down, where she currently cares for 14 ponies*". The article is informative, in so far as it discusses the Appellant's stallion covering mares and fathering offspring, as far back as at least 2007/2008. However, other than a cursory reference to a 'stud in Co. Down' the article does not refer to the precise address or location of a business associated with the appeal site.
- 6.15 An article, not dated, published in 'The Original Horse Bible' discusses the Kerry Bog Pony breed in Ireland and the USA. The article does not cite the Appellant, the Appellant's business or reference the address of the appeal site. An extract from 'Breaking the Silence' by Mary Denis Reidy references the Appellant having been involved with horses and ponies since childhood. The article mentions the Appellant's daughter as "*a consummate contestant in the sport of show jumping*". It discusses the Appellant's procurement of Kerry Bog Ponies, including the acquisition of The Spotted Badger and presentation of stock at local horse shows. However, as per the previous article, the extract confers the Appellant's equestrian interests but does not provide any tangible evidence demonstrating that an equine business is linked to the appeal site and has been established for at least 6 years. A page from the colouring book 'the Kerry Bog Pony' with a sketch of a horse, titled The Spotted Badger, foundation stallion, in County Down, as submitted by the Appellant, provides

no contextual evidence to demonstrate equine business activity over the requisite 6-year period.

- 6.16 From my site visit, it is evident that the lands adjoining the appeal site are equipped to accommodate horses. There is ample capacity, provided by the shed and paddock areas, to accommodate more than the three horses (stallion, mare, and foal) which have been registered to, at one time or another, the Appellant. Whilst registered to the Appellant, each horse and the documents pertaining to them, are not addressed to equine interests associated with the appeal site. The horse passports and the 2013 registration of the foal are all addressed to No. 2 Church Lane, Carrowdore. So too are the letters to the Appellant from Bell State University. While No. 2 Church Lane, Carrowdore, is located northeast of, and adjoins the appeal site, it is a separate property. Indeed, there is no physical access or connection between it and the appeal site. Furthermore, as per the site location plan submitted with the planning application, that property is not shown within the boundary of the appeal site or denoted as being other lands under the Appellant's control.
- 6.17 The correspondence issued in support of the planning application by Liam Condon, Beverly Steele, Heather Brett and Fred Moore does not contain any rateable evidence. Therefore, it does not substantiate the commercial existence, nor longevity over a period of 6 years, of an equine business at No. 3 Castle Meadows Drive. The submitted publications, articles and extracts do not provide commercial rateable evidence of the extant equine business nor prolonged existence over a period of at least 6 years of the same at this address either. Each case must be considered within its own evidential context and the onus is on the Appellant to provide the required information to demonstrate compliance with Policy. Having considered the evidence presented both individually and collectively, I am not persuaded in the round that the Appellant's equine business is both active and established pursuant to the requirements of criterion (a).
- 6.18 Policy CTY 10, criterion (c) requires that any new dwelling on a farm should be either visually linked or sited to cluster with an established group of buildings on the farm. Paragraph 5.41 of the justification and amplification of the policy advises that *"to help minimise impact on the character and appearance of the landscape such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from the surrounding vantage points, it reads as being visually linked with those buildings"*. Even if I had found there to be a bona fide equine business, there are two buildings associated with the appeal site; the shed and the dwelling (No. 3 Castle Meadows Drive). The Council has referred to a former appeal decision 2014/A0014. That case appears to consider the lawful status of buildings in that instance. However, the evidence proffered in that appeal case is not before me. Nevertheless, the Council has advised that the shed does not appear to benefit from planning permission. Furthermore, no testimony or verification has been submitted by the Appellant, to confirm that the shed is lawful. Therefore, in the circumstances of this case, I cannot consider this building to be established. The policy advises that it will not be acceptable to position a new dwelling with buildings which are on a neighbouring farm holding. Thus, there remains only one building, the Appellant's own dwelling, which can be considered pursuant to criterion (c). Criterion (c) refers to a **"group of buildings"** (emphasis added) and there remains only a single lawful

- building, to visually link or cluster the proposed dwelling to. Consequently, there is no established group of farm buildings where the appeal site is located. Therefore, the first test of criterion (c) is not met.
- 6.19 The Policy goes on to state that, *"exceptionally consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either (i) demonstrable health and safety reasons or (ii) verifiable plans to expand the farm business at the existing building group(s)"*. From the information submitted to the appeal, including the site location and layout plans, together with my on-site observations, there are no alternative sites within the Appellant's lands. Indeed, no alternative sites have been provided. No evidence was presented to demonstrate health and safety reasons or verifiable plans to expand at the existing group of buildings. Consequently, the exceptional test of criterion (c) is not engaged.
- 6.20 Therefore, for the reasons provide above, I find that the appeal development does not satisfy Policy CTY10 of PPS21, as read as a whole, and the Council's first reason for refusal is sustained.
- 6.21 Policy CTY13 '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 further advises that a new building will be unacceptable where certain criteria are not met. It is only criterion (g) of Policy CTY13 which is before this appeal. The policy advises that, pursuant to criterion (g), a new building will be unacceptable where, in the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on a farm. Given that I have found that the appeal proposal would not visually link or cluster with an established group of buildings on a farm, the appeal proposal fails to meet the requirements of criterion (g) of Policy CTY13. The Council's second reason for refusal is sustained.
- 6.22 Regarding Policy CTY 1, there is no evidence before me to suggest that the appeal proposal falls into any other types of development that are listed as acceptable in principle in the countryside. Furthermore, there is no evidence that there are any overriding reasons why the development is essential and could not be located in a settlement. Therefore, the proposal is not supported by Policy CTY 1 of PPS21 and the Council's third reason for refusal is sustained.
- 6.23 Policy AMP 2 'Access to Public Roads' of PPS 3, as revised in February 2005, 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 (a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and (b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes"*. The appeal development is not accessed via a protected route, thus the second criterion is not engaged.
- 6.24 Additionally, Policy AMP2 states that, the acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Department's published guidance. Consideration will also be given to several factors including the location and number of existing accesses and the standard of the existing road network, together with the speed and volume of traffic using the adjacent public road and any expected increase. Paragraph 5.18 of PPS 3 states

