

## ARDS AND NORTH DOWN BOROUGH COUNCIL

29 October 2024

Dear Sir/Madam

You are hereby invited to attend a hybrid meeting (in person and via Zoom) of the Planning Committee of the Ards and North Down Borough Council which will be held in the Council Chamber, 2 Church Street, Newtownards, on **Tuesday 05 November** 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 01 October 2024 (Copy attached)
4. Planning Applications (Reports attached)

4.1	LA06/2023/1895/F	<p>5G telecoms installation: 15m high street pole telecoms mast and cabinets with ancillary works.</p> <p>Approx. 14m north of 122 and opposite 121-123 Ballycrochan Road, Bangor</p> <p>DEA: Bangor East &amp; Donaghadee</p> <p><b><u>Persons speaking against the application</u></b></p> <p><b>Mr Mark Lilburn</b></p>
4.2	LA06/2024/0559/F	<p>Demolition of existing buildings at 5-12 and 35-41 Queen's Parade, 22-30 Main Street (formerly B &amp; M Bargains), 34-36 Main Street (Oxfam and Hospice shops), 6-34 King Street and 5-17 Southwell Road; minor extension and elevational changes to 40-42 Main Street (Caffe Nero); creation of new means of escape and installation of rooflights to 20 Main Street (Halifax); creation of new bin storage and basement</p>

		<p>access together with minor facade works to 48 Main Street (TK Maxx); erection of a mixed use development comprising culture and leisure facilities (class D), a 66 bedroom hotel, retail units, food and beverage outlets, offices (class B1- (a)), 137 residential units comprising 113 apartments in 3 blocks and 12 duplex apartments along King Street, creation of a new vehicular access onto Southwell Road to serve undercroft car park comprising 217 spaces together with 14 courtyard spaces and 24 on street, creation of new vehicular access onto King Street to serve residential parking, minor modifications to the Main Street and King Street junction and creation of a two-way street along Southwell Road from the junction with Primrose Street, creation of a new service vehicle access onto Main Street, creation of new public squares and courtyards including new pedestrian access points; and the redevelopment of Marine Gardens Car Park including partial demolition of sea-wall to create a public realm space comprising gardens and lawns, play areas, events spaces, covered shelters, 4 kiosks and 2 pavilions (housing food and beverage operators), together with other ancillary development.</p> <p>Variation of the following conditions of LA06/2020/0097/F:</p> <ul style="list-style-type: none"><li>• Condition No.2 - Amended phasing of development</li><li>• Condition No.3 - Minor landscape layout amendments to public realm</li><li>• Condition No. 6 - Minor amendments to hard and soft landscaping within public realm,</li><li>• Condition No.14 - Amendment to drawing references showing plant rooms</li><li>• Condition No.16 - Amendment to reflect updated drawing reference</li><li>• Condition No.43 - Amended drainage proposals</li><li>• Condition No.44 - Amendment to reflect updated drawing reference</li><li>• Condition No.45 - Amendment to reflect updated drawing reference</li><li>• Condition Nos.48, 49, 54 and 56 - Amended phasing of roadworks</li><li>• Condition No.57 - Amendment to reflect updated drawing reference</li></ul>
--	--	--

		<p>Lands at and to the rear of 18 – 52 Main Street (Reeds Rain to TK Maxx), 2 – 34 King Street, 5 -17 Southwell Road, 5 – 41 Queen’s Parade, Marine Gardens car park, the Esplanade Gardens, and area around McKee Clock, Queen's Parade, Bangor.</p> <p>DEA: Bangor Central</p> <p><b><u>Persons speaking in support of the application</u></b>  <b><u>Mr N Salt (Turleys)</u></b></p>
4.3	LA06/2024/0102/F	<p>Demolition of existing 2-storey dwelling and construction of new build dwelling</p> <p>14 Shandon Park West, Bangor</p> <p>DEA: Bangor Central</p> <p><b><u>Mr D Wilson (agent) will be available to answer any Members’ questions</u></b></p>

**Reports for Noting**

- 5. Update on Planning Appeals (report attached)
- 6. DfI Legislation on Validation checklists (report attached)
- 7. NIW on ‘The Story of Belfast Lough’ (report attached)
- 8. First Quarter 2024/25 Statistical Bulletin (report attached)
- 9. Decision Notice by NI Local Government Commission for Standards (report attached)
- 10. Planning Budgetary Control Report (report attached)

**Reports for Approval**

- 11. Revision to Scheme of Delegation (report attached)
- 12. Revised Statement of Community Involvement (SCI) (report attached)

**MEMBERSHIP OF PLANNING COMMITTEE (16 MEMBERS)**

Councillor Cathcart	Councillor McCollum
---------------------	---------------------

Alderman Graham	Alderman McDowell
Councillor Harbinson	Alderman McIlveen (Chair)
Councillor Hennessy	Councillor McKee
Councillor Kendall	Councillor Morgan
Councillor Kerr	Councillor Smart
Councillor McBurney	Alderman Smith
Councillor McClean	Councillor Wray (Vice Chair)

## **ARDS AND NORTH DOWN BOROUGH COUNCIL**

A hybrid meeting (in person and via Zoom) of the Planning Committee was held in the Council Chamber, Church Street, Newtownards on Tuesday 1<sup>st</sup> October 2024 at 7.00 pm.

### **PRESENT:**

**In the Chair:** Alderman McIlveen

**Aldermen:** Graham  
McDowell  
Smith

**Councillors:** Cathcart  
Creighton  
Kerr (Zoom)  
McKee (Zoom)

Morgan  
McCollum  
McClean  
Wray

**Officers:** Director of Prosperity (A McCullough), Principal Planners (C Blair & L Maginn), Senior Planner (C Rodgers) and Democratic Services Officer (S McCrea)

### **1. APOLOGIES**

Apologies for inability to attend were received from Councillors Harbinson, Kendall and McLaren.

### **2. DECLARATIONS OF INTEREST**

No declarations of interest were made, but Members were reminded that they could declare at any time throughout the meeting.

### **3. MATTERS ARISING FROM MINUTES OF PLANNING COMMITTEE MEETING OF 03 SEPTEMBER 2024**

PREVIOUSLY CIRCULATED: - Copy of the above minutes.

**NOTED.**

### **4. PLANNING APPLICATIONS**

**4.1 LA06/2023/2248/F - New residential neighbourhood comprising mix of detached, semi-detached, townhouses and apartments, open space, landscaping, pedestrian/cycle paths, distributor road from signalised junction on Bangor Road to roundabout on Donaghadee Road and associated ancillary works. Variation of condition 23 and non-compliance with condition 22 of approval LA06/2020/0333/F relating to wildlife corridor and road crossing stream respectively. Land North of 262 Bangor Road, Beverley Way/Walk, Newtown Vale/Park/Crescent, 214 Donaghadee Road and 8-9 Ballyharry Heights, West of 171 Donaghadee Road, South/East of 272 Bangor Road and West of 250 Donaghadee Road, Newtownards**

PREVIOUSLY CIRCULATED: - Case Officer's report.

**DEA:** Ards Peninsula

**Committee Interest:** Major Application

**Proposal:** New Residential Neighbourhood, distributor road from Bangor Road to Donaghadee Road Roundabout. Variation of Condition 23 of approval LA06/2020/0333/F re Wildlife Corridor along Ballyharry Stream with proposed corridor being a minimum of 10 metres wide except where otherwise approved by the Local Planning Authority. Non-Compliance with Condition 22 of approval LA06/2020/0333/F re the distributor road crossing of Ballyharry Stream being by open span bridge of sufficient width to allow the underpass to accommodate the 10-metre wide wildlife corridor.

**Site Location:** Land North of 262 Bangor Road, Beverley Way/Walk, Newtown Vale/Park/Crescent, 214 Donaghadee Road and 8-9 Ballyharry Heights, West of 171 Donaghadee Road, South/East of 272 Bangor Road and West of 250 Donaghadee Road, Newtownards

**Recommendation:** Approval

The application was made under Section 54 of the Planning Act to amend conditions associated with the extant outline Planning Permission to develop the NS21 Housing Zone in Eastern Newtownards which included the construction of a distributor road from a signalised junction on the Bangor Road to a roundabout on the Donaghadee Road. The application sought non-compliance with condition 22 and a variation of condition 23 which required the distributor road crossing of the Ballyharry stream to be via an open-span bridge with a ten metre wide wildlife corridor passing under. The application was before Committee as it was a major application with a recommendation to grant planning permission. The application site was located at the northeastern edge of the Newtownards settlement and was zoned for housing. It was not protected by any nature conservation designations.

The site comprised of land between the Bangor Road to the west and the Donaghadee Road to the southeast. Construction was ongoing on the western side of the site at the time of writing and the development was known as Beverley Garden Village. It was important to highlight that a Certificate of Proposed Lawful Development demonstrated that NS 21 planning permission had lawfully commenced and the principle of development had therefore been established. An Environmental Statement was submitted in support of the original outline planning application. The original environmental statement, together with an addendum had

been submitted with the current Section 54 application therefore the application had been processed under the requirements of the 2017 EIA regulations. The background of the application had been laid out in detail in the Case Officer's report. In summary, the Planning Committee voted to approve an application for a greenway to connect Newtownards with the Somme Heritage Centre through the NS 21 zoning at its meeting in August 2022. This decision postdated the outlining planning permission and reserved matters approval on NS 21 lands. Therefore, no formal account of the greenway connection was factored into the original design of Beverley Garden Village.

Slide 3 showed the location of the approved distributor road where it crossed the Ballyharry stream as well as the wildlife corridor and the open space approved as part of Beverley Garden Village. Slide 5 showed the route of the proposed greenway through the open space and across the distributor road. The application sought an amendment to conditions of the outline planning permission to allow for an alternative bridge design to facilitate both the delivery of the distributor road and a vehicle-free greenway operating as an underpass to the road. Preconstruction and ground preparation works had already taken place at Ballyharry Stream in association with the extant planning permission.

The alternative engineering solution was the subject of a separate full planning application under consideration, reference LA06/2023/2249/F. This application remained delegated. The project description in the environmental statement had been updated to reflect the alternative bridge design and the effects on ecology, hydrology and drainage had been considered. Slide 7 showed detailed engineering designs involving the construction of a bridge over Ballyharry Stream providing a box-culvert underpass for pedestrians, two wildlife corridors and a water culvert. The total width was 6.9 metres consisting of a 3.9 metre wide box for the greenway, a 1.8 metre wide water culvert and two 0.9 metre wide by 35 metre long wildlife underpasses. The slide also provided example of a recently constructed pedestrian underpass in Lisburn for informational purposes.

The planning conditions, subject to this Section 54 application were intended to safeguard the biodiversity of the site including protected species. The design of the alternative engineering solution incorporated two wildlife underpasses which would ensure the safe and continued passage of mammals. NIEA Natural Environment Division had reviewed the application, associated environmental statement and the alternative wildlife mitigation and had no objection to the proposed noncompliance with the conditions. Two letters of objection had been received with matters primarily relating to the principle of the greenway and housing development. The principle of development had clearly already been established. In considering an application under Section 54, the Council must only have considered the question of all the conditions subject to which planning permission should be granted. Consequently, the overall principle of development could not be revisited. Having considered the detailed alternative design together with the environmental information and views of expert consultees, the Planning Department was satisfied that the noncompliance of Condition 22 and proposed variation of Condition 23 would not result in any unacceptable harm to biodiversity or other natural heritage interests. Furthermore, it was considered that the alternative design would not result in any other unacceptable environmental harm in terms of drainage and flood risk, contamination

during construction and impact on designated sites. This was subject to negative conditions being attached to any approval of the associated application for the culvert bridge requiring the agreement and implementation of a final drainage assessment and the construction environmental management plan in line with the advice of statutory consultees. It was recommended therefore, that planning permission was granted. A Section 54 application consultation constituted a new grant of planning permission and it was recommended that all other conditions were maintained to ensure works were kept as agreed and remain enforceable.

Members were invited to discuss the matter with Alderman Smith querying the 10 metre wide tunnel being reduced down to 2.09 metres without impact. The Senior Planner explained that NIEA was satisfied with the proposed mitigation and the standard of road crossings in similar scenarios for wildlife and water culverts. Standard mitigation had been applied in other, similar applications. The previous proposal included a wildlife corridor in an area of open space which was considered and accepted. This was merely an alternative but was also acceptable by NIEA.

Speaking in support of the application, Mr Gary Dodds was invited to speak and reminded that he had five minutes to do so. Mr Dodds thanked the chair and committee for the opportunity to speak to in support of this application. Turley welcomed the officer's recommendation to grant planning permission and wished to place on record their thanks to the Council's Planning Team for their assistance and communication throughout the application process. The officers had set out in detail in their Committee Report and presentation how they considered the development satisfied planning policy requirements, and all other relevant material considerations. All statutory consultees had responded with no objections.

This application site was situated within the Beverley Garden Village residential development which at the time of writing, was under construction. Planning permission had also been granted for a 3 kilometre Greenway from Belvedere Road, Newtownards, to the Somme Heritage Centre, following the route of the former railway line which insects the site running north to south. This permission followed the grant of outline planning permission and a number of Reserved Matters approvals at Beverley Garden Village. The proposed non-compliance with Condition 22 and variation of Condition 23, had been brought forward following discussions between the applicant and Council to achieve a solution to facilitate the delivery of an unimpeded car free greenway connection consisting of an underpass to the distributor road through Beverley Garden Village which connected Bangor Road to Donaghadee Road. In order to accommodate the greenway connection, a redesign of the Ballyharry Stream crossing was required. Rather than an open span bridge as originally conditioned, a box culvert design had been proposed to achieve a continuous car free greenway connection. The arrangement would also provide a water culvert following the route of the existing Ballyharry Stream in the form of a 1.8m diameter pipe and two 0.9m diameter wildlife passes, located at each side of the culvert, to ensure safe passage for wildlife. This arrangement had been agreed with NIEA Natural Environment Division. While the application related specifically to the conditions attached to the previous permission, a corresponding application for the culvert detail, was also under consideration by the Planning Authority and securing both permissions was necessary to regularise the proposed revisions. In conclusion, the changes had been sought to facilitate the delivery of this section of



the Council's Newtownards to Green Road Greenway – which the Council had planning permission for, and which the applicant was working alongside the Council to facilitate. Mr Dodds welcomed the Officer's recommendation and on the merits of the proposal that had been set out today and respectfully requested that the Committee ratify the Planning Team's recommendation to approve planning permission.

Councillor Cathcart asked if other applications had been delegated to which the Senior Planner explained that this had been an outline planning application for the entire NS 21 zoning area. Other applications sought full, detailed planning permission for a small part of that zoning with the site area falling below the threshold for a major development. It was also not on Council land.

**RESOLVED on the proposal of Councillor Cathcart, seconded by Alderman Smith, that planning permission be granted.**

**4.2 LA06/2024/0197/F – 1<sup>ST</sup> FLOOR EXTENSION TO REAR TO PROVIDE 3 TREATMENT ROOMS, THE OLD INN, 15-25 MAIN ST, CRAWFORDSBURN**

PREVIOUSLY CIRCULATED: - Case Officer's report.

**DEA:** Bangor West

**Committee Interest:** A local development application attracting six or more separate individual objections contrary to the case officer's recommendation.

**Proposal:** 1st floor extension to rear to provide three treatment rooms

**Site Location:** Rear of the Old Inn, 15-25 Main Street, Crawfordsburn

**Recommendation:** Approval

The Principal Planner explained to Members that this was an application for a first floor extension to the building's rear which would provide three treatment rooms at The Old Inn, Main Street, Crawfordsburn.