- that where an existing access is to be used, but is sub-standard, a condition requiring its improvement prior to the commencement of the development will normally be imposed on a grant of planning permission.
- 6.25 Whilst connectivity to the appeal site is shown to Castle Meadows Drive, the site location plan shows that access is to be taken via the private Ballyrawer Lane on to Main Street. It is on this basis that I am assessing the access requirements. No. 3 Castle Meadows Drive and its associated equine interests are currently accessed off Main Street through Castle Meadows. Policy AMP 2, at paragraph 5.18, advises that in circumstances where an existing access is available to facilitate development proposals, generally it will be expected that this arrangement is used, unless there is an opportunity to provide a more acceptable access arrangement, having regard to both road safety and local amenity considerations. At the time of my site inspection, there was no debris or excessive dirt or mud on the public roads in and around No. 3 Castle Meadows Drive. Furthermore, the appeal proposal includes a single, planned access via the Ballyrawer Lane, which is a private lane located south of the housing development.
- 6.26 The Council, following consultation with DFI Roads (the Department) required a plan denoting sight visibility splays and access width. The Council's concerns are based on the lack of the provision of this plan. Whilst issues have been raised regarding the width of the lane, none were raised by the Department or the Council regarding intensification of traffic from the private lane onto the public road. Therefore, having regard to Table A of DCAN 15, I consider that the private lane onto the public road benefits from an x-distance of c 2.0 metres. Regarding the y-distance, there exists a sightline distance of some 45 metres in either direction. Whilst on street parking may temporarily obstruct visibility, given consideration of Table B of DCAN15, the above observed access arrangements, road speeds and the existing access being within a 30-mph zone, I am not persuaded that the extant visibility splays and access width require augmentation, given the proposal is for a single dwelling. The access arrangements are extant and assessable, and have I been given no substantive evidence to demonstrate that the appeal development would prejudice road safety or significantly inconvenience the flow of traffic. Policy AMP2 of PPS 3 is met and the Council's fourth reason for refusal is not sustained.
- 6.27 A construction management plan, which could be conditioned if the development was approved, would address most, if not all, the third party's concerns. In relation to issues raised regarding overlooking, the existing mature vegetation along the northwestern boundary of the new approach from the lane to the appeal site could be retained and would provide adequate screening. A planning condition restricting the proposal to a single storey dwelling, appropriately designed with a ridge height of c.6 metres, including under-build, together with the separation distance, between the site of the house and the nearest residential dwelling outside of the Appellants control, would adequately address these concerns. Furthermore, there is no evidence before me regarding any speculative ventures in relation to the appeal site. Consequently, these matters would not warrant the withholding of planning permission.
- 6.28 Matters concerning the appropriateness of existing use of buildings and land at this location, extensions to that use and alleged problems with vermin are for the Council. In relation to the other issues raised by third parties, including those matters listed on the signed petition, nuisance and noise associated with day-to-day

operations, together with animals escaping from the property and any security issues, associated with their escape, are matters which need to be taken up directly with the Council and the custodians of those animals. Additionally, the procedural issues are matters for the Council.

- 6.29 For the reasons given above, the appeal proposal is contrary to Policies CTY 1, CTY 10 and CTY 13 of PPS 21 and the related provisions of the SPPS. The Council's first, second and third reasons for refusal are sustained and are determining in this appeal.

7.0 **RECOMMENDATION**

- 7.1 I recommend to the Commission that the appeal be dismissed.

- 7.2 This recommendation relates to the following drawings:

Drawing:	Number:	Date received by the Council:
Location Plan	01A	27 th September 2021
Layout Plan	02	10 th August 2021

List of Documents

Planning Authority: - Statement of Case by Ards and Down Borough Council

Third Parties: - Statement of Case by L Robertson
Statement of Case by L & C Clokey



Enforcement Appeal Decision

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Appeal Reference:	2023/E0006
Appeal by:	Marc George Louis Pedriel
Appeal against:	An Enforcement Notice dated 22 nd March 2023
Alleged Breach of Planning Control:	Alleged (1) Unauthorised formation of an access (including gate) and laneway; (2) Material change of use of agricultural field to an area of stone hard standing being used in conjunction with oyster farming; and (3) Unauthorised parking of vehicles, siting of storage container and equipment associated with the oyster farming use.
Location:	Land adjacent to entrance to private lane of 49, 51 & 53 Ringneill Road, Comber
Planning Authority:	Ards and North Down Borough Council
Authority's Reference:	LA06/2021/0273/CA
Procedure:	Informal Hearing on 8 th April 2024
Decision by:	Commissioner Carrie McDonagh, 22 nd May 2024

Grounds of Appeal

1. The appeal was brought on grounds (a), (f) and (g) as set out in Section 143 (3) of the Planning Act (Northern Ireland) 2011 (the Act). There is a deemed planning application by virtue of Section 145 (5).

Ground (a) and the Deemed Planning Application

2. The main issues are whether the appeal development:
 - is acceptable in principle in the countryside;
 - is acceptable within the undeveloped coast and an area of flood risk;
 - adversely impacts on the special character of the AONB;
 - would prejudice road safety; and
 - would detrimentally impact on the amenity of surrounding residents.
3. Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (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.

4. The notice site is in the Ards and North Down Borough Council area. As the Council has not adopted a plan for this area, the Ards and Down Area Plan 2015 (ADAP) acts as the LDP. Of relevance to the appeal development, the ADAP locates the notice site within the Strangford and Lecale Area of Outstanding Natural Beauty (AONB) and Countryside Policy Area (CPA) - Proposal COU 2. It refers to the AONB designation as *"necessary to protect valued landscapes of recognised national landscape quality from existing and future development pressures and to maintain their rural character"*. Since the publication of the ADAP, the CPA has been overtaken by more recent regional policy as discussed below. The Strangford Lough Ramsar, Special Protection Area (SPA), Special Area of Conservation (SAC), Marine Nature Reserve (MNR) and Area of Special Scientific Interest (ASSI) are located within Strangford Lough, which bounds the notice site's southern boundary. The ADAP also identifies two unscheduled monuments in the vicinity of the notice site. The plan is silent in respect of these designations.
5. Regional planning policy is set out in the Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) and other retained policies set out in Planning Policy Statements (PPSs). The regional policy for development along the coast is set out in the SPPS. As there is no conflict between the provisions of the SPPS and retained policies on the other issues raised in the appeal, in accordance with the transitional arrangements set out in the SPPS, the appeal development should, in the main, be determined under the retained policies of the PPSs. These are Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21), Planning Policy Statement 4 'Planning and Economic Development' (PPS 4), Planning Policy Statement 2 'Natural Heritage' (PPS 2), Planning Policy Statement 15 'Planning and Flood Risk' (PPS 15) and Planning Policy Statement 3 'Access, Movement and Parking' (PPS 3). Development Control Advice Note 15 'Vehicular Access Standards' (DCAN 15) is also a material consideration in the appeal.
6. Policy CTY 1 of PPS 21 is titled 'Development in the Countryside'. It sets out a range of types of development which, in principle, are considered to be acceptable in the countryside and will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. Policy CTY1 indicates that planning permission will be granted for non-residential development in the countryside in accordance with PPS 4. Policy PED 2 thereof is titled 'Economic Development in the Countryside', and it sets out the circumstances when such uses in the countryside may be permitted.
7. The 0.3h notice site lies along the western foreshore of Strangford Lough. Its northern boundary, of approximately 85m, consists of a 2m high mature hedge which bounds Ringneill Road. A vehicular access, with double metal gates is located 25m from the western corner of the hedge. A field gate is positioned within the eastern section of this hedge. The notice site falls gradually towards an open tributary along the eastern boundary and tapers to a depth of 40m along the rear (southern boundary). It is open to the mudflats of Strangford Lough, with a raised earth bund in the western section of the southern boundary. The undefined western boundary bounds a private lane leading to business premises and dwellings at Nos. 49, 51 and 53 Ringneill Road. The surrounding land is agricultural.

8. An internal stone laneway runs from the vehicular access in the northwest towards an area of stone hardstanding in the eastern section of the notice site. Mature trees (approximately 15-20m high) are positioned either side of the internal laneway in the western section of the site.
9. The deemed planning application seeks to retain the vehicular access and laneway, the use of the stone hard standing for the parking of vehicles, the siting of a storage container and other equipment associated with the oyster farming business. My on-site observations are consistent with the site layout provided in evidence. This includes the siting of the storage container, with a wooden trailer and equipment such as black rubber matting and metal caging, two tractors with trailers and rows of stacked wooden pallets. A small rowing boat and tractor wheels were also on site. Other items were scattered throughout the site including 5-gallon water/fuel cans and containers, metal racks, tools, plastic storage bins, wooden planks, cabling, hoses, storage sacks and netting.
10. The appellant argues that the appeal development is the expansion of an established economic development use i.e. an aquaculture business thus engaging Policy PED 3 of PPS 4 which is titled 'The Expansion of an Established Economic Development Use'. This provides for such uses where the scale and nature of the enterprise does not harm the rural character or appearance of the local area and there is no major increase in the site area. Page 15 of PPS 4 indicates that Policy PED 9 titled 'General Criteria for Economic Development' sets out the general criteria that all economic development proposals will be expected to meet. The Council and third party do not consider that Policy PED 3 is applicable as the appellant's business is not located at the notice site. The Council further considers that the development does not represent exceptional circumstances. They consider that Policy CTY 1 of PPS 21 is the applicable policy context.
11. The appellant advises that their oyster farming business has operated in Strangford Lough for approximately 60 years. Their licence, granted by both the Crown Estate and the Department of Agriculture, Environment and Rural Affairs (DAERA) covers the 50-acre Lough. The business has oyster farms in three locations, Kilkeel, Ardglass and the third, described as Strangford. The latter relates to the notice site.
12. The oysters are grown in bags/nets which are placed under the water in the Lough, northwest of Ringneill Quay. Regular inspections are undertaken over the harvesting season (which runs between June and the end of September) to determine if the oysters have reached maturity. Working on/off in two-week intervals (as the oysters are only harvested once per season and do not mature at the same stage) up to three grow bags/nets containing mature oysters are loaded onto the appellant's boat and brought ashore broadly up to around eight times a day. A wide-wheeled tractor is driven onto the beach and the oyster grow bags/nets are placed into its trailer in metal cages to hold them in a safe position for onward transportation. The appellant advises that the oysters cannot be kept in the fresh air and require refrigeration.
13. Until 2021, the appellant used Ringneill Quay, some 150m away from the beach to load the cages from the tractors onto waiting refrigerated HGV type vehicles. However, DAERA, who own Ringneill Quay, subsequently advised the appellant

that any loading activity must cease due to structural issues with the Quay. The appellant also advised of a further change in circumstances in relation to the storage of equipment. A rented shed on a nearby farm, which had direct access from the beach, became unavailable due to retirement reasons. As a result, the appellant acquired the notice site from the same farmer in March 2020. I was not advised that the business's use of the Quay or the shed had planning permission or a Certificate of Lawfulness.

14. The Council and third party argue that the notice site is being used solely for the parking of vehicles and the storage of a container, equipment and machinery for the appellant's business. They consider that the cleaning, processing and packing of the oysters for onward distribution takes place at the business premises in Downpatrick. The Council advise that no HGV parking activity has been observed at the notice site and refer to an email from the appellant confirming that the site is not used for the production, processing and working of the oysters and is only to store equipment. Their concern is that the nature of the operational works and the storage use is unacceptable in this coastal location.
15. Despite the Council's observations, the appellant advised that the notice site is used as a loading site, given they had to move from Ringneill Quay. I was advised that once the cages are loaded on the trailer, they are towed by the tractor along the Lough foreshore to an access from Ringneill Road. The tractor and trailer then travels some 500m west along Ringneill Road to the notice site. On arrival the oyster cages are placed on pallets & loaded into a waiting refrigerated HGV type vehicle (capable of holding 25 cages filled with 1 tonne of oysters). The appellant refers to a 6-hour loading window to retain the refrigeration levels and that up to 5 vehicles can be loaded each day of the harvesting season. They advised that the Food Standards Agency (FSA) fortnightly inspection checks can also take place on the notice site during this time.
16. I find the appellant's evidence in respect of the loading of oyster cages into the waiting HGV vehicles to be convincing. I further note the width of the in-situ access gate correlates with HGV use. On this basis, in addition to its use for storage related to the business, I find that the notice site is used for the loading of harvested oysters in two-week intervals over the 4-month harvesting season.
17. Policy PED 3 requires that there is no major increase in the site area of the enterprise. Whether the site area of the business enterprise can be predicated on the replacement of the area previously used at Ringneill Quay and the 50-acre Strangford Lough (as argued by the appellant) or the appellant company's Downpatrick site (as argued by the Council and a third party) there is no dispute that the original loading operations involved parking HGV vehicles along Ringneill Quay and an adjacent parking area and that a former shed was used. Taking that combined area into account, I have no evidence to suggest that the size of the notice site (0.3h) represents a 'major increase' in the site area of the enterprise. However, as the former arrangements were not authorised as outlined in paragraph 12 above and the policy appears to be site specific meaning that the increase in site area should relate to the core business site, the appeal development offends this part of the first paragraph of Policy PED 3.