This application was before Members as a local development application which had attracted six or more separate individual objections that were contrary to Officers' recommendation.

This was an application for the development of three spa treatment rooms to be erected on stilts, with proposed parking beneath, located on land to the rear of the existing hotel.

The site was located within the Crawfordsburn Settlement Limit and formed part of the existing Old Inn hotel complex. The site was within the North Down and Ards Area Plan 1984-1995 and draft Belfast Metropolitan Area Plan 2015. The site itself was not zoned for a particular use and was located within a proposed Area of Village Character.

Members were asked to note that 26 letters of support, and 28 letters of objection from 24 separate address had been received.

The main points of objection primarily related to a stated lack of car parking for the use of the hotel site in its entirety taking account of all ongoing elements, with it considered by objectors that the site required more spaces than was available and therefore pushing parking onto the Main Street and surrounding roads, impacting the free flow of traffic and raising concerns of road safety. Objectors also raised concerns regarding delivery vehicles being unable to access the site and unloading on the street with the proposed location of the spa treatment rooms removing the existing turning area and thus preventing delivery vehicles from turning within the site and exiting in a forward gear.

Members were asked to note that DfI Roads had been consulted and did not object to the proposal, as it did not result in an intensification of use of the access from or on to Main Street.

Parking Standards, which was supplementary planning guidance and not policy, outlined that the planning authority was to have regard to the standards which indicated 1 space per 3 staff on duty.

This application proposal included the provision of three spaces with a fourth retained. It was noteworthy to mention that Planning Service could only assess the proposal applied for within the red line boundary. This was an existing hotel site, which had been in operation for many years. The Planning Service could not make a determination on matters beyond the application proposal.

The planning agent had advised during this application process that it had become clear from the previous application for the self-catering cottages the number of spaces shown on the approved plans indicated an availability of 13 spaces in the lower car parking area. The agent outlined that this was incorrect as it should have shown 16 spaces with three existing parking spaces on the application site land already in use.

The agent stated that these were accidentally missed and discounted under the previous application. These were formally in place now under this proposal. As could be seen from slides, there were four spaces proposed (space No.10 as indicated on slide 5 was being retained). The agent stated that this land was not being presently used to enable delivery vehicles etc to turn in this lower area but had always been in use for parking.

As indicated, DfI Roads had offered no objections to the proposed development. They were content that there was existing space within the hotel curtilage for delivery vehicles to turn and exit in a forward gear.

The proposed development did not cause any adverse visual impact on neighbouring uses with no public views from Main Street. The development was located to the rear of the existing building and did not impact any of the trees along the rear northern boundary, which provided continued screening nor did it cause any adverse visual impact on the proposed Area of Village Character.

The proposed development was subordinate to the existing hotel building and was of a high-quality design and finish. It was in keeping with the surrounding area and

respected the site context in terms of scale, size and design. The proposal was in keeping with Policy TSM 1 of PPS 16 for Tourism Development in Settlements. The Planning Service had fully considered all concerns raised by objectors which could only be taken to be considered against this proposed development only, which was for three spa treatment rooms to be used by overnight hotel guests only. The Principal Planner recommended that planning permission was granted subject to a condition restricting use to overnight guests only.

In Members being invited to speak on the matter, Councillor McCollum, in relation to the proposed area of village character asked if traditional forms of construction should be used with regard to replacement and repair works as the proposed structures being timber slated and on stilts did not appear to be in keeping with the rest of the structures on the street, despite there being no views of it from the main thoroughfare. Furthermore, Councillor McCollum was curious if the lack of line of sight meant a new build could take on any form and how a resident-only basis for using the treatment rooms could be policed. The Principal Planner explained that there was no visual impact from the main street as the proposed buildings were obscured completely by the Old Inn. This did not mean that developments could take on any design. This one in particular was of high quality and respected the character of Crawfordsburn as a whole. As such, it did not conflict with policy. Four parking spaces also met with Parking standards guidance of one space per three staff. The wording of the condition also provided an enforceable nature to those that could frequent the treatment rooms.

Alderman Smith understood the difficulties of parking in the general vicinity and asked if the decision being based within the red line only meant that Members were unable to consider wider implications of the whole site. The Principal Planner confirmed that planning determination could only be made on the proposal whilst the Director of Prosperity added that the Planners did take a holistic approach. The previous application had investigated parking being sufficient which was approved by not only the Council, but the Department for Infrastructure as well. That report also went into significant detail on how parking spaces had been calculated whilst taking into consideration the cessation of the large function room which was also conditioned. In the event that the function room was used for its initial purpose, it would be a breach of condition which meant there was no right to appeal.

Councillor Cathcart asked if the proposed spaces and treatments rooms meant that three additional staff would be hired and why the maps shown on current and proposed spaces appeared the same. The Director of Prosperity advised that spaces had been calculated on an additional three staff but that may not necessarily come to pass. The car parking spaces were not marked as available yet to which the Principal Planner added that the spaces hadn't been included in the original calculations of the previous application despite already being present on site due to an error by the applicant. These spaces would be formalised under this application and the Department for Infrastructure had already approved the previous application based on spaces.

Alderman Graham suggested that there was a difference in talking about the theory of required spaces versus its reality. The area was already very busy from a traffic point of view with significant congestion and asked if Officers agreed that the site

was over-intensified. The Principal Planner advised that the previous application was granted in relation to parking spaces and that the hotel had existed on site for many years. With the addition of three spaces that weren't formalised previously, this application was positive. Though congestion did exist on the roads within the general area, determination this evening could only be based on the application alone.

Speaking in support of the application, Mr Colin Johnston and Mr David Mountstephen were invited to speak.

Mr Mountstephen thanked the Chair and Committee for the opportunity to speak in support of the recommendation to approve. The application was for three treatment rooms to the rear of the hotel and was compliant with planning policy. The SPPS established a presumption in favour of development and facilitated tourism development. Policy TSM 1 of PPS 16 was a permissive policy which supported the granting of planning approval for tourism development such as that proposed. The proposal would not have an adverse impact on the character of the area or residential amenity and three car parking spaces were to be provided. He commended the recommendation to approve to the Committee, advising that both he and Colin Johnston (Managing Director of the Galgorm Collection) were happy to answer any questions.

Councillor McCollum asked for more information on how customers would access the treatment rooms from the main Inn facility. Mr Johnston explained that access was internal from the main spa, but there was an external fire exit. As for Christmas, the plan would remain the same as before; that the celebrations would continue as they always had.

Councillor Wray asked of the maximum Inn capacity and why the treatment room proposal was only for guests of the Crawfordsburn Inn. In addition, Councillor Wray was curious about the pressures of car parking for staff, especially if three staff were to start working on top of current staffing levels at the Inn. Mr Johnston explained that the Old Inn plan was to make it a premium facility with five stars, and hopefully a Michelin ranked restaurant meaning high spend with an international customer base. Not all staff travelled by car. There were 360 staff at Galgorm for which the company supplied bus services whilst it was a regular occurrence that some staff car shared as well. The three treatment rooms did not mean three staff would be present at all times as it was plausible for there to be quiet days. Mr Mountstephen added that numbers were based on averages as sometimes three staff could be present but at other times there may only be one staff.

Councillor Morgan asked what the company was doing and what it could do to mitigate congestion issues such as encouraging staff or guests to use alternative forms of transport. Mr Mountstephen advised that they had supplied the required amount of car parking as per the Parking standards whilst Mr Johnston explained that they had continued to engage with any and all agencies as well as residents right up to the most recent meeting with the Road Service, feedback from which stated that there was no need for consignments to be delivered to the back of the business, but that the decision had been made to do so anyway to help with any congestion issues. The company did encourage their guests to use their private car

park and if any residents of the area had issues, the company would use as much persuasion as possible to its customers and would be happy to work on new schemes. However, it was noteworthy to mention that the Old Inn was not the only business to attract traffic to the area.

Councillor Cathcart asked that, if there was such contention over car parking spaces during the last application, how could the spaces in this application have been missed and if it was because of delivery vehicles using the area. He also queried if any works were being carried out into alternative options given that restaurant users would also add to congestion of the area by possibly parking on the main street. Mr Johnston agreed that additional spaces are required for growing businesses and that the village itself was in need of a public car park. At the last meeting, Mr Johnston had agreed to be part of the solution from a financial point of view as a facilitator. The village needed a solution too and it could not fall solely to the company as other businesses existed in the area as well. The Crawfordsburn Old Inn was bought over at a time when it was a high-volume business with the intention of switching to a premium model that meant least customers to achieve the desired business model.

Councillor Creighton pointed out that the village was not well supplied with public transport with an hourly bus and that three staff would likely drive. Mr Johnston referred to the Helen's Bay train station as a local transport option as well as those that came by taxis which the company paid for.

Councillor McClean believed local residents were perhaps not aware that the treatment rooms would be for customers residing at the hotel. He asked for clarification on the different elements that had led to the current car parking provision. Mr Mountstephen confirmed that there had been a betterment of 23 car parking spaces due to the cessation of the large function room and offices having been moved off-site and, contrary to Councillor McClean's belief, advised that those who planned to use the restaurant could make use of the car park with the barriers opening for cars that approached them.

Alderman Graham was concerned that the stilts of the treatment rooms would have a negative effect on delivery vehicles especially if one accidentally backed into the stilts whilst turning and asked if the proposed buildings enhanced the overall appearance of the area. Mr Johnston advised that vehicles reversed down the ramp so were already facing the right direction whilst the design of the pods was subjective; they were of high quality design that both complimented and contrasted.

Mr Johnston and Mr Mountstephen returned to the public gallery.

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

Alderman Smith acknowledged issues of congestion and parking in the village but was encouraged to hear of enthusiasm from Mr Johnston that they took a proactive approach. Ultimately, the decision had to be based solely on the application before Members, though he did understand there were wider issues around parking. Councillor McCollum agreed, noting that since new management stopped the Inn being used for wedding venues, there had been some improvement to the flow of

traffic in the area but understood residents' concerns. Assurance was also given due to the condition of the treatment rooms only being available to those staying at the Inn.

Alderman Graham asked that his opposition to the decision be noted, citing that traffic was all based on theory.

Councillor Cathcart understood the frustrations of local residents but noted with the condition of the treatment rooms being usable only by those staying at the hotel, as well as the previous application's removal of the larger function had fed into his decision to agree with the decision. However, he urged the applicants to continue finding appropriate solutions.

**RESOLVED on the proposal of Alderman Smith, seconded by Councillor McCollum, that planning permission be granted.**

**4.3 LA06/2023/2363/O – 2 NO. DWELLINGS AND GARAGES. LAND BETWEEN 47 AND 47A BALLYVESTER ROAD, DONAGHADEE**

**ITEM 4.3 WAS DEFERRED.**

**4.4 LA06/2024/0260/F – ONE 32' X 10' (9.7M X 3M) CUSTOMISED CONTAINER TO PROVIDE STORAGE AND MEETING PLACE/WORKSHOP – VARIATION OF CONDITION 1 OF PLANNING APPROVAL LA06/2019/0493/F REGARDING TIME LIMIT. APPROX 30M SOUTH OF 27 SPRINGFIELD ROAD (ANCHOR CAR PARK), PORTAVOGIE**

PREVIOUSLY CIRCULATED: - Case Officer's report.

**DEA:** Ards Peninsula

**Committee Interest:** Application relates to land in which the Council has an interest

**Proposal:** One 32' x 10' (9.7m x 3m) customized container to provide storage and meeting place/workshop – Variation of Condition 1 of planning approval LA06/2019/0493/F to extend the permission for a further period

**Site Location:** Approx 30m South of 27 Springfield Road (Anchor Car Park), Portavogie

**Recommendation:** Approval

The Principal Planner explained that the application was before members as it related to land on which the Council had an interest. The application sought to extend the temporary permission for the siting of a 9.7m by 3m wide container used for storage purposes and a meeting place/workshop at Anchor Car Park, Portavogie. The application site was located in the countryside outside Portavogie Settlement Limits. The site comprised of an existing car park which served a play park area and no letters of representation had been received and no consultations issued.

The container had achieved planning approval previously and had been on site since. There was to be no change to its siting or design. The container was sited adjacent to a second Council container. Whilst the Planning Service accepted the

need for the container to be located in the car park for a further five years, this would not achieve a long-term sustainable development of high standard design quality and therefore a condition was attached requiring its removal in November 2029.

The Principal Planner recommended that temporary planning permission be granted until November 2029 after which the container was to be removed from the site.

Councillor Morgan asked what would happen in 2029 if an extension was once again required. The Principal Planner agreed that a container was not a long-term solution for the site but that it was presently needed which the Council supported. From a planning perspective, ten years was a considerable period of time but it could certainly not go beyond 2029 as it was still deemed a temporary structure located in the countryside. The Directory of Prosperity asked Members to be mindful that Village Plans were forthcoming and there was potential for a solution to arise from it but agreed on the unattractive qualities of the container hence its agreed removal in 2029.

Alderman McIlveen asked if the applicants had needed to satisfy planners by showing that they had looked for alternative solutions before the extension was granted. The Director of Prosperity explained that they had not needed to satisfy the Planning Department as the request to utilise council land had come through a different committee.

Proposed by Councillor Wray, seconded by Alderman Graham that the recommendation be adopted, and that planning approval be granted.

Councillor Wray explained that the club had only been in existence for five years and needed some time to build reserves for an alternative.

**RESOLVED on the proposal of Councillor Wray, seconded by Alderman Graham, that planning permission be granted.**

**4.5 LA06/2024/0157/F – ALTERATIONS TO CAR PARK, INC. IMPROVED LAYOUT TO INCREASE THE NUMBER OF PARKING SPACES FROM 9 TO 23, HARD AND SOFT LANDSCAPING, DRAINAGE IMPROVEMENTS AND RESURFACING. MOAT ENTRY CAR PARK, 4M SOUTH OF 9 KNOCK EDEN PARK, DONAGHADEE**

PREVIOUSLY CIRCULATED: - Case Officer's report.

**DEA:** Bangor East & Donaghadee

**Committee Interest:** Council Application

**Proposal:** Alterations to car park, inc. improved layout to increase the number of parking spaces from 9 to 23, hard and soft landscaping, drainage improvements and resurfacing

**Site Location:** Moat Entry Car Park, 4m south of 9 Knock Eden Park, Donaghadee

**Recommendation:** Approval

The Principal Planned explained that this item was before members as it was a Council planning application. Members were asked to note that three letters of

objection had been received with the primary thrust relating to the lack of need for the additional spaces, increased traffic movement in the area especially from beyond the local residential community and increased anti-social behaviour. Members were also asked to note that the Department for Infrastructure Roads had no objection to the proposal. The use of the site was not changing with the application making better use of the site available.

The application site was within the urban area and also Donaghadee Conservation Area. This application was submitted by the Regeneration Service Unit with an aim to help address the wider parking issues in Donaghadee rather than directly solely servicing The Moat.

The proposed design and reconfiguration of the car park from 9 to 23 spaces did not result in a detrimental visual impact to the surrounding area. Proposed hard and soft landscaping features softened the overall impact. Whilst the proposal resulted in the removal of boundary walls, Conservation Area Consent was not required as the walls were beneath the required thresholds. HED was consulted on the proposal given the proximity to the Moat however no objections had been received from them. Finally, the proposed development complied with PPS 15 regarding flooding and surface water run-off with NI Water content.