18. The appellant argues that the scale and nature of the appeal development is temporary in appearance, and they have retained the vegetation on site to assist with visual integration and to prevent harm to the rural character of the local area. I accept their argument that on approach from the west, the road alignment, the undulating landscape and height of tree cover generally screen long range views of the site. Accordingly, the rowing boat, nets and cages are mainly screened by the trees and hedgerow across the frontage of the site. However, while the height of the boundary hedging filters views of the surface hardcore, the open nature of the access gate and the orientation of the Ringneill Road, as one arrives at the site from the west, makes the grey coloured stone lane noticeable in the context of its surrounding vegetation. I acknowledge the appellant's caution in terms of the use of google earth images to show the open nature of the site, but even with the passage of time enabling the weathering of the hardcore it still visually jars with the colour of the coastal mudflats and is thus appreciable in the landscape.
19. The views from the adjacent private lane are open on approach from the southwest. While the trees provide some screening of the western section, the limited height of the earth bund along the southern boundary does little to integrate the appearance of or extent of hardcore surface. Whilst I accept that tractors and trailers are an everyday occurrence in a rural area such as this, I do not agree that the storage of the mechanical equipment, oyster grow bags, racks, tyres or pallets are commonplace, nor would be the parking of HGV type vehicles. Even though they are temporary, their appearance is ramshackle in nature and out of context with the wild unspoilt nature of the coastal seascape, which sits in the forefront from this viewpoint.
20. On approach from the direction of Ringneill Quay in the east, I agree with the appellant that there is other built development in the form of detached dwellings that distract the eye as one comes closer to the notice site. The trees in the western section and the rising land behind also provide a backdrop. However, the winding nature of the Ringneill Road necessitates slower traffic speeds. When combined with the roads elevated height (in part) and the lack of an eastern boundary within the notice site, there are open views across this section of the site meaning one can see the pallets and equipment, which are obvious and distracting. When combined with the scale and colour of the grey hardcore and the limited height of the earth bund, the scale and nature of the appeal development, when viewed in the distance alongside the coastal setting of the foreshore, is harmful to the appearance of the local area. The requirements of the first paragraph of Policy PED 3 are therefore not met.
21. The expansion of an established economic development use is not defined within Policy PED 3. Paragraphs 2 and 3 set out the envisaged types of expansion. As outlined above, the expansion should be site specific given the language used in the policy, although the word "normally" in the second paragraph provides a degree of flexibility. Nevertheless, these elements of the policy do not assist the appellant's case. I will now turn to consider the remaining elements of the policy.
22. The fourth paragraph of Policy PED 3 lists three exceptional circumstances where a proposal does not meet the policy provisions in the preceding paragraphs. These are set out as follows:
 - The relocation of the enterprise is not possible for particular operational or employment reasons,

- The proposal would make a significant contribution to the local economy, and
 - The development would not undermine rural character.
23. In respect to the second policy clause, the appellant refers to £1m turnover. Whilst the third parties refer to this being generated by the business and combined from the other locations, I consider this is a significant contribution to the local economy.
 24. I accept that the oysters are attached to nets, which float under water hence they cannot be located on a land-based site. The oyster beds are in a portion of the Lough that is accessed from the foreshore and runs along the opposite side of Ringneill Road, beyond intervening fields. Policy PED 3 refers to "the site area", "the site" and measures to aid integration into the landscape being a requirement for both the extension and the existing site. Oysters are not farmed or brought ashore from the Lough foreshore along the southern boundary of the notice site. Rather than the expansion of an established use on one site, the appeal development involves the development and use of an area of land, with no established relationship to that part of the Lough foreshore where the oysters are grown or brought ashore.
 25. I accept the need to maintain oyster freshness, however, the circumstances behind the displacement from Ringneill Quay does not direct the loading activity to the notice site. Other than a farmer making this site available, I was provided with no persuasive evidence as to why it is the only suitable site to relocate to for loading or storage. While the appellant argues that the notice site represents the closest available site to pack the oysters, I have no detail of why closer locations were ruled out or why the oysters cannot be brought ashore elsewhere along the beach as an alternative landing/loading site.
 26. There was also evidence from the third parties that the oyster cages have been taken directly from the foreshore by means other than the tractor and trailer referred to previously. The appellant accepted that a cherry picker/teleporter has also previously been hired for the purpose of lifting and transporting the oyster cages from the beach and that the third party had witnessed HGV vehicles reversed onto the beach, facilitated by the hardcore, which has been added to keep them steady. The appellant advised however, that their use is on a temporary basis, as the wide wheelbase tractors and trailers which are stored on the notice site are designed for this purpose. Notwithstanding, I consider that the prior use of different methods for cage transfer/transportation places doubt on the appellant's case that the notice site is the only site that can be used for operational reasons.
 27. Furthermore, whilst the business offers employment for 60 people, the appellant accepted the third-party evidence that it is mainly temporary and seasonal in nature to coincide with the harvesting season. Given the mobile nature of seasonal workers it has not been demonstrated that relocation of the enterprise is not possible for particular operational or employment reasons.
 28. Regardless of any conclusions I may reach on whether the development undermines rural character, the provision for exceptional circumstances requires that all three tests are met. In any event, I have found that the appeal development is not satisfactorily integrated into the countryside so for this

discrete reason it harms the appearance of the local area. Accordingly, for the reasons set out above the appeal development does not find support within Policy PED 3 and does not represent an expansion of an established economic development use in the countryside.

29. Notwithstanding, the Council's position that Policy PED 2 does not apply and the appellant's confirmation at the hearing that they were not arguing under any other policies within PPS 4, its final sentence states '*All other proposals for economic development in the countryside will only be permitted in exceptional circumstances*'. Paragraph 5.10 recognises that some small-scale economic development projects may be permissible outside villages or smaller rural settlements. I will consider this in the interests of completeness and to be fair to the appellant.
30. The collection from the oyster beds is the initial stage of an existing business operation. Whilst the appellant's case is that this location is required for convenience and continuity of the previous arrangements to maintain the product freshness for onward distribution to market, I have insufficient persuasive evidence to demonstrate that the need for product freshness cannot be delivered by loading by another means including the use of a smaller refrigerated vehicle or an alternative landing/loading location. In addition, the harvesting takes place on a seasonal basis only for four months of the year on a two-weekly cycle, the use for the majority of the year is for storage. While the appellant advised the storage container was needed to store knives, hand tools, life jackets etc and it would be stressful and operationally difficult to store them in Downpatrick, these items could be brought to the beach as required. The requirements for routine checking of cages and maintenance of equipment, such as oyster nets, or a desire for the convenient storage of vehicles and equipment near the Lough are not sufficiently persuasive to represent exceptional circumstances.
31. I do not accept the appellant's argument that the appeal development is akin to the storage needs of a farming business. The latter involves tending of animals and usually requires access to equipment throughout the year, unlike the storage on the notice site, which is primarily used during the harvesting season. My conclusions in this regard are further reinforced by the third parties' argument, with which I concur, that some of the equipment on the notice site appears in disrepair and may not be capable of use throughout the year. For the reasons set out above, I do not consider the case would constitute exceptional circumstances for economic development in the countryside under Policy PED 2.
32. The Council also consider the principle of development is not established in this undeveloped coastal location. The SPPS at Paragraph 6.31 refers to how Northern Ireland is valued for its beautiful and relatively unspoilt coast, including well known features such as Strangford Lough. It includes a wide variety of landscapes and is of great importance in terms of its scientific interest, nature conservation value and its wildlife habitats. Strangford Lough's mudflats abound the southern boundary of the notice site. The notice site is also within the AONB.
33. Paragraph 6.37 of the SPPS outlines that there are few types of development that require a coastal location and the undeveloped coast will rarely be an appropriate location for new development. Where new development requires a coastal location, it must normally be directed into coastal settlements and other

- parts of the developed coast. Paragraph 6.38 further requires that planning authorities should assess the need for such development, its benefits for the local and regional economy and potential impacts on the environment. Development should only be permitted on the undeveloped coast where the proposal is of such national or regional importance as to outweigh any potential detrimental impact on the coastal environment and where it is demonstrated there is no feasible alternative site within an existing urban area in the locality.
34. PPS 2 Policy NH1 'European and Ramsar Sites – International' states that planning permission will only be granted for development that, either individually or in combination with existing and/or proposed plans or proposals, is not likely to have a significant effect on designated nature conservation sites. The adjacent ASSI and Strangford Lough Marine Conservation Zone are considered in the context of PPS 2 policies, namely Policy NH2 'Species Protected by Law' and Policy NH 3 'Sites of National Conservation Importance – National'. For sites protected by the Conservation Natural Habitats, etc Regulations (Northern Ireland) 1995 (as amended), the onus is on the Commission, as a competent authority to agree to the development only after having ascertained that it would not adversely effect the integrity of the designated site.
 35. The third parties argue the construction works have been detrimental to the coastal environment, referring to photographs to demonstrate that, in their opinion, the laid hardcore contains waste material, including building rubble, ceramics, bricks and heavy plastics. They also argue it has had a negative impact on the local wildlife including the Irish Hare, bats, owls and species of breeding and wintering birds however no detail was provided including how their habitats have been affected.
 36. The Council confirmed that DAERA, NIEA, Natural Heritage, Conservation Designations and Protection unit (CDP) manage the designated nature conservation sites. The CDP compliance team investigate breaches of the Environment Order, with cross over with the Marine Licensing Team when there is a Marine Licence in place. After two site inspections, the NIEA CDP environmental crime unit had no evidence of harm to local wildlife or pollutants being stored on the site and advised that the only way to be sure that there were no pollutants would be to order an intrusive land survey. However, based on their observations on site there was insufficient evidence to justify this. The Council advised that they had no reason to question that the stone laid on top of installed drainage is clean quarry stone.
 37. The appellant accepts that a stabilising membrane was laid across the site, above the replacement drainage channels, which discharge directly into Strangford Lough. In combination with the tributary close to the eastern boundary of the notice site, there is a hydrological connection into the designated site. A third-party refers to the storage of fuel, held in jerry cans, for the fuelling of equipment, including the boat and vehicles and the potential for leaks, including hydraulic fluids from the stored machinery. The Council suggest a condition, in the event of an approval, restricting fuelling within 10m of the protected site would provide a sufficient means of control.
 38. In the absence of persuasive detail on the constituent under surface materials, or technical assessment of the risks from the storage and leakage of fuel or the

clearance of natural vegetation, I do not dispute the advice of the statutory nature conservation authority that PPS 2 policies are not offended. Given the limited scale and nature of the appeal development, appropriate mitigation or compensatory measures could be considered. On that basis, I do not find there is persuasive evidence of detrimental impact on the coast's natural environment.

39. To my mind, the coastal environment includes its landscape setting. I have previously considered that the scale and nature of the appeal development is harmful to the appearance of the local area in this coastal setting when viewed across the access, from the private lane and in the long-range view on approach from Ringneill Quay. Notwithstanding, the SPPS test at Paragraph 6.38 requires that where proposals require a coastal location, authorities should assess its need and provide for such development when it is of such national or regional importance as to outweigh that impact on the coastal environment.
40. The oyster farming business operates under a marine licence for Strangford Lough. The economic information provided indicates that they collect 22,000 bags of oysters per season but there is no limit on the amount of oysters that can be grown. I accept the appellant company's oysters are prized for their purity and categorised as premium and that the business is regionally important. However, policy requires that the appeal development is regionally important not the business. While the loading process for the distribution of the oysters for onward transit to other locations may require access to the Lough, that access does not occur from the appeal site. The notice site is mainly in use for storage in association with that business and I do not find the appellant's argument that it is a convenient relocation to represent a need for the appeal development at this sensitive location given other locations in less sensitive areas may be available.
41. Paragraph 6.38 states that it must be demonstrated there is no feasible alternative site within an existing urban area in the locality. Whilst the notice site, at 500m from the beach access, is convenient for the loading of oysters and related storage, it is also only a short travel distance to the settlements of Ballydrain and Comber. The appellant did not dispute the Council's evidence that some of the business' premises are in an urban area; that the site is 4 km southeast of Comber (less than a ten minute drive) or that the premises in Downpatrick are a light industrial unit inside the towns settlement limit, within 10 miles of the notice site. I was provided with no evidence that these nearby urban areas could not provide feasible alternatives for the storage aspect in particular. For the reasons set out above, the third parties' concern and Council's second deemed refusal reason in respect of the non-compliance with the coastal policy in the SPPS is sustained.
42. PPS 2 Policy NH6 'Areas of Outstanding Natural Beauty', requires that the appeal development is of an appropriate design, size, and scale for the locality within the Strangford and Lecale AONB. The Council's concern relates to the first of three criteria which requires that the siting and scale is sympathetic to the special character of the AONB in general and of the particular locality.
43. The appellant disputes that the context of coastal views are intrinsic to the special character of the AONB. They describe the notice site as sandwiched between a road and a mudflat, within a mix of undulating rural farmland and

shrubland, similar to other views in the vicinity. They argue that the area is unremarkable, other than the fact that it has a coastline.

44. Paragraph 5.15 of Policy NH6 states that the quality, character and heritage value of the landscape in an AONB lies in its tranquillity, cultural associations, distinctiveness, conservation interest, visual appeal and amenity value. The nature of the storage of containers, pallets, oysters bags, cages etc is obvious and distracting and when this is combined with the scale and colour of the grey hardcore and the limited height of the earth bund to provide separation to the Lough, the siting and scale of the appeal development is unsympathetic negatively impacting on the visual appeal of the coastal landscape and the character in this AONB location. The Council accept that their deemed refusal reason in respect of the AONB erroneously refers to paragraph 6.73 of the SPPS and exceptional circumstances. Notwithstanding, their third deemed refusal reason in respect of the AONB is sustained, as modified, by these exclusions.
45. The Department for Infrastructure, (DFI) Rivers confirm that the entirety of the notice site is within the 1 in 200-year coastal flood plain. The Council and the third party argue that, as the use of the appeal development is mainly for storage, it cannot be considered under PPS 15 Policy FLD 1 'Development in Fluvial (River) and Coastal Food Plains' as an exception. The exception relates to (e) water compatible development such as that for boat mooring, navigation and water based recreational use, which has to be located within the flood plain.
46. Paragraph 6.106 of the SPPS states that "Development in floodplains should be avoided where possible". The appellant considers that "should" and "where possible" does not provide a complete prohibition of development in the coastal floodplain. Both paragraph 6.107 of the SPPS and Policy FLD 1 provide for that flexibility within the exceptions set out. I accept that the list of permissible water compatible development is not exhaustive and that a use for oyster harvesting is a water compatible development. However, the notice site is only used in that manner for 4 months of the year and on an intermittent basis. For most of the year the use is for storage of vehicles, a container and equipment. I do not consider such storage to be a water compatible development.
47. The supplied Flood Risk Assessment (FRA) shows the sources of flood risk to and from the development describing the addition of 0.3m-0.5m of infilled stone, the consequential loss of 560m² of coastal floodplain and categorises the hazard posed by coastal flooding as high. Policy FLD 1 also requires that the FRA must demonstrate that there are adequate measures to manage and mitigate any increase in flood risk. The Flood Management Plan (FMP) concludes there is a low risk to human health and infrastructure on the basis that:
 - It is not the principal place of business. The nature of the activity means personnel are on the site infrequently and have skills to monitor the weather to ensure they are not on site during adverse weather conditions.
 - There are no members of the public on the site or elderly/vulnerable persons.
 - Equipment stored on site is saltwater compatible.
 - Where potential exists for pallets and other materials to be washed off site, the presence of the hedgerow along the northern boundary prevents any equipment from being washed onto Ringneill Road.
 - Site area is small and does not redirect the conveyance of flood waters.