Councillor Wray asked if this application had been part of the village plan or who had identified the need. The Principal Planner explained that the Regeneration unit had identified a need through information garnered by Town Advisory Groups which considered the wider need for parking in the Donaghadee area. There would also be an update for Crommelin Park and it was hoped this would alleviate overall parking issues in the town.

Councillor Morgan believed that the more car parking spaces made available, the more congested an area would become and asked if bicycle racks had been investigated whilst referencing the plans and asking if footpaths were due to be lost with the proposal. The Director of Prosperity explained that the department could not comment on that matter, as the application had come from another department. The, 'footpath,' that Councillor Morgan had referenced was in fact not considered such, but instead a middle bed section with a partial resin consistency and was not adjoining the public road. The Planning Committee could only determine based on the information before Members this evening and were not in a position to change or amend the proposal.

Councillor McCollum was curious if the proposal would have any impact on the pending Public Realm application and if concerns that had been raised through objections were with regard to additional spaces not alleviating parking problems. She was also unconvinced that Crommelin Park would provide a solution in the future. The Directory of Prosperity advised that this application was complimentary to the Public Realm application but was separate from it as the Department for Communities had said the application fell outside of town centre boundaries and was thusly being funded from Regeneration's Assets and Properties department. The Principal Planner explained that of objections received, there had been issues on visibility displays at the car parks for which the Department for Infrastructure Roads had been consulted, though they were content with the proposal. The remaining



objections concerned noise. All objections had been considered by Officers. The Principal Planner added that mention made of Crommelin Park earlier had been advice from the Regeneration Service Unit.

Councillor McCollum asked that, with the demolishing of part of the stone wall, if there would be any salvage works to reuse materials and clarification on whether the footpath was part of landscape design and not used for access. The Director of Prosperity advised that English Heritage Practical Conservation works would be carried out and that salvage and use would occur where possible whilst the Principal Planner confirmed that the existing pavement would be retained outside the site with the defunct landscaping feature within the car park being removed which did not play any role in access.

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

Alderman Smith was happy to propose given the need to alleviate parking issues within the town and noted the fact that the adjacent Camera Obscura in the Moat had received an investment for which this application would also assist with access to.

**RESOLVED on the proposal of Alderman Smith, seconded by Councillor McCollum, that planning permission be granted.**

**5. UPDATE ON PLANNING APPEALS**

PREVIOUSLY CIRCULATED: - Report from Director of Prosperity attaching information about the Appeal decisions, as below.

**Appeal Decisions**

- 1. The following appeal was dismissed on 17 September 2024.

PAC Ref	2024/A0001
Council Ref	LA06/2021/1493/O
Appellant	Mr Peter Knight
Subject of Appeal	Refusal of outline planning permission for a detached dwelling and associated siteworks.
Location	Lands approximately 40m north of 194 Church Road, Hollywood

The Council refused the above application on 21 December 2023 for the following reasons:

- 1. The proposal was contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there were no overriding reasons why this development was essential in this rural location and could not be located within a settlement.

2. The proposal was contrary to the SPPS and Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant had not provided satisfactory long-term evidence that a new dwelling was a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it had not been demonstrated that there were no alternative solutions to meet the particular circumstances of the case.
3. The proposal was contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal did not constitute a small gap sufficient only to accommodate a maximum of two houses within an otherwise substantial and continuously built-up frontage, and would, if permitted result in the creation of ribbon development along Church Road.
4. The proposal was contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacked long established natural boundaries, would be unable to provide a suitable degree of enclosure for any building to integrate into the landscape and relied upon the use of new landscaping for integration.
5. The proposal was contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would, if permitted further erode the character of the area due to a build-up of development and create a ribbon of development.

In terms of the appeal there were two preliminary matters dealt with, one relating to the landownership certificate, the other an incorrect scale on the Site Location Plan. The Commissioner was satisfied that following the service of the correct certificate post hearing no prejudice had been caused to the landowner, who is the applicant's mother, to invalidate the appeal. Secondly, the Site Location Plan met the legislative requirements in line with the Planning (General Development Procedures) Order (NI) 2015

This application for a dwelling had been sought under Policy CTY 6 for personal and domestic circumstances. The applicant put forward that the daily and long terms needs to assist with his daughter's health conditions that she has had since birth required the construction of a new dwelling at this location. The Council did not dispute the medical information supplied, and nor did the Commission.

The central issue in this case was whether this was an exceptional case and there were no alternate solutions open to the applicant to accommodate his daughter when required. The appellant's daughter lived with her mother (appellant's ex-wife) in her family home from Monday to Wednesday and was in a care home Thursday to Saturday. The appellant took care of his daughter across one or two nights at weekends (depending on daughter's routine). The appellant hoped to spend more time with his daughter in retirement which was approximately two years away at the time of writing.

The site-specific reasons put forward were that adaptations to the appellant’s mother’s house, which was adjacent to the site, and the appellant’s rented home were not possible due to ownership issues.

The Commissioner agreed with the Council that the appellant had failed to properly consider alternative solutions including adapting/extending the adjacent mother’s dwelling or an outbuilding within that curtilage. The Commissioner concluded that there was no persuasive evidence submitted to support the site-specific need for a dwelling at this location and as such the proposed failed to meet the policy requirements of policy CTY 6 of PPS 21. The appellant’s daughter, at the time of writing, lived in an adapted home in a nearby settlement. The Commissioner further concluded that the appellant could purchase or rent a dwelling in a nearby settlement with adaptations in place. The Commissioner acknowledged the appellant’s situation; however, commented that the policy test was stringent with the daughter’s needs currently catered for and which are unlikely to change.

The appellant had also forwarded a case at the hearing of the need to care for his mother, following the recent death of his father; however, no persuasive evidence was presented to demonstrate an on-site need and it was noted at the hearing that the appellant’s sister lives nearby and assists with caring needs.

In terms of policy CTY 8 of PPS 21 the Commissioner found that the appeal site did not represent an exception and was not considered a small gap site capable of accommodating a maximum of two dwellings. The Commissioner concluded that the site would add to a ribbon of development along Church Road, Hollywood, failing to meet the requirements of policies CTY 8 (ribbon development) and CTY 14 (adversely impacting the rural character of the area).

In terms of policy CTY 13 of PPS 21 the Commissioner found that the site was exposed with no backdrop and lacked long established boundaries, therefore would rely on new landscaping for integration. It was concluded that the appeal site failed to meet the policy requirement.

**New Appeals Lodged**

- 2. The following appeal was lodged on 20 August 2024.

PAC Ref	2024/A0057
Council Ref	LA06/2022/1258/F
Appellant	Peter Kelly
Subject of Appeal	Refusal of planning permission for ‘Farm shed for storage of fodder and machinery (Retrospective)’
Location	2b Ballyblack Road, Portaferry

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

RECOMMENDED that Council notes the report and attachment

The Principal Planner (C Blair) summarised the above report to Members.

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

## **6. DFI STATUTORY CONSULTEES ANNUAL PERFORMANCE REPORT**

PREVIOUSLY CIRCULATED: - Report from Director of Prosperity detailing the undernoted:

1. The purpose of this was to inform members of the annual performance report prepared by the Department for Infrastructure (Dfi) which sets out the performance of statutory consultees in the planning process. The report detailed a list of statutory consultees at the end on page 19.
2. Members should note that Council also on occasion consults with non-statutory consultees, for example Environmental Health, the Council's Tree Officer or Conservation Area Officer, which are not bound by any statutory response time.
3. Relevant legislation was set out in The Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended) ("the GDPO") which provides instruction regarding statutory consultations on applications for planning permission. The structure/names of Departments were amended in 2016.
4. The requirement for Dfi to provide an annual report is set out in Article 16 of the GDPO. Each statutory consultee was required, by legislation, to provide details to Dfi of how it has purportedly met its statutory requirements (in respect of providing a substantive response within the timeframe or other timeframe as agreed between the council and the consultee). Such a report was required to relate to the period of 12 months commencing on 1st April in the preceding year.
5. The report detailed of the volume of statutory consultation that had taken place during 2023/24 with comparative information for earlier years. This was the first annual report to be produced for statutory consultation since introduction of both Planning Portals (that was for Mid Ulster, and that was for the remaining 11 planning authorities, which includes DFI).
6. Members were asked to note that the figures contained in the report were extracted from each respective Planning Portal, reflect management information and should not be considered as official statistics and therefore should not be quoted as such.
7. Regionally significant applications were dealt with by Dfi with Councils dealing with applications in the category of 'major' and 'local' development. Major developments were those developments which had the potential to be of significance and interest to communities and would be subject to processes such as Pre-Application Community Consultation (PACC), the submission of a Design and Access Statement (D&AS) and determination by Planning Committee. They

were likely to be developments that have important economic, social and environmental implications for a council area.

8. For Ards and North Down, the statutory consultee response rate for major applications was 37% within the statutory target, the lowest of any of the 11 Council areas, (Table 4e, page 11 of the report), with a figure of 72% for local applications (only DFI Planning had a lower response rate).
9. Tables 4c and 4f did not break down DFI Roads into Divisional Offices and members would have been aware that it was acknowledged by DFI Roads that Southern Division, serving Ards and North Down and Newry Mourne and Down Council areas, had been and continued to experience resourcing issues, which was more borne out in Table 4e in respect of 'On Time' for AND at the aforementioned 37% for major applications.
10. In terms of consultations on applications in the local category of development, this Council fared slightly better in respect of 72% of its consultee responses being returned 'On Time'; however, there was no breakdown in respect of the different consultees by Council area in this regard, where we had been aware that particular consultees are experiencing resource issues.
11. It was assumed that the reference to 'No response' relates to those consultation responses which were not received in that particular year and would therefore appear as 'Late' in the following year.
12. Members were asked to note that although the Planning Act placed a duty to respond to consultation within a period of 21 days beginning with the day on which the Council ... "is satisfied that it has supplied the statutory consultee with the information it believes necessary for the consultee to make a substantive response", consultees were entitled to request a longer period of time to respond, which the Council could determine whether it agrees. It was an ongoing issue whereby some consultees do not engage this process.
13. It was also worth noting that while a consultee may have responded within the 21-day target date, the Council may deem the response insufficient and have to reconsult requesting additional consideration which inevitably would have an impact on response times. Conversely, a consultee may request additional information in order to be able to provide a 'substantive response' as detailed in legislation.
14. Members would also have been aware that throughout the processing of an application there may be various amendments which materially changed the proposal to the extent that further consultation is required by Council. Council also occasionally sought consultees to comment on representations made which may seem to contradict consultee findings which was achieved via further formal consultation.
15. Members were asked to note that with the proposed introduction of statutory validation checklists (as part of the Planning Improvement Programme), 'frontloading' of applications would seek to reduce the requirement for additional

time to be afforded to consultees to comment as applicants would be required to submit a full suite of required studies relevant to their proposal at the outset of the processing period. This, however, would not address the ongoing resourcing issue in some departments.

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

The Director of Prosperity summarised the report to Members, explaining that it provided some salient points of the results of the performance report. It had been the first since both planning portals were introduced and adopted by Mid-Ulster and shortly thereafter by the remaining ten Councils and the Department for Infrastructure. It highlighted issues that had been discussed at the previous Committee regarding the lack of meeting targets by some statutory consultees like the Department for Infrastructure Roads. A, 'no-response,' was assumed to relate to consultations within that year whilst twenty-one day targets fell into the next year. Also, it was possible for a consultee to request addition information which in turn may lead to amendments that required re-consultation.

Initially, this had been proposed by Alderman Smith, and seconded by Councillor Morgan for the report to be noted, however, the following discussion led to Alderman Smith agreeing to withdraw his proposal to note.

Alderman Smith agreed that the figure for major applications being 37% had great impact on the Council's performance and asked if there was any reason why Ards and North Down Borough Council had fared so badly. The Director of Prosperity explained that there had been resourcing issues for some consultees, especially the Department for Infrastructure Roads. It had been acknowledged at a high level by Roads that the issue lay with the Southern Division which covered this Borough as well as Newry, Mourne and Down. In addition, major applications covered the most substantial and complex applications and of that which was required of those, it was either not submitted on time or took longer to review for flood or drainage assessments.

Councillor Morgan welcomed the report's transparency, noting that it appeared all consultees were public offices who found it acceptable to only respond 75% on-time; a figure that had been consistent despite the reasonable twenty-one day response time. Given the disappointing figures, Councillor Morgan asked if it was possible to note the report and add to the recommendation as follows:

*In addition, write to the DFI to ask for a breakdown of the consultations issued on major applications in 23/24 for Ards and North Down (table 4e – 37% on time) and request an explanation from the consultees on what can be done to improve the situation alongside a breakdown of performance of the DFI divisions*

The Chair, Alderman McIlveen queried if the proposer, Alderman Smith would be minded to withdraw his proposal in order for the amendment to be made, which was agreed.

Proposed by Councillor Morgan, seconded by Councillor Creighton, that the recommendation be adopted.

Councillor Creighton added that this amendment was in support of the Council's Planning Department who had so regularly dealt with external delays and commended them for their continued efforts.

Councillor Cathcart agreed that it had been welcome to see a report that showed the problems that Planning Officers faced and exemplified the former Royal Hotel where statutory consultee responses had been abysmal which led to reputational damage of the Council despite such issues being outside their control. There was a legal requirement for them to respond and in effect, they were breaking their own laws in terms of the Planning Act and response times.

Alderman Smith reminded Members that DfI Roads would be present at the upcoming Corporate Committee which may prove advantageous in providing the opportunity to ask questions relating to these issues.

**RESOLVED on the proposal of Councillor Morgan, seconded by Councillor Creighton, that the report be noted. In addition, the Council would write to the DfI to ask for a breakdown of the consultations issued on major applications in 23/24 for Ards and North Down (table 4e – 37% on time) and request an explanation from the consultees on what can be done to improve the situation alongside a breakdown of performance of the DfI divisions.**

#### **EXCLUSION OF PUBLIC/PRESS**

**AGREED, on the proposal of Alderman Smith, seconded by Councillor McCollum, that the public/press be excluded during the discussion of the undernoted items of confidential business.**

#### **7. LOCAL DEVELOPMENT PLAN (LDP) – UPDATED APPROACH TO DRAFT HISTORIC ENVIRONMENT POLICIES**

·  
**\*\*\*IN CONFIDENCE\*\*\***

#### **In Confidence Explanation**

**NOT FOR PUBLICATION SCHEDULE 6 – INFORMATION RELATING TO THE FINANCIAL OR BUSINESS AFFAIRS OF ANY PARTICULAR PERSON (INCLUDING THE COUNCIL HOLDING THAT INFORMATION)**

A report from the Director of Prosperity setting out 'policy in development' pertaining to options for Members' consideration and agreement in respect of a draft policy relating to the Historic Environment within the future Local Development Plan (LDP).

#### **8. LOCAL DEVELOPMENT PLAN (LDP) – UPDATED APPROACH TO DRAFT COASTAL POLICIES**

**\*\*\*IN CONFIDENCE\*\*\***

**NOT FOR PUBLICATION SCHEDULE 6 – INFORMATION RELATING TO THE FINANCIAL OR BUSINESS AFFAIRS OF ANY PARTICULAR PERSON (INCLUDING THE COUNCIL HOLDING THAT INFORMATION)**

**SUMMARY**

A report from the Director of Prosperity setting out 'policy in development' pertaining to options for Members' consideration and agreement in respect of a draft policy relating to the Coast within the future Local Development Plan (LDP).