48. In response to the third-party argument that open air storage of lightweight products like polystyrene and mesh netting are degrading and being blown into Strangford Lough, the appellant accepts that the FMP measures are not yet implemented. Discussions at the hearing, on the fixing of loosely stored items in the higher northwestern section of the notice site to reduce the likelihood of inundation by flood waters or the removal of the storage aspects outside of the harvesting period did not provide me with the necessary assurance that such a condition would satisfactorily meet the required legal tests. For the reasons set out above, the appeal development does not comply with Policy FLD 1. The third-party concern and the Council's first deemed refusal reason is sustained.
49. As the appeal development relates to a change of use in excess of 1000m², the Council raised a concern in respect of 'Policy FLD 3 'Development and Surface Water'. In the evidential context of this appeal, I do not consider the non-receipt of a drainage assessment to be determining given the nature of the development and the extent of detail available within the Flood Risk Assessment, which provides the possibility of submission of said information through a negative condition. The appeal development does not offend Policy FLD 3 of PPS 15.
50. Policy AMP2 of PPS 3 'Access to Public Roads' indicates that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety or significantly inconvenience the free flow of traffic. The appellant argued Ringneill Road is not heavily trafficked, with a road speed of around 30mph, and that the appeal development avails of long distance visibility in both directions. The third parties highlighted how the nature of slow moving vehicles including tractors, trailers and suspending apparatus using the notice site and the position of the access and gate opening arrangements creates a safety hazard.
51. Post hearing advice from DFI Roads is that the in-situ access does not comply with the standards set out in DCAN 15. They require sight splays of 4.5m x 45m, with a 6m wide access and a 10.0m radii. DFI Roads further advise the road network is narrow for use by HGV type vehicles. Their evidence was not rebutted. Based on this and my on-site observations, I accept that the access from the notice site onto Ringneill Road does not meet the required standards and prejudices road safety and significantly inconveniences the flow of traffic. The road safety concerns of the Council and third parties are therefore sustained.
52. The third parties raise noise disturbance which, due to how oyster farming is dependent on the tide, is not limited to daytime hours. Lighting and litter generation is also alleged to have a significant detrimental impact on the peaceful enjoyment of their properties. No detail was provided on the local impact from smell or fumes.
53. The Council raised no concerns in respect of residential amenity and in the absence of any technical information or advice from their Environmental Health Department, I must rely on my own judgment and the evidence before me to adjudicate on these matters. I am mindful that whilst I did not experience any noise or disturbance at the time of my visit, its timing was outside of the harvest period, which, all parties acknowledge, is when the opportunity for noise arises. Whilst the oysters bags arrive at the notice site in metal cages, I have no reason to believe their use is a significant source of noise generation given a forklift

should hook onto the base pallet for loading onto the HGV. I consider that there are two main sources of noise: employees gathering on site and use of vehicles and equipment, including reversing beepers and a generator. The latter is also a source of light, as no lighting is installed on the site.

54. Given the distances involved to the closest receptor properties, I do not consider that noise from employee conversations is likely to be audible to the extent that it could be considered harmful to amenity. Movement of tractors and use of machinery generates noise of a type which would be commonplace in the early mornings in a rural location. I do not consider their noise or any glare from the appeal developments vehicles could be discerned from general road noise and activity. Furthermore, the trees in the western section of the notice site, while sparse, would assist in creating a filter effect to the private lane and residential properties beyond, mitigating for both noise and light.
55. The appellant advises that the appeal development does not generate commercial waste as the oyster bags, cages, nets, fishing lines and ropes are repaired and reused. I have no credible reason to dispute this or that food related waste generated by employees is not appropriately disposed of. Given the limited scale and seasonal nature of the loading operations and the intervening distance and boundary vegetation, I do not find the third-party evidence sufficiently persuasive as regards detrimental impact on residential amenity. Building control and health and safety at work regulations relate to a different legislative regime.
56. Rights under the European Convention on Human Rights are qualified, and the legislation clearly envisages that a balance be struck between the interests of individuals and those of society as a whole. Planning policy is written in the public interest and as I have found that the appeal development does not comply, it does cause demonstrable harm to interests of acknowledged importance.
57. Whilst the appellant wishes to avail of an additional business location for storage and loading of HGVs close to their existing operations on the Lough foreshore, the evidence presented does not demonstrate that the appeal development complies with planning policy. Accordingly, and as no overriding reasons were provided to demonstrate how or why the development is essential, it does not constitute an acceptable form of development in the countryside in accordance with Policy CTY 1 of PPS 21. The Council's fourth reason for refusal, and third parties' objections have been sustained insofar as specified above.
58. For the reasons given above, ground (a) of the appeal fails.

Ground (f) That the steps required by the notice, or the activities required to cease, exceed what is necessary to remedy the breach of planning control.

59. The appellant's argument under this ground is restricted to the necessity of the removal of the access laneway and gate and permanent stopping up of the unauthorised access and restoration of the land to its condition before the breach took place. They consider that compliance would render the notice site inaccessible and that the continued use of the in-situ access is the safest option for agricultural vehicles.

60. The Council argue that no action other than stopping up of the access would remove the breach of planning control. At the hearing, they argued that the previously used field gate onto Ringneill Road (located at the eastern section of the roadside hedge) had become overgrown, and its reinstatement would involve a planning application. In response to questions posed by the Council in post hearing evidence, DFI Roads advised that they would require the field gate to be reinstated as per the previous historical arrangement rather than the access, which could be made to meet the standards of DCAN 15, at the current location. The Council did not provide further evidence in this respect, and I must therefore conclude that they agree with DFI, and the previously used field gate access can be reused on road safety grounds in preference to the in-situ access.
61. The remedies in the EN seek to restore the land to its condition before the breach took place. Prior to the breach, access was via the field gate, and it can be reused for agricultural purposes after the unauthorised activities cease. The removal of the laneway and gate and stopping up of the access therefore does not exceed what is necessary to remedy the breach of planning control. Consequently, the ground (f) appeal fails.