**RE-ADMITTANCE OF PUBLIC/PRESS**

**AGREED**, on the proposal of Councillor McClean, seconded by Councillor Morgan, that the public/press be re-admitted.

**TERMINATION OF MEETING**

The meeting terminated at 21:33.



## ITEM 4.1

## Ards and North Down Borough Council

Application Ref	LA06/2023/1895/F
Proposal	5G telecoms installation: 15m high street pole telecoms mast and cabinets with ancillary works
Location	Approx. 14m north of 122 and opposite 121-123 Ballycrochan Road, Bangor  DEA: Bangor East & Donaghadee
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to the officer's recommendation.
Validated	06/07/2023
Summary	<ul style="list-style-type: none"> <li>• Application deferred from 6 August meeting - members requested applicant to appear at next available meeting to clarify issues regarding the proposal.</li> <li>• Agent was contacted on a number of occasions since. Agent has stated that applicant has not responded to any requests and therefore will not be in attendance. As the agent has received no instructions from the applicant, they too will not be attendance at Planning Committee.</li> <li>• Environmental Health has responded to advise that in line with current policy adopted by the UK Government the application is accompanied by a Statement of Declaration certifying that the equipment when it becomes operational is compliant with the International Commission for Non-Ionising Radiation Protection (ICNIRP). As this is included there is nothing further that Environmental Health can add with the requirements under legislation met.</li> <li>• PAC decisions on 5G masts included within report. PAC outlines that where an application is accompanied by the above declaration there can be no objections on public health grounds.</li> <li>• The PAC decisions are based on visual impact and whether a sequential test was carried out on other sites. In this application the agent has carried out the sequential test and found the proposed site to be the least visually intrusive.</li> </ul>
Recommendation	Approval
Attachment	Item 4.1a – Addendum to Case Officer's Report Item 4.1b – Case Officer's Report

**LA06/2023/1895/F****Addendum to Committee Report**

The application was presented to Planning Committee on 6<sup>th</sup> August 2024. The members voted to defer the application as clarification on a number of issues relating to engineering aspects of the proposal and health and safety was sought. It was also highlighted that Environmental Health should attend the next meeting to go over the health implications of the proposal. It was also requested that further research into PAC decisions be brought back to Committee.

The following matters have been further considered to provide clarification on the issues raised at Committee:

**Attendance at Meeting**

It was noted that the applicant and/or agent did not attend the Committee meeting in August. Members stated that it would be beneficial for the agent/applicant to attend the next Committee meeting to clarify some of the technical questions in relation to the mast e.g. the range of the antenna.

The agent was contacted in August and September and asked to confirm if they would be attending the Committee on behalf of the client. The agent emailed the case officer on 19<sup>th</sup> September 2024 confirming that they cannot attend Planning Committee as they have had no instructions from their client.

**Environmental Health Consultation**

Members suggested that it may be helpful for Environmental Health to attend the next Committee meeting to answer any technical questions in relation to health and safety.

The comments from Environmental Health seek to protect the public using the guidance and policy adopted by the UK government. This guidance from government includes the specific assumption that it is kept up to date with research being continually reviewed by the Public Health England (PHE) on any health effects that may be caused by exposure to electromagnetic fields, including radio wave emissions. The PHE endorses the international guidelines for limiting exposure to radio waves, published by the International Commission for Non-Ionising Radiation Protection (ICNIRP). The guidelines were updated in March 2020 and take full account of 5G operating at higher frequencies. Mobile phone operators are also required to ensure that the emission levels from new antennas are compliant with the restrictions in the ICNIRP guidelines for the protection of the general public.

Current planning policy requires that planning applications for electronic communications development must be accompanied by a statement or declaration that certifies that when operational, equipment will be compliant with the ICNIRP guidelines for limiting exposure to electromagnetic fields.

Here are previous examples of responses from Environmental Health on other applications submitted to this Council:

**LA06/2017/0774/F:** On lands c.83m North East of 10 Coast Guard Avenue, Helen's Bay: Proposed 25m telecommunications mast to carry 3No. antennae and 2No. radio dishes, and associated works including 2No. equipment cabinets: Approved 25/10/17

*'This Department has received and reviewed the plans and accompanying supporting documents for the above proposal and note that when operational the equipment will comply with ICNIRP guidelines for public exposure to electromagnetic fields. This Department has therefore no objection to the proposal.'*

**LA06/2017/0788/F:** On lands to the rear of Jumpin Java Kitchen, No. 101 High Street, Bangor: Proposed 15m telecommunications mast to carry 3No. antennae, 1No. radio dish and associated works including 3No. equipment cabinets: Approved 05/10/17

*'This Department has received and reviewed the plans and accompanying supporting documents for the above proposal. I note that when operational the equipment will comply with ICNIRP guidelines for public exposure to electromagnetic fields. This Department has therefore no objection to the proposal.'*

In relation to this application, Environmental Health has reviewed the plans and statement of declaration certifying that the equipment will be compliant with the ICNIRP guidelines when operational and therefore in this case, also have no objections.

### **PAC view on Health & Safety**

The following appeals support this position which is taken in respect of these types of applications (full details of the appeals below and others are set out in the table at the end of this report):

**2019/A0252:** *A number of other concerns were raised by third parties including the potential effects on health, impact on sightlines and pedestrian safety. The appellant has provided a declaration to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with.*

**2018/A0200:** *PPS10 paragraph 6.29 states that "it is the Department's firm view that the planning system is not the place for determining health safeguards. It is for the Department of Health, Social Services and Public Safety (DHSSPS) to decide what measures are necessary to protect public health. Paragraph 6.30 states that "as regards health concerns raised about emissions associated with mobile telecommunications, DHSSPS while conscious of the need for further research .... considers that the guidelines of the ICNIRP for public exposure to electromagnetic fields, as accepted by the World Health Organisation, are based on the best evidence available to date. Accordingly, where concern is raised about the health*

*effects of exposure to electromagnetic fields, it is the view of DHSSPS that if the proposed mobile telecommunications development meets the ICNIRP guidelines in all respects it should not be necessary for the Department to consider this aspect further". The appellant has provided a declaration of conformity with the ICNIRP guidelines, which takes into account the cumulative effect of the proposal and all radio base stations present at, or near, the proposed location. The concerns expressed by the objectors do not justify setting aside standards accepted by government, and I am not persuaded that there are justifiable health and safety reasons for rejecting the proposal.*

**Planning Permission LA06/2019/0630/F**

It is important to note that the works on the front extension for the above permission at No. 122 Ballycrochan Road have now commenced. Please see Figure 1 and Image 1 below showing the approved plans and works commenced on site. This was taken into consideration in the original Case Officer Report therefore no further assessment is required.



Figure 1: Proposed Block Plan

Image 1: Works commenced on site

**PAC Decisions on 5G Masts**

The Planning Committee asked for PAC decisions for similar applications to be reviewed. The following table sets out an overview of the appeal ref and proposal, along with the decision and key points in the assessment. Further details can also be obtained through the PAC's website – [www.pacni.gov.uk](http://www.pacni.gov.uk).


Appeal Ref	Appellant	Development	Location	Authority	Decision	Date
2022/A0098	3G Uk Ltd, Hutchison	Proposed telecommunications installation: Proposed Phase 8 15m Monopole C/W wraparound Cabinet at base and associated ancillary works	On Footpath opposite 153 Cromac Street, Belfast, BT7 1DX	Belfast City Council, Belfast Planning Service	<b>Appeal dismissed:</b> -Due to the height, location and prominence of the proposed telecoms streetpole - would result in unacceptable damage to visual amenity of the streetscape and urban context. -Appellant has failed to demonstrate that it has been sited and designed to minimise visual impact and could not have been located in a more suitable and less visually intrusive location. -Lack of information in relation to other suitable sites	2 <sup>nd</sup> August 2024
2022/A0133	CK Hutchinson Networks Ltd (UK)	Proposed installation of a 20m High Telecoms Streetpole c/w wraparound cabinet with Integrated Antenna and 3no. Additional equipment cabinets and ancillary equipment	Area of existing footpath located off Antrim Road 5.5m north of 184 - 186 Antrim Road and 1.5m south of 196 - 198 Antrim Road, Belfast, BT15 2AJ	Belfast City Council, Belfast Planning Service	<b>Appeal dismissed</b> - Due to the scale, form and siting of the proposed telecoms streetpole it was concluded that within the streetscape it would result in unacceptable damage to visual amenity, detract from the setting of the two listed buildings and would have a detrimental impact on their special architectural and historic interest by becoming a competing focus. (Listed Buildings)	27 June 2024
2022/A0039	CK Hutchison Networks (UK) Ltd	Proposed installation of a 15m high telecoms street pole c/w wraparound cabinet, with integrated antenna, and 3no. additional equipment cabinets and ancillary equipment	A small area of existing footpath (adopted) located off Ardoyne Road, site situated close to one of the entrances of the Everton complex, 39 Ardoyne Road, Belfast, BT14 7HX	Belfast City Council, Belfast Planning Service	<b>Appeal dismissed</b> -Appellant has failed to demonstrate that it has been sited and designed to minimise visual impact and could not have been located in a more suitable and less visually intrusive location. -An aerial view of four alternative sites considered and discounted by the Appellant. No visuals were submitted of how the proposal would look at the alternative sites. -Policy AMP 1 of PPS 3 - The proposed layout would create an obstruction to pedestrian traffic, given that the proposed development is not in line with the streetlights and trees.	25 April 2023
2019/A0252	UK Ltd & Cornerstone, Telephonica	Proposed 17.5m telecommunications column, with 6no. antenna(3No. enclosed within a shroud, 3No not enclosed). Proposal includes the provision of 4No. new equipment cabinets and associated ground works	On lands approximately 110m NW of No518, Lisburn Road, Belfast	Belfast City Council, Belfast Planning Service	<b>Appeal dismissed</b> -By virtue of its height and form - column would be a prominent feature in the street scene. Its impact on the street scene, the LLPA and on the outlook from habitable rooms within the apartments opposite would be harmful. - Lack of information in relation to other suitable sites (LLPA)	8 January 2021
2018/A0200	UK Ltd, Telephonica	Replacement of existing telecommunication mast with a new 20m telecommunication mast on site located c.16m south east of the existing mast.	On footpath within San Souci Park c.45m South East of junction of San Souci Park	Belfast City Council, Belfast Planning Service	<b>Appeal allowed</b> <i>There is no reason to conclude that a telecommunications mast of the type proposed is inherently inappropriate in a residential area. I consider that the proposal will not result in any significant harm to the residential amenity of any of the dwellings in Sans Souci Park and judge that the second reason for refusal is not sustained.</i>  <i>I do not consider that the proposal conflicts with paragraph 5.8.18 of the Malone CA Design Guide. It would not result in additional visual clutter as it would replace an existing mast.</i>	

### **Concluding Points**

- Based on the information provided, Environmental Health cannot provide any further advice as the proposal is accompanied by a statement of declaration that the equipment, when operational complies with the ICNIRP guidelines, and do not consider they can offer any further advice at the Planning Committee. Their statutory requirements are met. The Justification and Amplification of Policy TEL 1 of PPS 10 states that, *'Accordingly where concern is raised about the health effects of exposure to electromagnetic fields, it is the view of DHSSPS that if the proposed mobile telecommunications development meets the ICNIRP guidelines in all respects it should not be necessary for the Department to consider this aspect further.'*
- The PAC decisions set out above primarily focus upon the overall visual harm tests in the policy for the developments, and balance this against the need for, and public benefit of, siting the installation in the proposed location. In several of the appeals, the applicant failed to look at alternative sites and/or provide justification for the site chosen. In addition, a number of these appeal sites were located within the setting of Listed Buildings or were within a protected area (LLPA).

It is considered that this application differs in that the agent has demonstrated that the proposal has been sited and designed to minimise visual and environmental impact. The other locations suggested would be more visually intrusive or would create an obstruction to pedestrian traffic which would be contrary to Policy AMP 1 of PPS3.

Taking the information above into account the recommendation remains to approve the proposal

Development Management Case Officer Report			
<b>Reference:</b>	LA06/2023/1895/F	<b>DEA:</b> Bangor East & Donaghadee	
<b>Proposal:</b>	5G telecoms installation: 15m high street pole telecoms mast and cabinets with ancillary works		
<b>Location:</b>	Approx. 14m north of 122 and opposite 121-123 Ballycrochan Road, Bangor		
<b>Applicant:</b>	Cameron Wilson		
<b>Date valid:</b>	06/07/2023	<b>EIA Screening Required:</b>	N/A
<b>Date last advertised:</b>	27/07/2023	<b>Date last neighbour notified:</b>	21/07/2023
<b>Letters of Support: 5</b>		<b>Letters of Objection: 44</b> (from 37 addresses)	<b>Petitions: 0</b>
<b>Consultations – synopsis of responses:</b>			
DFI Roads	No objection		
NI Water	No objection		
Belfast City Airport	No objection		
Police Service Northern Ireland: Information and Communication Services	No objection		
Environmental Health (Ards and North Down Borough Council)	No objection		
The Joint Radio Company	No objection		
<b>Summary of main issues considered:</b>			
<ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Visual Impact</li> <li>• Impact on residential amenity</li> <li>• Road safety</li> <li>• Impact on the environment and biodiversity</li> </ul>			

4.1b

32

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

Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal

**1. Site and Surrounding Area**

The application site is located in an urban area on the western side of Ballycrochan Road, immediately east of the rear garden of No. 122 and approximately 27m from the Ballycrochan Road/Albany Road junction.

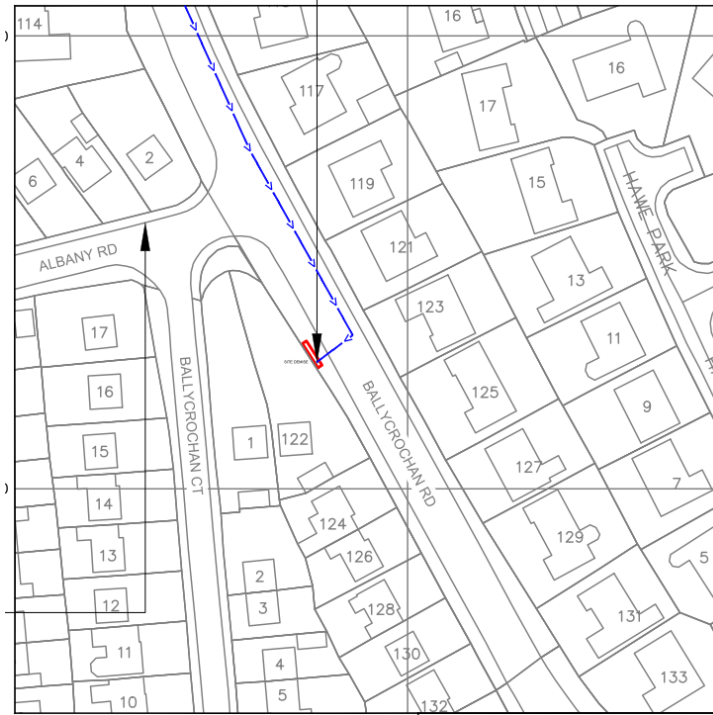


The application site comprises part of the public footpath and is in close proximity to a streetlight and equipment cabinet. The wider surrounding area is predominantly residential with dwellings located east and west of the application site.



## 2. Site Location

**Figure 1: Extract from Site Location Plan**



**Figure 2: Aerial Photograph of the Application Site**



### 3. Relevant Planning History

The is no relevant planning history associated with the application site.