Ground (g) - that any period for compliance specified in the notice falls short of what should reasonably be allowed.

62. The consideration under this ground of appeal is to assess whether the specified timeframe of 70 days (10 weeks) to comply with the EN is reasonable. At the hearing, the appellant accepted that the removal of the stones, hardstanding, storage equipment and vehicles were achievable within the period provided. However, they argue that the compliance period should encompass this year's full harvest season as the business is focused on the harvesting of the oysters over the narrow time window.
63. An extension to six months would not be in the public interest because of the continuation of the breach of planning control and resulting harm to the coastal landscape and road safety. Notwithstanding, it is acknowledged that this is an operational business, and it is reasonable that sufficient time should be provided to relocate the storage and maintain continuity for employment purposes. Without amendment, the timing of this decision will result in the compliance period ending during the harvesting season. I find it is reasonable to extend the period from 70 days to four months from the date of this decision to enable the continued use of the site during this upcoming harvesting season only. The ground (g) appeal therefore succeeds to the extent specified.

Decision

The decision is as follows: -

- The appeal on Ground (a) fails and the deemed application is refused.
- The appeal on Ground (f) fails.
- The appeal on Ground (g) succeeds and the period of compliance is extended to four months.

Part 4 of the EN is varied to read "Within 4 months from the date this notice takes effect: -

The Enforcement Notice (as varied) is upheld.

COMMISSIONER CARRIE MCDONAGH

2023/E0006

List of Appearances

Planning Authority: - Mr Kirk McDowell, Ards and North Down Borough Council (remote)

Appellant: - Mr Hadley Jess, HR Jess Ltd

Third Party: - Mr Gary Jamison (for part of hearing)

List of Documents

Planning Authority: - "C1" Statement of Case Ards and North Down Borough Council
 "C2" Rebuttal Statement Ards and North Down Borough Council
 "C3" Department of Infrastructure, Rivers response and Council's EIA screening
 "C4" Post hearing evidence dated 11th April 2024 from Council enclosing response from Department of Infrastructure, Roads and Department for Agriculture, Environment and Rural Affairs

Appellant: - "A1" Statement of Case, HR Jess
 "A2" Rebuttal Statement, HR Jess

Third Parties: - "B1" Statement of Case from Mr Jamison
 "B2" Rebuttal from Mr Jamison
 "B3" Post hearing evidence from Mr Jamison dated 15th April 2024
 "B4" Statement of Case from Ms Blair

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	11 June 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	17 May 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	Update on Tree Preservation Orders & applications for consent 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 16 February 2024 (date of previous report) to 17 May 2024.

Detail

The table overleaf sets out the figures from the date of the last report to Committee.

RECOMMENDATION

It is recommended that the Council notes the content of this report.

Not Applicable

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Table 1 Tree Preservation Orders Served

TPO (Full or Provisional)	Date Served	Address
1) Provisional	8 March 2024	Lands at Little Clandeboye Wood, between nos 70 and 120 Main Street, Conlig
2) Provisional	21 March 2024	Lands at Ballymaconnell Nursing Home, 48 Ballymaconnell Road, Bangor
3) Confirmed	10 May 2024	Lands at 6 Whinney Hill, Holywood

Table 2 Consent for Works Decisions

TPO or Conservation Area	Consent Granted / Notification Accepted*	Consent Refused
Tree Preservation Orders	6	0
	1. 29a Cultra Avenue, Holywood	
	2. Sullivan Prep Department, My Lady's Mile, Holywood	
	3. 1-4 Woodland Manor/Quarry Court, Helen's Bay	
	4. 5 Cultra Avenue, Holywood	
	5. 1 Martello Gate, Holywood	
	6. 83 Victoria Road, Holywood	
Conservation Area	0	0

* 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

Tree Preservation Orders Served

1. Lands at Little Clandeboye Wood, between nos 70 and 120 Main Street, Conlig

The Council was notified of active tree felling at this address, although no tree felling was evident during an inspection, it became apparent that the existing TPO was not in fact legal and therefore a Provisional TPO was served to ensure protection of the trees on site.

Not Applicable

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2. **Lands at Ballymaconnell Nursing Home, 48 Ballymaconnell Road, Bangor**
The Council was notified of active tree felling at this address and a Provisional TPO was served to protect the remaining trees on site.
3. **Lands at 6 Whinney Hill, Hollywood**
The provisional TPO was confirmed with modifications on 10 May 2024 as a number of trees merited protection.

Works to Trees

Requests seeking Consent to carry out works to protected trees

1. **29a Cultra Avenue, Hollywood**
Felling of three trees and carrying out of works to 14 trees – All three trees to be removed had extensive decay and were in poor condition and therefore removal was required for safety reasons. Works to the 14 trees was for management and maintenance reasons. Replacement planting was conditioned with 3 no. standard birch or whitebeam trees at a height of 3-3.5m.
2. **Sullivan Prep Department, My Lady's Mile, Hollywood**
Carrying out of works to 25 trees – all works were for management and maintenance reasons.
3. **1-4 Woodland Manor/Quarry Court, Helen's Bay**
The carrying out of works to two trees – works were for management and maintenance reasons.
4. **5 Cultra Avenue, Hollywood**
The carrying out of works to two trees – works were for management and maintenance reasons.
5. **1 Martello Gate, Hollywood**
The felling of one tree and the carrying out of works to three trees – the tree to be felled showed a significant loss of vigour and was in poor condition - removal was required for safety reasons. Works to three trees was for management and maintenance reasons. Replacement planting was conditioned with one standard native tree at a height of 3-3.5m.
6. **83 Victoria Road, Hollywood**
The felling of two trees and the carrying out of works to 23 trees – One of the trees to be felled had a large cavity on the main stem which resulted in its poor condition, and the second tree encroached into overhead lines and to gain clearance would result in very little foliage remaining. Removal was required for safety reasons. Works to 23 trees was for management and maintenance reasons. Replacement planting was not considered appropriate due to the dense existing tree coverage and limited scope for replanting.

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	11 June 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	28 May 2024
File Reference	N/A
Legislation	N/A
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	October 2023 – March 2024 Performance against Service Unit Plan
Attachments	N/A

Context

Members will be aware that Council is required, under the Local Government Act 2014, to have in place arrangements to secure continuous improvement in the exercise of its functions. To fulfil this requirement Council approved the Performance Management Policy and Handbook in October 2015. The Performance Management Handbook outlines the approach to Performance Planning and Management process as:

- Community Plan – published every 10-15 years
- Corporate Plan – published every 4 years (Corporate Plan Towards 2024 in operation)
- Performance Improvement Plan (PIP) – published annually in September
- Service Plan – developed annually (approved April/May 2023)

Not Applicable

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The Council's 18 Service Plans outline how each respective Service will contribute to the achievement of the Corporate objectives including, but not limited to, any relevant actions identified in the PIP.

Reporting approach

The Service Plans will be reported to relevant Committees on a half-yearly basis as undernoted:

Reference	Period	Reporting Month
Quarter 2 (Q2)	April – September	December
Q4	October – March	June

The report for the second half of 2023-2024 is attached.

Key points to note:

- There were decisions issued on four applications in the major category of development in the second half of the reporting year as follows:

LA06/2021/0061/F – Proposed residential development comprising the erection of 188 No. dwellings, open space (including NS 43), landscaping, children's play area, next phase of the distributor road, internal road network, SuDS Pond, and all associated site and access works and proposed amendment of the section 76 planning agreement. This required detailed negotiation with the planning agent and developer and NIW in respect of drainage issues and amendments to the legal agreement required to ensure that comprehensive development was achieved in line with delivery of infrastructure relating to the distributor road and drainage.

LA06/2023/1500/F – amendment to the Queen's Parade redevelopment scheme in respect of phasing across the development and associated amendment to the legal agreement (40.5 weeks)

LA06/2021/0118/F – 98no. housing units at St Andrews development, Ballyhalbert (153.6 weeks) – impacted by drainage requirements and NIW

LA06/2023/1959/F – Major investment and upgrade scheme to National Museum's Ulster Folk Museum (25.4 weeks)

LA06/2022/0873/F – relocation of Bangor Central Integrated Primary School from Castle Park Avenue to Balloo Road, Bangor (81.6 weeks) – affected by further mitigation required by DFI Roads

LA06/2023/2434/F - 95no. dwellings for social housing at Lands South of 37-77 Court Street and 1-11 Canal Row, situated within Bawn Wall and bounded by the canal, Newtownards (17 weeks)

Not Applicable

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Appeals – there were seven appeals against refusal of planning permission of which three were dismissed and four were upheld. Of the four that were upheld, two appeals were based solely on reasons provided by DFI Roads, and for which issues were resolved prior to the appeal hearings, and therefore the appeals were upheld.

Key achievements:

- The Unit processed 336 applications in the householder category of development of which 226 (67%) were processed within the internal processing target of 8 weeks, whilst 88% were issued within the statutory processing target of 15 weeks for local applications.

Emerging issues:

- DFI Stats Branch has only recently been able to derive data from the new Portal System in respect of number of enforcement cases brought to conclusion. Data for the second half of the year has been provided and indicates 178 cases brought to conclusion of which 59% were concluded within the target timeframe of 70% of cases brought to conclusion within 39 weeks. Some of these have been impacted by parallel retrospective planning applications being brought to determination.
- Work continues to be undertaken in respect of undertaking health and condition surveys on TPOs and is being assisted on a part time basis within the Unit by the Biodiversity Officer alongside appointed arboriculturist support.
- The Service Unit continues to be affected by long term sick absence and recent resignations/secondments for which recruitment is ongoing.

RECOMMENDATION

It is recommended that the report is noted.

Not Applicable

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Half Yearly Performance Report - Planning

Generated on: 28 May 2024

Last Update H2 2023/24

Performance Data Traffic Light Icon	PI Short Name	Performance Data Current Value	Performance Data Current Target
	Undertake health and condition surveys of all existing historical Tree Preservation Order (TPO) sites	75%	
	Number of weeks to process major applications from date valid to decision or withdrawal	87.3	30
	Number of weeks to process local applications from date valid to decision or withdrawal	17.1	15
	% of householder applications processed to recommendation with 8 weeks	67%	75%
	Appeals against refusal of planning permission dismissed by PAC	43%	60%
	% progress of all enforcement cases to target conclusion within 39 weeks of receipt of complaint (i.e. case closure, date on which Enforcement Notice or Breach of Condition Notice issued, summons to court (date solicitor instructed)	59%	70%
	% staff attendance	87.76%	93%
	% staff reporting regular/monthly receipt of team briefings	100%	100%
	% of completed Employee Appraisals in the period September 2023 to March 2025	80%	100%

Update on Spend against budget to be provided at Committee

Performance Data Traffic Light Icon	PI Short Name	Performance Data Current Value	Performance Data Current Target
	% spend against budget		

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	11 June 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	24 May 2024
File Reference	N/A
Legislation	Planning Act (NI) 2011
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below: Not applicable
Subject	Uplift in Planning Fees
Attachments	Item 8a - Letter from DfI to Chief Executive

1. New Statutory Rule entitled "The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2024 (S.R. 2024 No.108), comes into operation on 31 May 2024.
2. The Planning Portal will be updated for this date.
3. The purpose of the Statutory Rule is to apply a one-year inflationary uplift of approximately 4% (based on CPI as at January 2024) across all fee categories. This will mean that for example, the fee for –
 - An extension, alteration or improvement of a dwellinghouse will increase from £327 to £340; and
 - The erection of a single dwellinghouse will rise from £975 to £1014.
4. The uplift in planning fees is to help councils and the Department in resourcing the delivery of their development management functions.

Not Applicable

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5. Dfl is also updating Development Management Practice Note 11 (Planning Fees), which will be available for viewing following commencement of the Regulations.

RECOMMENDATION

It is recommended that Council notes the content of this report and the attachment.

**Climate, Planning
and Public Transport**

Department for

Infrastructure

An Roinn

Bonneagair

Deapartment fur

Infrastructurewww.infrastructure-ni.gov.uk

Council Chief Executives

Deputy Secretary

James House
2-4 Cromac Avenue
The Gasworks
BELFAST
BT7 2JA
Tel: 0300 200 7830

Email: Julie.thomson@infrastructure-ni.gov.uk

Your Reference:

Our Reference:

13 May 2024

Dear Chief Executives

Planning Fees

I am writing to advise you that the Department for Infrastructure has made a Statutory Rule entitled "The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2024" (S.R. 2024 No. 108), which comes into operation on 31 May 2024. The planning portal will be updated for this date.

The purpose of this Statutory Rule is to amend the Planning (Fees) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 73) to apply a one-year inflationary uplift of approximately 4% (based on CPI as at January 2024) across all fee categories. This will mean that, for example, the fee for:

- an extension, improvement or alteration of a dwellinghouse will increase from £327 to £340;
- the erection of single dwelling house will rise from £975 to £1014; and
- the erection of 50 dwelling houses will increase from £20,777 to £21,591.

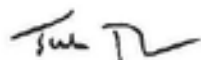
This uplift in planning fees will assist councils and the Department in resourcing the delivery of their development management functions.

Copies of the Rule may be purchased from the Stationery Office at www.tsoshop.co.uk or by contacting TSO Customer Services on 0333 202 5070 or viewed online at www.legislation.gov.uk.

The Department is also currently updating the Development Management Practice Note 11 (Planning Fees) and this will be available to view as soon as possible following commencement of the Regulations, and by the end of May 2024.

I trust you find this information helpful.

Yours sincerely



Julie Thompson
Deputy Secretary

Cc Heads of Planning