### 4. Planning Assessment

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

- North Down and Ards Area Plan 1984 – 1995 (NDAAP)
- Draft Belfast Metropolitan Area Plan 2015 (dBMAP)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage (PPS 2)
- Planning Policy Statement 3: Access, Movement and Parking (PPS 3)
- Planning Policy Statement 10: Telecommunications (PPS 10)
- Development Control Advice Note 14: Siting and Design of Radio Telecommunications Equipment (DCAN 14)

#### Principle of Development

Until the Council adopts its new Local Development Plan, planning applications will continue to be assessed against the provisions of the Department of the Environment's Developments Plan publication and Planning Policy Statements (PPSs) which contain the main operational planning policies for the consideration of development proposals. North Down and Ards Area Plan 1984-1995 (NDAAP) is now the statutory local development plan (LDP) for the area with draft BMAP remaining a material consideration.

The application site is located within Bangor Settlement Limit in both the extant plan and draft BMAP. There are no further LDP designations affecting the application site. As there are no specific provisions in the plan for this type of development, the proposal is considered to be in broad conformity with the LDP, subject to any prevailing regional policies.

The SPPS articulates a presumption in favour of development so long as development is in the public interest and does not compromise environmental standards. The aim of the SPPS in relation to telecommunications and other utilities is to facilitate the development of such infrastructure in an efficient and effective manner whilst keeping the environmental impact to a minimum.

The SPPS requires that Planning Authorities take account of the potential effects of new telecommunications development, and any necessary enabling works, on visual amenity and environmentally sensitive features and locations. Developers are required to demonstrate that proposals for telecommunications development, having regard to technical and operational constraints, have been sited and designed to minimise visual

and environmental impact. New masts should only be considered where site sharing is not feasible or offers an improved environmental solution.

Applications for the development of telecommunications equipment should be accompanied by a statement declaring that when operational the development will meet the ICNIRP guidelines for public exposure to electromagnetic fields (SPPS).

The Justification Statement submitted with this application explains that:

*'The proposed solution for CK Hutchison Networks (UK) Ltd to improve coverage and capacity for 5G services involves erecting a new 15m high Street Pole installation and 3no additional equipment cabinets upon an area of footpath. It is recognised that the very nature of installing new 5G communications infrastructure within a dense urban setting requires a well-measured balance between the need to extend practical coverage with the risk of increasing visual intrusion.'*

The Justification Statement continues to explain that *'the very nature of 5G and the network services it provides, means the equipment and antennas are quite different to the previous, and existing, service requirements. In particular, the design of the antennas, and the separation required from other items of associated equipment, is such that we cannot utilise certain structures that provide a means of support for another operator, most notably in a street works or highways environment'*.

The proposed installation is an H3G Monopole which will facilitate educational benefits, providing access to vital services, improving communications with the associated commercial benefits for local businesses, enabling e-commerce and working from home, as well as enjoying access to social, media and gaming for leisure time activities.

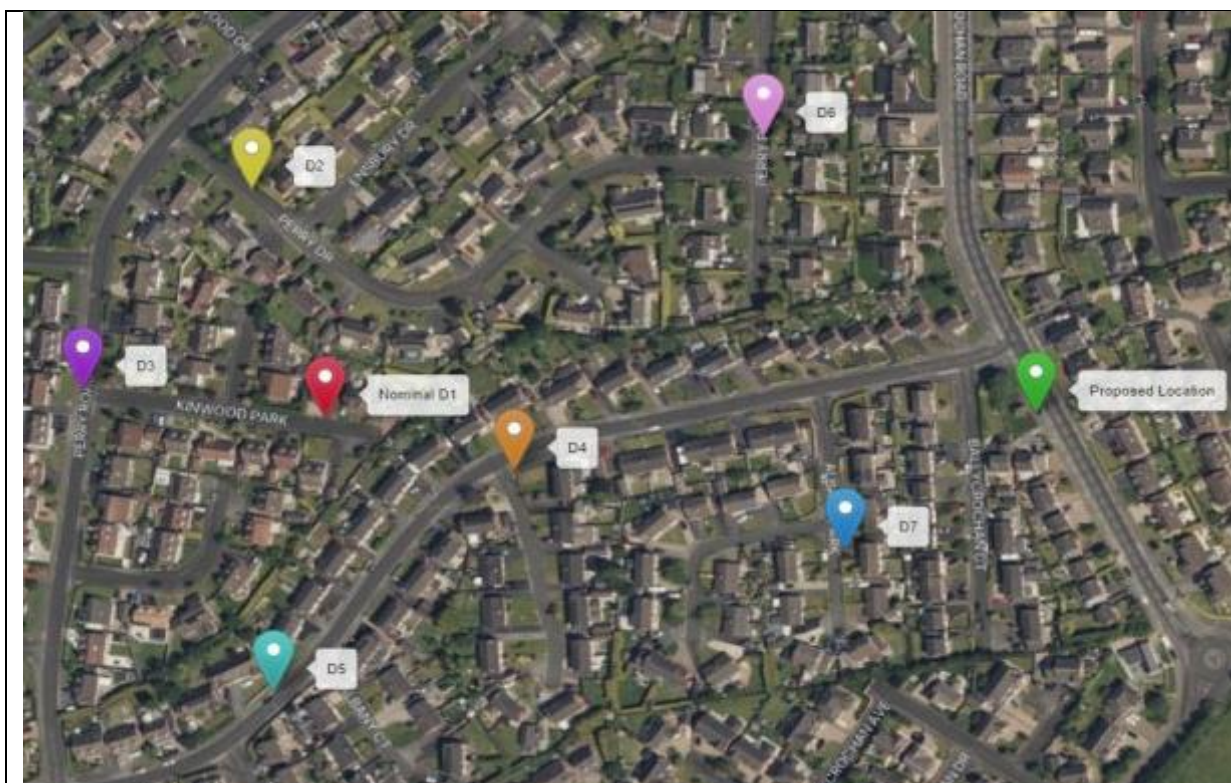
The applicant recognised that where an existing site can be shared or upgraded this will always be adhered to before a new proposal is put forward for consideration. However, in this case, it was stated that *'this is an extremely constrained cell search area and options within the area are very limited.'* In selecting the application site, consideration was awarded to the fact that *'existing base stations are not capable of supporting additional equipment to extend coverage across the target area and prospective 'in-fill' mast sites are extremely limited.'* The target/search area is centred over a residential area in Ashbury, Bangor. The 100m Desired Search Area (DSA) can be seen in Figure 3 below. It was further explained that due to the operational parameters of 5G, moving the search area or seeking locations a long way from the target/search area is not operationally feasible. The cell search areas for 5G are extremely constrained with a typical cell radius of approximately 50m. In general, it would not be feasible to site the installation too far from the target locale.



Figure 3: Desired Search Area circled above

In accordance with Policy TEL 1 of PPS 10, the Justification Statement demonstrates that other sites were considered and discounted using a sequential approach which first considered ‘Mast and Site Sharing’ then, ‘Existing Building Structures’ and lastly, ‘Ground Bases Installations’. Consideration of alternative sites discounted seven alternative sites in the target area for the reasons recorded in Figure 4.

Site	NGR	Discounted Reason
D1 – Kinwood Park	165886, 533941	Nominal location - this location has been discounted due to the narrow nature of the pavements, which would not be able to accommodate a telecommunication installation.
D2 – Perry Drive	165861, 534045	This option has been discounted due to the proximity to the residential houses. Furthermore, narrow pavements further discount this site.
D3 – Perry Road	165786, 533959	This option has been discounted due to visibility splay issues. Furthermore, the proximity to the souses further discounts this site.
D4 – Albany Road	165963, 533914	This option has been discounted due to concerns around visibility splays which could affect motor users at this location.
D5 – Albany Road	165858, 533820	This location has been discounted due to the presence of existing street services and the narrow nature of the pavements at this location further discount this site as the pavement would not be able to accommodate a telecommunication installation.
D6 – Perry Drive	166073, 534058	This option has been discounted due to the narrow nature of the pavements.
D7 - Albany Park	166098, 533871	This option has been discounted due to the lack of suitable pavements for telecommunication equipment.



*Figure 4: Discounted Sites*

The Justification Statement explains that the application site was chosen as:

- The proposed site is considered the best available compromise between extending 5G service across the target 'coverage hole' with the selected street works pole height and associated antenna and ground-based cabinets restricted to the absolute minimum, which is capable of providing the required essential coverage.
- The site shall be situated upon an adopted public highway, in a position that will not impede pedestrian flow or the safety of passing motorists. The equipment cabinets will be situated at the base of the pole.
- The design of the proposed antenna and ground-based cabinets is considered to be the least visually intrusive option available, benefiting from being adjacent to a main road. Whilst it is accepted that there will be a localised visual increase through the installation of additional apparatus, it is considered that this will not overly detract from the character of the existing streetscape or indeed, the wider area.

As is the policy requirement, the applicant submitted a ICNIRP Declaration explaining that when operational the development will meet the ICNIRP guidelines for public exposure to electromagnetic fields.

The Joint Radio Company and Police Service Northern Ireland were consulted on the proposal and offered no objection on the basis that it is unlikely the proposal will result in interference.

In Appeal ref 2022/A0039 for a proposed 15m high telecoms pole at Ardoyne Road, Belfast, the Commissioner stated the following:

*‘An aerial view of four alternative sites considered and discounted by the Appellant was submitted. However, nominal not exact locations were provided. No visuals were submitted of how the proposal would look at the alternative sites. One site was discounted because it is close to a primary school and the remaining 3 sites because of their location on residential roads. Notwithstanding the claim that the proposed development “is not located directly in front of any residential properties”, it would stand directly opposite Nos.39a and 39b. 11.*

*I am not persuaded that a new mast in the proposed location represents a better environmental solution than other alternative sites and options. I conclude that the visual harm is not outweighed by the need for, and public benefit of, siting the installation in the location proposed. In these circumstances and considering the unacceptable damage to visual amenity, the appellant has failed to demonstrate that the proposal has been sited and designed to minimise visual and environmental impact. I find that the Council has sustained its first and second reasons for refusal based upon the SPPS and Policy TEL 1 of PPS 10.’*

In light of the above appeal, I have looked at each alternative site and would agree that the proposed location is the best option with the wider footpath and increased separation distances from the surrounding dwellings. The Desired Search Area is within a large residential area of Bangor; therefore, it would be difficult to find a more appropriate siting such as industrial/commercial locations. The selection of examples shown below identify that the other locations do present other issues such as narrow footpaths, proximity to residential dwellings and potential impact on visibility splays.



In light of the above information, the principle of developing the proposal is accepted at the application site, subject to consideration of the relevant planning considerations set out in the subsequent sections of this report.

### **Visual Impact**

DCAN 14 highlights the fundamental principle in siting and designing equipment is to minimise the contrast between the equipment and its surroundings. The proposal includes a 15m high telecommunications mast and three equipment cabinets which will be sited on the public footpath facing Ballycrochan Road. The proposal will be sited close to an existing 8.9m high streetlight with the backdrop of the front garden area of No. 122. The proposed mast will consist of a slim steel street pole which is considered an appropriate design capable of blending with other existing street furniture.

At 15m high, the proposed telecommunications monopole would be significantly higher than the two-storey dwellings within the surrounding area (7.42m high ridge height – No. 122 Ballycrochan Road). It would also be higher than adjacent streetlights and trees. Despite its setback from the edge of the road to the rear of the footpath, the street pole would be highly visible travelling along both sides of the Ballycrochan Road by virtue of its height and form, it would be a prominent feature in the street scene. Please see Figure 5 showing the proposed elevations of the pole and equipment cabinets.

The proposed equipment cabinets would be up to 1.75m high and extend across a width of 3.3m. As these would be sited to the rear of the footpath, I do not consider they would appear prominent within the streetscape. The design and appearance of the proposal are considered typical of such development and are acceptable in this urban area. It must also be noted that the application site is not located in an environmentally sensitive area or sited beside an environmentally sensitive feature.

The harm arising from the visual impact of the telecommunications monopole and cabinets needs to be weighed against the need for the installation and the benefits of network coverage in the area. It is considered that the mast and cabinets will have an impact on the surrounding character, but this is somewhat alleviated by the surrounding street furniture such as a streetlamp, traffic signage and other cabinets (see images below). Taking into consideration the comments within the RDS and SPPS, which seeks to improve the standard of telecommunication infrastructure, on balance it is considered that the visual impact on the surrounding area is off set by the benefits the mast will offer to everyday living and economic endeavours through the provision of improved telecommunications.

Image 1 and Image 2 below include the critical views of the proposed site on approach from both directions along the Ballycrochan Road. I have indicated approximately where the 15m high pole will be located on these images. The pole will be visible from the roundabout at the end of this residential road, which is approximately 116m from the position of the pole. From approach on the north side of Ballycrochan Road, I estimate there will be views of the pole over 200m away until the road curves. As seen in the images below, Ballycrochan Road is a relatively wide road and within this setting the slim design of the pole will not appear dominant to an unacceptable degree.



*Image 1: View of site when approaching from north side of Ballycrochan Road*



*Image 2: View of site when approaching from south side of Ballycrochan Road*

In planning ref. LA06/2022/1297/F the Council assessed and approved a proposal for a '15m high telecommunication street pole and associated ancillary equipment cabinets.' This pole is within a similar setting to this proposal and is situated along Gransha Road which is a wide road within a residential area. The only difference is that there is a school to the rear of this approved telecommunications pole.

In relation to the potential cumulative impact of the proposed pole and cabinets with other existing street furniture, I do not consider there will be any unacceptable visual clutter. There are no other cabinets to the front of No. 122 Ballycrochan Road, with only one streetlamp located within 10m of the proposed development. In Appeal ref. 2018/A0200 the Commissioner was assessing a replacement 20m high telecommunications mast and stated the following:



'...it has to be recognised that the site is also within an urban area where modern features such as street lights, traffic lights, telegraph and electricity poles, and telecommunications masts/poles are commonplace features.'

In recognition of above, I would argue that there is no reason to conclude that a telecommunications mast of the type proposed is inherently inappropriate in a residential area.

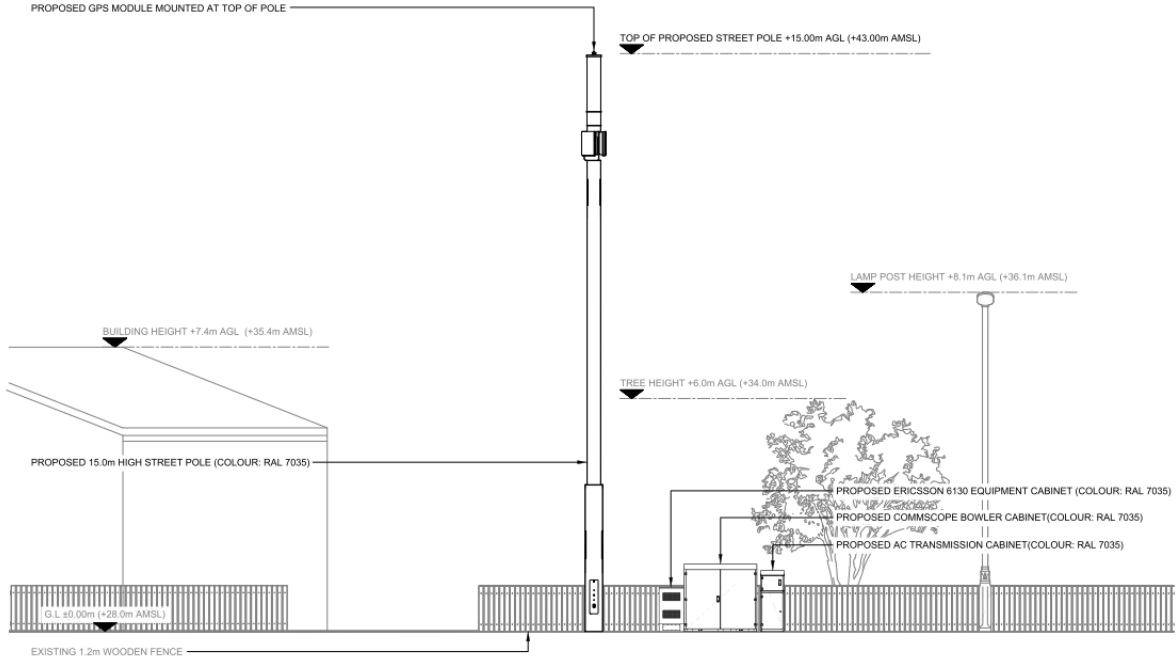


Figure 5: Proposed Elevations of the telecoms equipment





Figure 6: Images of Existing Street Furniture in the Surrounding Area

It must be noted that in several appeals for similar development, the Commissioner always recognises the need to weigh up the visual impact in balance with the need for improved connectivity and services. For example, in Appeal 2020/A0015 the Commissioner stated the following:

*'Modern telecommunications also offer a number of valuable social and educational benefits such as promoting social inclusion, enhancing personal safety and facilitating education services. PPS 10 and the supporting DCAN 14 recognises that the economic and social benefits of advanced telecommunications can only be achieved if the necessary infrastructure is developed however it emphasises that attention must be devoted to the siting and design of equipment.'*

In addition, in Appeal ref 2018/A0200 the Commissioner stated the following:

*'Paragraph 6.238 of the SPPS states that the aim of the document in relation to telecommunications and other utilities is to facilitate the development of such infrastructure in an efficient and effective manner whilst keeping the environmental impact to a minimum. The latter wording recognises that some impact on the environment may be acceptable.'*

### **Residential Amenity**

As the application is for a slim pole which will be situated approximately 13.4m from No. 122 Ballycrochan Road (closest dwelling), I do not consider it will result in any overshadowing. It will be situated over 20m from the properties on the other side of the road (121, 123, 125). The pole will appear visually significant in the streetscape due to its height however, it will not be dominant in the sense that it would adversely impinge on the immediate aspect or outlook from any surrounding residential dwellings.

The applicant has provided a certificate to confirm that the base station when operational will meet the ICNIRP guidelines for public exposure to electromagnetic fields. The proposals therefore comply with point (3) of Policy TEL 1 of PPS 10. Therefore, there are no grounds to refuse permission on the basis of impact on actual health. Environmental Health (Ards and North Down Borough Council) was consulted on the proposal and offered no objection. It is therefore not considered that the proposal will have a detrimental impact on residential amenity.

### Designated Sites and Natural Heritage

Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify any potential adverse impacts on designated sites. No such scenario was identified. The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has therefore been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the conservation objectives/features of Strangford Lough SAC/SPA/Ramsar or any other European site.

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

The proposal will not cause the unacceptable loss of/damage to trees or other landscape features that contribute to local environmental quality.

### Road Safety

DFI Roads was consulted on the proposal given the proposed siting on a public footpath adjacent to Ballycrochan Road, near the Ballycrochan/Albany Road junction. DFI Roads offered no objections to the proposal. I am therefore satisfied that the structures will not impact upon pedestrian movement or road safety (visibility splays).

## 5. Representations

The proposal has been advertised in the local press and neighbours have been notified as per the Section 8 of The Planning (General Development Procedure) Order (Northern Ireland) 2015.

Five support letters were received and one non-committal response. A total of 44 objections from 37 different addresses were received from elected representatives and residents of the following streets: Ballycrochan Road, Ballycrochan Park, Ballycrochan Court, Briarwood Nook, Albany Road, Church Crescent, Hawe Road, Belgravia Green, Kinwood Park and Hawe Park. The following matters were raised:

### Design & Appearance

- The objector's stated that the design will not blend into the local surroundings and will dominate its locality, due to the height of the pole with specific measurements referred to in relation to dwelling heights and streetlight heights. It was stated that it will be an eyesore which affects the skyline, and it will be seen for quite a distance in surrounding streets and will not blend into the vista of the area.
- Many objectors stated that the mast is industrial in design and therefore not in-keeping with residential area and that the grey paint does not camouflage it or help it blend in with the surroundings.
- In addition, it was stated that the proposed pole and cabinets would clutter the streetscape which does not meet PPS 10.

Response:

- These matters have been discussed under 'Visual Impact' above in the main body of the report. It has been established that due to the height of the 15m pole, the proposal will appear dominant and will affect the skyline as neighbours have mentioned. Due to the need for better services and connectivity, the visual impact has to be balanced with this need. On balance it is considered that the impact on surrounding character is off set by the potential benefits the mast will offer to everyday living and economic endeavours.

### **Residential Amenity**

- Many objectors stated that at 15 metres high, the pole will dwarf many of the neighbouring properties resulting in loss of light and overshadowing.
- The objector living at No. 122 Ballycrochan Road stated that the pole will be situated 13m from their home, and further highlighted that they have permission for a front extension which will be situated within 4m of the mast.

### **Response:**

- These matters have been addressed under 'Residential Amenity' above. As the application is for a slim pole, I do not consider it will result in any loss of light or overshadowing.
- The approved block plan for permission ref. LA06/2019/0630/F for a 'Two-storey front extension, single-storey side extension, single-storey rear extension and creation of new access' is shown below. If the front section is built out, it would be approximately 10m from the mast. Due to the angle at which the extension will sit in relation to the 15m pole, I do not consider it will dominate the views or adversely impinge on the immediate aspect or outlook from any of the proposed windows. The existing trees within the garden will provide a level of screening to the lower section of the pole.



*DRG 03A: Proposed Block Plan*

### **Health & Safety**

- Many objectors stated that they had concerns as to health and safety impacts of 5G, particularly in a residential location. One objector stated that 'as 5G is new developing technology and with 5G radio-frequency radiation being 18 times

greater than 4G, serious health considerations need to be given when placing such a mast in a close densely populated area as is proposed.'

- In addition to above, a number of statements and references were made to research on 5G and potential impacts on public health.

#### Response

- Environmental Health was asked to review the objections in relation to health & safety and provided the response below:

*'The objection letters refer to potential health impacts from the proposed 5G telecommunications mast in this location. The comments from Environmental Health seek to protect the public using the guidance and policy adopted by the UK government. This guidance from government includes the specific assumption that it is kept up to date with research being continually reviewed by the Public Health England (PHE) on any health effects that may be caused by exposure to electromagnetic fields, including radio wave emissions.*

*The PHE endorses the international guidelines for limiting exposure to radio waves, published by the International Commission for Non-Ionising Radiation Protection (ICNIRP). The guidelines were updated in March 2020 and take full account of 5G operating at higher frequencies. Mobile phone operators are also required to ensure that the emission levels from new antennas are compliant with the restrictions in the ICNIRP guidelines for the protection of the general public.*

*Current planning policy requires that planning applications for electronic communications development must be accompanied by a statement or declaration that certifies that when operational, equipment will be compliant with the ICNIRP guidelines for limiting exposure to electromagnetic fields.*

*This Service would refer to the initial consultation response dated 6th July 2023 which accepted the submission of the required ICNIRP declaration dated 18th May 2023.*

- The agent has provided a declaration of conformity with the ICNIRP guidelines, which takes into account the cumulative effect of the proposal and all radio base stations present at, or near, the proposed location. The concerns expressed by the objectors demonstrate no evidence on health and safety grounds which would justify setting aside standards and guidelines accepted by government and therefore I am not persuaded that there are justifiable health and safety reasons for rejecting the proposal.

#### Other Suitable Sites

- Many objectors suggested building this mast a few yards further along Ballycrochan Road, where it would not be in direct view of all of the residents. Specifically, it was mentioned to place it near the roundabout where the

residential area meets the greenbelt (existing trees in that location). In addition, one objector stated that in this position the telecoms provider could also install a lay bay for servicing vehicles however recognised associated costs with this solution.

- Another objector stated that there is an existing mast sited at a nearby location known as Hannay's Hill just off the Hawe Rd. This may be a more suitable location, just a short distance from the proposed location and not impacting the residential visual amenity of the area.
- Another location mentioned included the fields adjoining Belgravia Crescent.
- One objector stated that it should be placed where it can be camouflaged within tall trees, at appropriate Ring-road locations, large Shopping Complexes or vacant Rural locations.

### Response

The agent was asked to make comments on these alternative sites suggested by the objectors. The following comments were made by the agent:

- Ballycrochan Road roundabout: A mast at this location is not feasible due to the narrow nature of the pavement at this location. The pavement would not have been able to host the proposed telecommunications development and ancillary works due to the narrow nature of the pavement. There would have been potential that an installation at this location would reduce pedestrian access to this area of the pavement. Moreover, the grass verge at this location would also not be able to host our proposed development due to the dense mature trees at this location. As for the installation to function the antennas will be required to link the base station to the wider national network. The antennas operate on a direct line of sight basis, a bit like a search light beam, to other antennas on corresponding installations on the network. Without a link being achieved, the installation will not function. Furthermore, this location is adjacent to a busy junction and locating our installation here would cause potential visibility splays which raises highways concerns to other road users at this location during the build and maintenance of this site.

The introduction of a layby to the area would reduce the visual amenity of the area and take up vital space for the local area. Furthermore, a layby at this location has potential to reduce the pedestrian right of way on the pavement, reducing the free-flowing movement of users at this site.

- Existing Mast at Hannay's Hill: The existing mast located adjacent to Hannay's Hill is outside the search area. As this mast is a 5G installation, to work it needs to be close to those who will benefit from the technology, therefore a small search area is required. The cell search areas for 5G are extremely constrained with a typical cell radius of approximately 50m. Movements outside this area are likely to require a proliferation of masts to do the same job, and even then, coverage gaps are likely. The existing mast at this location cannot be upgraded as it is structurally unable to host our proposed development and has insufficient capacity to support the necessary equipment.

- Open green field: Siting our development within an open green field with no screening would cause undue visual harm to the area, as our installation would be highly visible to the immediate and wider area. Furthermore, there is no direct access to and from this site location which is necessary in order to build and maintain the site.
- Shopping centre: By siting the development at a large shopping complex or vacant rural location this would not be appropriate in this instance as the proposal would be out with its coverage area and not provide the necessary coverage for the Bangor area. As previously stated, this mast is a 5G installation, to work it needs to be close to those who will benefit from the technology, therefore a small search area is required. The cell search areas for 5G are extremely constrained with a typical cell radius of approximately 50m. Movements outside this area are likely to require a proliferation of masts to do the same job, and even then, coverage gaps are likely. Additionally, siting our development amongst tall trees is not feasible as for the installation to function the antennas will be required to link the base station to the wider national network. The antennas operate on a direct line of sight basis, a bit like a search light beam, to other antennas on corresponding installations on the network. Without a link being achieved, the installation will not function.

### **Car Safety & Access**

- A number of objectors stated that the mast and three accompanying cabinets could block existing sightlines for those checking for oncoming vehicles on the right as they attempt to exit the Albany Road to move onto the Ballycrochan Road, creating a threat to motorists and pedestrians.
- In addition, it was stated that there would be an Increase in vehicles to service the equipment.
- One objector stated that the works involved in the construction of this mast will cause traffic chaos on the busy Ballycrochan Road.

### **Response**

- These matters have been addressed under 'Road Safety' above. DFI Roads were consulted and offered no objections to the proposal, thus the proposed mast and cabinets will not block any sightlines when exiting Albany Road.
- Any works during construction or servicing of the mast/cabinets would be temporary. This temporary disruption would not warrant a refusal.

### **Precedent**

- A number of objectors stated that this application will set a precedent to allow further larger masts to destroy the look of residential areas. It was highlighted that other masts appear to be shorter, positioned in shopping areas (eg Ballyholme), camouflaged by greenery (Bloomfield and Dual Carriageway poles), or positioned beyond the edge of town with little or no impact on the vista to nearby residences (eg Groomsport Road Roundabout).

### **Response**

- Each application for telecommunications equipment is assessed on a case-by-case basis. In this application the site has been well considered with other suitable sites reviewed and discounted.
- Several planning appeals for telecommunication equipment were reviewed, and each appeal considered the visual impact in balance with the need for improved connectivity & services. There were a number of appeals which were dismissed due to issues with road safety or pedestrian movement along with visual impact.

### **Impact on Biodiversity & Environment**

- One objector stated that the mast is detrimental to local fox, badger and squirrel groups, along with bats and birds in the vicinity.

### **Response**

- These matters have been addressed above under 'Designated Sites and Natural Heritage'. No evidence has been submitted to suggest how the proposal would adversely affect the above species in this urban built-up area. The proposal does not involve the removal of any existing trees or vegetation or other priority habitat which would support the above species. The NIEA biodiversity checklist has been considered and on this basis no surveys are required.

### **Other Points made**

- **Neighbour Notification:** One neighbour asked if all residents received letters. One objector stated that planning regulations require all houses within 90m of the site to be notified and consulted on the application. From the plan submitted a number of houses on Albany Court, Albany Road and even Hawe Park are within 90m of this mast and yet they did not receive a letter notifying them of this planning application and asking for their views on it.

Planning legislation sets out that we must inform 'any identified occupier on neighbouring land'. This is known as 'neighbour notification'. 'Neighbouring land' is land which directly adjoins the application, or which would adjoin it but for an entry or road less than 20 metres in width. An 'identified occupier' is an occupier of premises within a 90-metre radius of the boundary of the proposed application site. If the boundary of a site abuts the red line of the application site but the property is outside of 90 metres, the neighbour will not receive a notification. I have checked the neighbours notified and I am content that the appropriate neighbours have been notified in accordance with the statutory legislative requirement.

- **Carbon footprint:** One objector stated that each 5G mast requires approximately 3 x more power than a 4G mast (as much as 73 typical). It was further highlighted that local authorities are expected to safeguard the quality of the local environment and some have a statutory duty to help conserve biodiversity and species protection as part of the planning process. The issue of carbon footprint and the power usage of masts is not a material planning consideration which is included under the relevant telecommunications policies



in the SPPS and PPS10. While it is acknowledged that sustainable development is one of the core principles of the SPPS, it is not considered that the proposal is of such a scale that would compromise this overarching principle.

- A number of neighbours stated that this proposal would devalue the properties within the area. This is not a material planning consideration.
- Reference to Area of Townscape Character – not relevant to this application.

## 6. Recommendation

### Grant Planning Permission

## 7. Conditions & Informatives

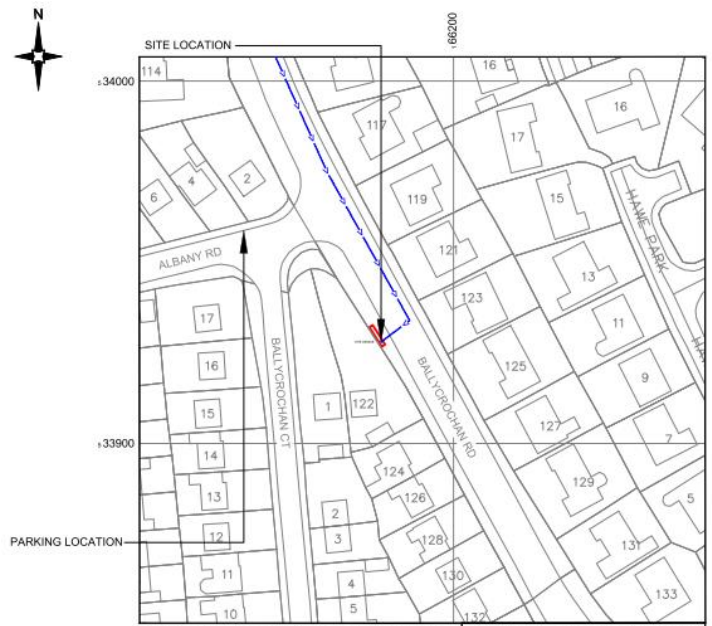
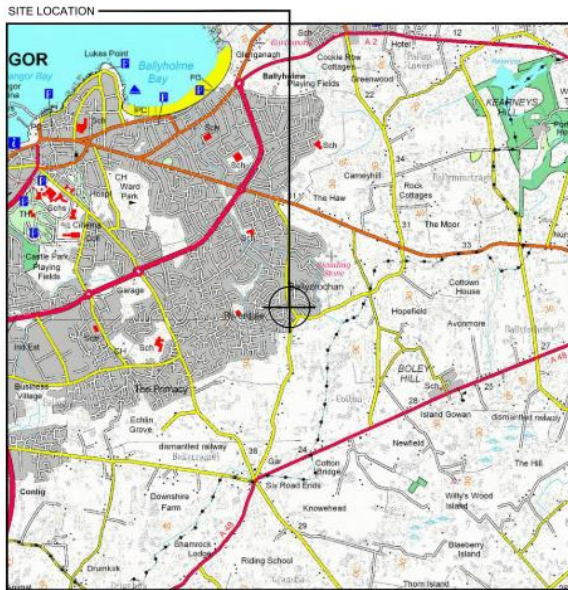
1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

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

2. In the event of any structure or equipment on the site ceasing to be used for telecommunications purposes, it shall be removed from the site within six months of the date on which the use ceased.

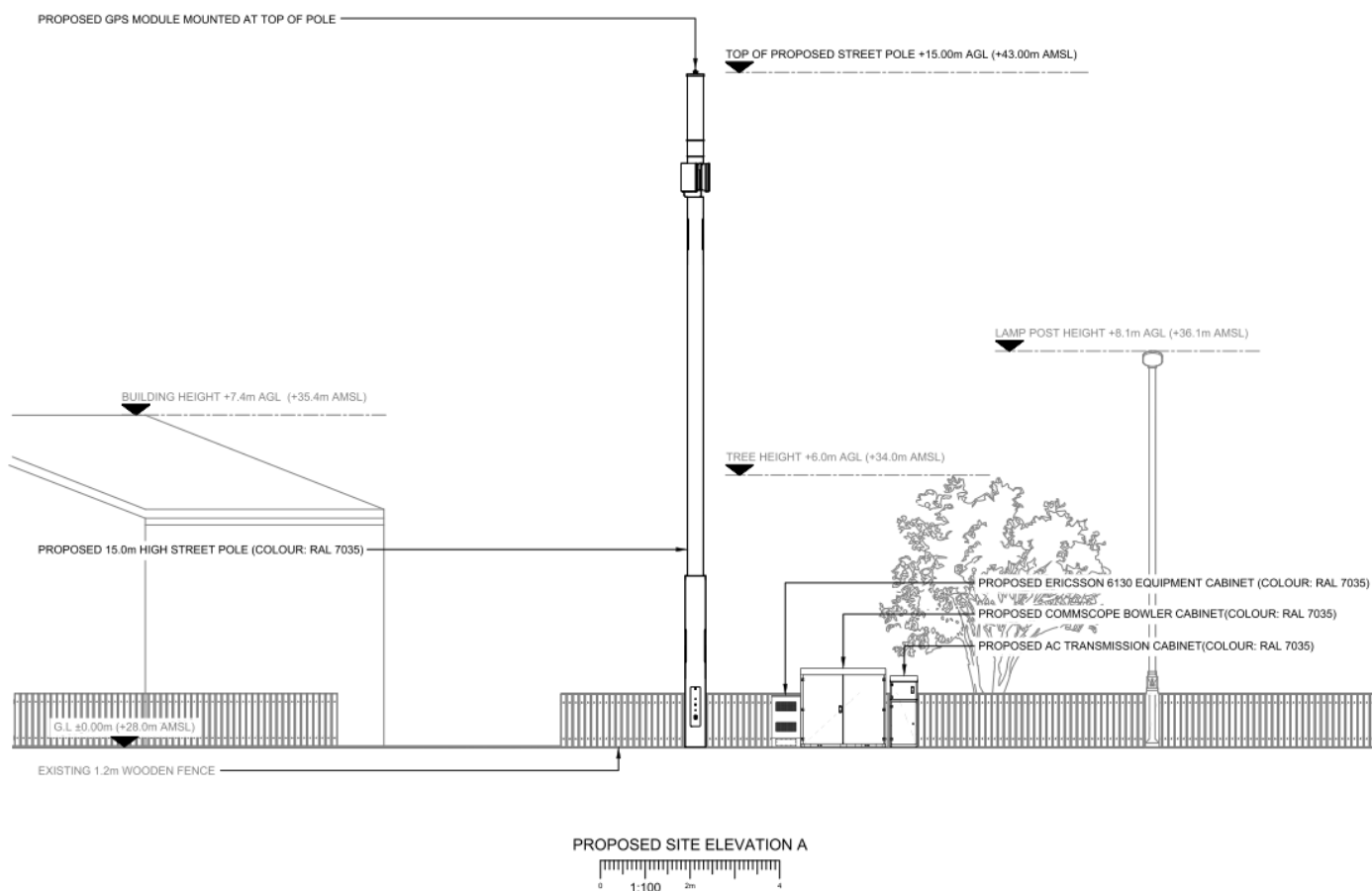
Reason: In the interests of residential amenity.

Appendix One: Submitted Plans

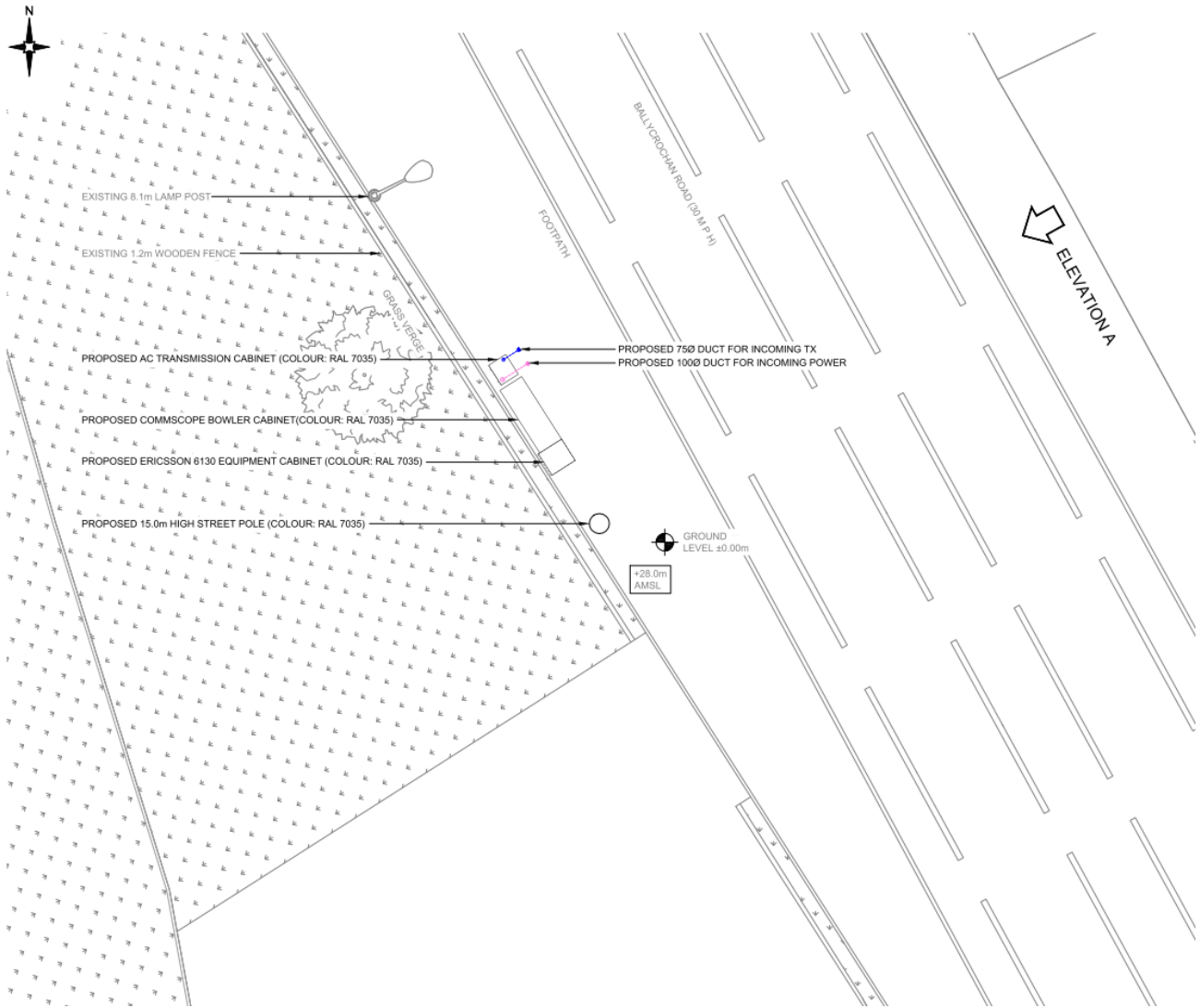


GOOGLE MAPS QR CODE  
 GOOGLE MAPS - <https://goo.gl/maps/tSwmQbkuErJNnTm4A>  
 STREETVIEW - <https://goo.gl/maps/FQ5YG8ob7RnJz9Pz8>

DRG 01: Site Location Plan



DRG 02: Proposed Site Elevations



DRG 03: Proposed Site Plan

### Appendix Two: Site Inspection Photographs

View of site from opposite side of Ballycrochan Road



View of site when travelling along Ballycrochan Road



Junction of Albany Road & Ballycrochan Road



Other Street Equipment along Albany Road



### Other Street Equipment along Ballycrochan Road






## ITEM 4.2

### Ards and North Down Borough Council

Application Ref	LA06/2024/0559/F
Proposal	<p>Demolition of existing buildings at 5-12 and 35-41 Queen's Parade, 22-30 Main Street (formerly B &amp; M Bargains), 34-36 Main Street (Oxfam and Hospice shops), 6-34 King Street and 5-17 Southwell Road; minor extension and elevational changes to 40-42 Main Street (Caffe Nero); creation of new means of escape and installation of rooflights to 20 Main Street (Halifax); creation of new bin storage and basement access together with minor facade works to 48 Main Street (TK Maxx); erection of a mixed use development comprising culture and leisure facilities (class D), a 66 bedroom hotel, retail units, food and beverage outlets, offices (class B1- (a)), 137 residential units comprising 113 apartments in 3 blocks and 12 duplex apartments along King Street, creation of a new vehicular access onto Southwell Road to serve undercroft car park comprising 217 spaces together with 14 courtyard spaces and 24 on street, creation of new vehicular access onto King Street to serve residential parking, minor modifications to the Main Street and King Street junction and creation of a two-way street along Southwell Road from the junction with Primrose Street, creation of a new service vehicle access onto Main Street, creation of new public squares and courtyards including new pedestrian access points; and the redevelopment of Marine Gardens Car Park including partial demolition of sea-wall to create a public realm space comprising gardens and lawns, play areas, events spaces, covered shelters, 4 kiosks and 2 pavilions (housing food and beverage operators), together with other ancillary development.</p> <p>Variation of the following conditions of LA06/2020/0097/F:</p> <ul style="list-style-type: none"> <li>• Condition No.2 - Amended phasing of development</li> <li>• Condition No.3 - Minor landscape layout amendments to public realm</li> <li>• Condition No. 6 - Minor amendments to hard and soft landscaping within public realm,</li> <li>• Condition No.14 - Amendment to drawing references showing plant rooms</li> <li>• Condition No.16 - Amendment to reflect updated drawing reference</li> <li>• Condition No.43 - Amended drainage proposals</li> </ul>

	<ul style="list-style-type: none"> <li>• Condition No.44 - Amendment to reflect updated drawing reference</li> <li>• Condition No.45 - Amendment to reflect updated drawing reference</li> <li>• Condition Nos.48, 49, 54 and 56 - Amended phasing of roadworks</li> <li>• Condition No.57 - Amendment to reflect updated drawing reference</li> </ul>
<p>Location</p>	<p>Lands at and to the rear of 18 – 52 Main Street (Reeds Rain to TK Maxx), 2 – 34 King Street, 5 -17 Southwell Road, 5 – 41 Queen’s Parade, Marine Gardens car park, the Esplanade Gardens, and area around McKee Clock, Queen's Parade, Bangor.</p> <p>DEA: Bangor Central</p>
<p>Committee Interest</p>	<p>An application falling within the major category of development.</p>
<p>Validated</p>	<p>10/07/2024</p>
<p>Summary</p>	<ul style="list-style-type: none"> <li>• Application deemed a major as it relates to the same development previously approved under LA06/2020/0097/F which the principle of development was established through as well as subsequent section 54 application LA06/2023/1500/F (related to phasing and granted through Planning Committee in November 2023).</li> <li>• Condition 2 &amp; 3 relating to the development of the public realm had been previously varied under LA06/2023/1500/F however this now proposes the granting of the development of the Marine Gardens public realm to be completed in its entirety under phase 1. This has a knock-on effect on other conditions with details set out in the report.</li> <li>• In terms of the public realm development it should be noted that a recently approved NMC application (LA06/2024/0614/NMC) included the removal of the proposed central water feature from the scheme and some minor landscaping alterations.</li> <li>• Other minor changes to the proposed phasing plan includes a new vehicular egress via the demolition of 34-26 Main Street &amp; minor alterations to the TK Maxx and Caffè Nero buildings on Trinity Way/Main Street to be completed under Phase 3 instead of Phase 1. DfI Roads has no objections.</li> <li>• The changes to the phasing continues to comply with the planning policies and development plan requirements.</li> <li>• A main element of this application is the revised drainage plans, which had comprised attenuated surface water discharge to the existing DfI Rivers culverts within Marine</li> </ul>

	<p>Gardens. Attenuation was to be provided via several large capacity underground cellular storage tanks, constructed within Marine Gardens and but changed to a direct 'single pipe' discharge option into the Bangor Marina, which is more environmentally sustainable. Both options had been previously considered in the 2020 application with the applicant selecting the former as the preferred option.</p> <ul style="list-style-type: none"> <li>• The alternative drainage solution is considered advantageous due to factors outlined in the case officer report including negating the need for the large underground cellular tanks within Marine Gardens, and maintenance requirements are considerably less.</li> <li>• A consent to discharge has been obtained and submitted for evidence. Dfl Rivers has responded positively to the proposed changes following a further consultation response.</li> <li>• A negative condition will be attached to any approval requiring the submission of a final drainage assessment prior to commencement of works associated with the revised drainage solution.</li> </ul>
<p>Recommendation</p>	<p>Approval</p>
<p>Attachment</p>	<p>Item 4.2a – Case Officer Report                  Item 4.2b – LA06/2020/0097/F Case Officer Report                  Item 4.2c – LA06/2023/1500/F Case Officer Report</p>

<p><b>Development Management Case Officer Report</b></p>		 <p><b>Ards and North Down</b> Borough Council</p>
<b>Reference:</b>	LA06/2024/0559/F	<b>DEA:</b> Bangor Central
<b>Proposal:</b>	<p>Demolition of existing buildings at 5-12 and 35-41 Queen's Parade, 22-30 Main Street (formerly B &amp; M Bargains), 34-36 Main Street (Oxfam and Hospice shops), 6-34 King Street and 5-17 Southwell Road; minor extension and elevational changes to 40-42 Main Street (Caffe Nero); creation of new means of escape and installation of rooflights to 20 Main Street (Halifax); creation of new bin storage and basement access together with minor facade works to 48 Main Street (TK Maxx); erection of a mixed use development comprising culture and leisure facilities (class D), a 66 bedroom hotel, retail units, food and beverage outlets, offices (class B1- (a)), 137 residential units comprising 113 apartments in 3 blocks and 12 duplex apartments along King Street, creation of a new vehicular access onto Southwell Road to serve undercroft car park comprising 217 spaces together with 14 courtyard spaces and 24 on street, creation of new vehicular access onto King Street to serve residential parking, minor modifications to the Main Street and King Street junction and creation of a two-way street along Southwell Road from the junction with Primrose Street, creation of a new service vehicle access onto Main Street, creation of new public squares and courtyards including new pedestrian access points; and the redevelopment of Marine Gardens Car Park including partial demolition of sea-wall to create a public realm space comprising gardens and lawns, play areas, events spaces, covered shelters, 4 kiosks and 2 pavilions (housing food and beverage operators), together with other ancillary development.</p> <p>Variation of the following conditions of LA06/2020/0097/F:</p> <ul style="list-style-type: none"> <li>• Condition No.2 - Amended phasing of development</li> <li>• Condition No.3 - Minor landscape layout amendments to public realm</li> <li>• Condition No. 6 - Minor amendments to hard and soft landscaping within public realm,</li> <li>• Condition No.14 - Amendment to drawing references showing plant rooms</li> <li>• Condition No.16 - Amendment to reflect updated drawing reference</li> <li>• Condition No.43 - Amended drainage proposals</li> <li>• Condition No.44 - Amendment to reflect updated drawing reference</li> <li>• Condition No.45 - Amendment to reflect updated drawing reference</li> <li>• Condition Nos.48, 49, 54 and 56 - Amended phasing of roadworks</li> <li>• Condition No.57 - Amendment to reflect updated drawing reference</li> </ul>	

<b>Location:</b>	Lands at and to the rear of 18 – 52 Main Street (Reeds Rain to TK Maxx), 2 – 34 King Street, 5 -17 Southwell Road, 5 – 41 Queen’s Parade, Marine Gardens car park, the Esplanade Gardens, and area around McKee Clock, Queen's Parade, Bangor.		
<b>Applicant:</b>	Bangor Marine Ltd.		
<b>Date valid:</b>	10/07/2024	<b>EIA Screening Required:</b>	Yes
<b>Date last advertised:</b>	31/10/2024	<b>Date last neighbour notified:</b>	29/10/2024
<b>Letters of Support: 0</b>	<b>Letters of Objection: 0</b>	<b>Petitions: 0</b>	
<b>Consultations – synopsis of responses:</b>			
DFI Roads	No objection		
DFI Rivers	No objection		
NIEA – Water Management Unit	No objection		
NIEA – Marine & Fisheries	No objection		
NIEA – Natural Environment Division	No comment		
NIEA – Inland Fisheries	No objection		
Shared Environmental Service	No objection		
NI Water	No objection		
<b>Summary of main issues considered:</b>			
<p>Assessment of the impact of the proposed variation of the above planning conditions which involve:</p> <ul style="list-style-type: none"> <li>• Amendment of phasing drawings to change the extents of phases;</li> <li>• Updated drawings to reflect minor changes to the landscape design of Marine Gardens (as previously approved under non-material change application LA06/2024/0614/NMC);</li> <li>• Amendments to the phasing of the roadworks delivery; and</li> <li>• Amended proposed drainage design.</li> </ul>			
<b>Recommendation: Grant Planning Permission</b>			
<b>Report Agreed by Authorised Officer</b>			
<p>Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal <a href="http://planningsystemni.gov.uk">Northern Ireland Public Register (planningsystemni.gov.uk)</a></p>			

## 1. Site and Surrounding Area

The application site is located at Queen's Parade within Bangor city centre and covers an area of land just over 5 hectares. The immediate area within which the site lies is predominantly commercial in nature given the city centre location, with a variety of retail and service uses along Main Street. However, there are also existing residential areas to the immediate south and west of the site on King Street and Southwell Road as well as the leisure and recreation uses associated with the various areas of public open space and Pickie Fun Park to the north of the site adjacent to Bangor Marina.

The site itself encompasses the existing Marine Gardens car park adjacent to Bangor Marina, along with areas of existing open space to the north and west of this, and an area of land on the southern side of Queen's Parade which is framed by Main Street, King Street and Southwell Road.

(For further detail on the site and surrounding area please see planning report for the original permission LA06/2020/0097/F attached as Appendix 1 to this report).

## 2. Site Location Plan

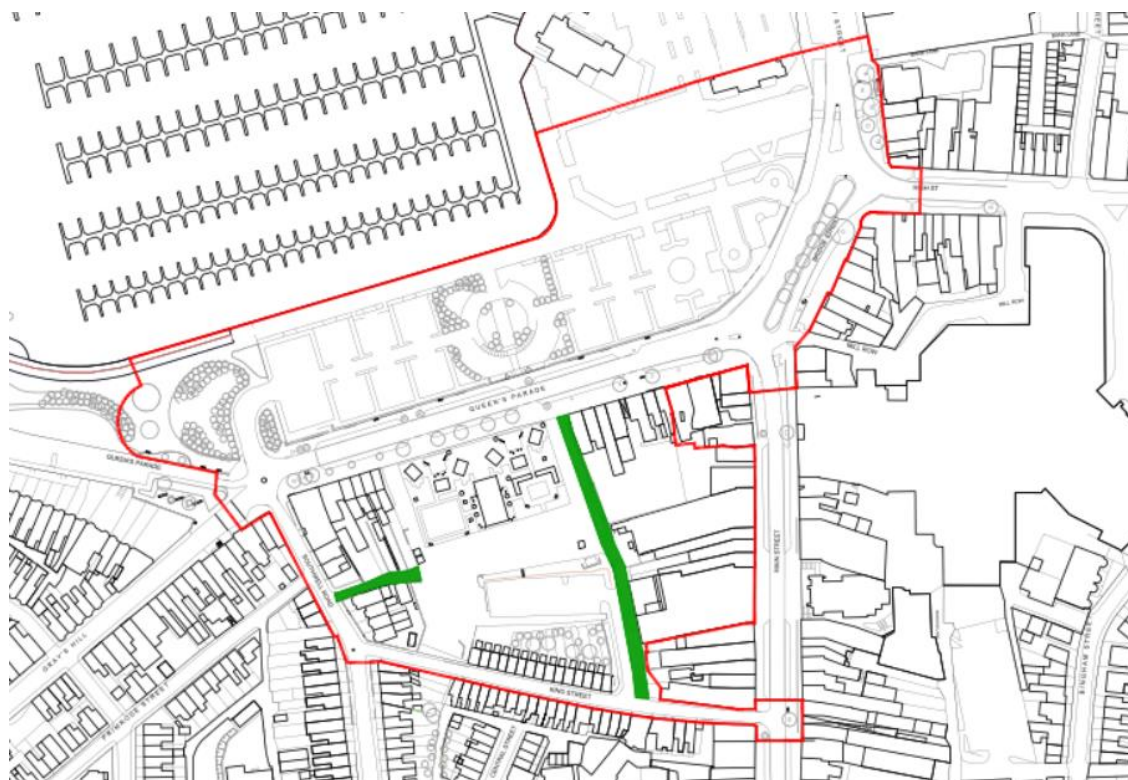


Figure 1 – Site Location Plan



**Figure 2 – Aerial view of site**

### 3. Relevant Planning History

#### Permission Granted

##### **LA06/2020/0097/F**

- Demolition of existing buildings at 5-12 and 35-41 Queen's Parade, 22-30 Main Street (formerly B & M Bargains), 34-36 Main Street (Oxfam and Hospice shops), 6-34 King Street and 5-17 Southwell Road;
- minor extension and elevational changes to 40-42 Main Street (Caffe Nero);
- creation of new means of escape and installation of rooflights to 20 Main Street (Halifax);
- creation of new bin storage and basement access together with minor facade works to 48 Main Street (TK Maxx);
- erection of a mixed use development comprising culture and leisure facilities (class D), a 66 bedroom hotel, retail units, food and beverage outlets, offices (class B1- (a)), 137 residential units comprising 113 apartments in 3 blocks and 12 duplex apartments along King Street;
- creation of a new vehicular access onto Southwell Road to serve undercroft car park comprising 217 spaces together with 14 courtyard spaces and 24 on-street;
- creation of new vehicular access onto King Street to serve residential parking, minor modifications to the Main Street and King Street junction and creation of a two-way street along Southwell Road from the junction with Primrose Street;

- creation of a new service vehicle access onto Main Street;
- creation of new public squares and courtyards including new pedestrian access points; and
- the redevelopment of Marine Gardens Car Park including partial demolition of seawall to create a public realm space comprising gardens and lawns, play areas, events spaces, covered shelters, 4 kiosks and 2 pavilions (housing food and beverage operators), and water feature together with other ancillary development.

Lands at and to the rear of 18 – 52 Main Street (Reeds Rain to TK Maxx), 2 – 34 King Street, 5 -17 Southwell Road, 5 – 41 Queen’s Parade, Marine Gardens car park, the Esplanade Gardens, and area around McKee Clock, Queen's Parade, Bangor.

*Approved 29/09/2022*

**LA06/2023/2026/DC**

Discharge of Condition 17 of Planning Approval LA06/2020/0097/F relating to Programme of Archaeological Work (POW)

*Discharged 04/03/2024*

**LA06/2023/2182/DC**

Discharge of Condition 45 of Planning Approval LA06/2020/0097/F relating to breeding bird survey

*Discharged 16/01/2024*

**LA06/2024/0614/NMC**

Non-Material Change to planning approval LA06/2020/0097/F to include:

- update to the landscape design for Marine Gardens to remove the water feature,
- update to the description of development of LA06/2020/0097/F to remove reference to a water feature,
- minor landscaping design changes,
- amendments to footprint/roof plan of pavilion buildings
- updates to relevant drawing references within Conditions 2, 3, 4, 5, 6, 9, 10, 11,12,16, 43, 44, 45, 49, 54, 56 and 57 of LA06/2020/0097/F

*Non-Material Change Approved 23/10/2024*

**LA06/2023/1500/F**

Section 54 application for variation of Condition 2 of LA06/2020/0097/F re: phasing of development and variation of Condition 3 of LA06/2020/0097/F re: Public Realm areas - Lands at and to the rear of 18 – 52 Main Street (Reeds Rain to TK Maxx), 2 – 34 King Street, 5 -17 Southwell Road, 5 – 41 Queen’s Parade, Marine Gardens car park, the Esplanade Gardens, and area around McKee Clock, Queen's Parade, Bangor.

*Approved 12/12/2023*

**LA06/2024/0531/DC**

Discharge of Condition 20 of LA06/2023/1500/F relating to a Remediation Strategy



*Discharged 30/07/2024*

**LA06/2024/0555/DC**

Condition 24 of LA06/2023/1500/F relating to a piling risk assessment

*Discharged 02/08/2024*

**LA06/2024/0498/DC**

Discharge of Conditions 16, 38 and 44 of LA06/2023/1500/F relating to Construction Environmental Management Plan, Dust Management Plan, and Japanese Knotweed (respectively)

*Discharged 24/09/2024*

**Under Consideration**

**LA06/2024/0572/F**

Children's play area including play equipment, safety surfaces, seating, boundary fencing and landscaping - Lands at Queen's Parade and Marine Gardens, Bangor, 14m North of 45-46 Queen's Parade and North of 47-50 Queen's Parade.

*Valid 01/08/2024*

**LA06/2024/0620/DC**

Discharge of Condition 6 - Hard and Soft Landscaping Details (8140-L), Planting Plan (8140-PHL-SW-XX-DR-L-2200), Condition 9 - Landscape maintenance and management plan (8140-PHL-SW-XX-RP-L-0001) and Condition 10 - Hard and Soft Landscaping Details (8140-L)

*Valid 22/07/2024*

**LA06/2024/0901/DC**

Discharge of Condition 11 – relating to design details of pavilion buildings, kiosks and shelters

*Valid 22/10/2024*

#### 4. Planning Assessment

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

**Development Plan**

- North Down and Ards Area Plan 1984 - 1995
- Draft Belfast Metropolitan Area Plan 2015
- Bangor Town Centre Plan

**Planning Policy**

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2 (PPS2) - Natural Heritage
- Planning Policy Statement 3 (PPS3) - Access, Movement and Parking
- Planning Policy Statement 6 (PPS6) – Planning, Archaeology and the Built Heritage
- Planning Policy Statement 6 Addendum (PPS6A) – Areas of Townscape Character
- Planning Policy Statement 15 (PPS15) - Planning and Flood Risk

**Guidance**

- Living Places

**Background and Legislative Requirements**

This planning application has been made under Section 54 of The Planning Act (Northern Ireland) 2011 (“the Act”) for the variation of Conditions 2, 3, 6, 14,16, 43, 44, 45, 48, 49, 54, 56 and 57 of extant planning permission LA06/2020/0097/F.

The original planning permission to which this current Section 54 application relates, granted approval for major development as defined in the Planning (Development Management) Regulations (Northern Ireland) 2015 (“the DM Regs”). A Proposal of Application Notice (PAN) was submitted to the Council on 29 May 2019 for the original application which the Council confirmed as acceptable on 21 June 2019. In accordance with Section 28 of the Act, a Pre-Application Community Consultation (PACC) Report was also submitted with the application. The report satisfactorily outlined how community consultation was carried out in accordance with the requirements of Section 27 of the Act and Regulation 5 of the DM Regs.

As this current application relates to the same development as previously approved under application LA06/2020/0097/F, it also falls within the schedule of development categorised as “major development”. While the legislation is silent on the issue of a Proposal of Application Notice (PAN) including details of pre-application consultation in respect of a Section 54 application that relates to an already approved major development, paragraph 4.12 of the Department for Infrastructure’s Development Management Practice Note (DMPN) 24 states that if a section 54 application already relates to an approved major development where PACC has already been undertaken, then it is not the legislative intention that it would be subject to PACC.

The purpose of a Section 54 application is not to revisit the principle of development on a given application site; rather a section 54 application must consider only the question of the conditions attached to an extant planning permission. The PACC is a means to engage the communities in the planning system. Paragraph 4.14 of the DMPN 24 advises that section 54 applications will be subject to statutory publicity and neighbour notification through which the community may engage in the planning process and interested parties may submit representations. Accordingly, even though this application relates to a “major development”, there is no requirement in this instance to undertake a PACC prior to the submission of the application.

### **EIA Screening**

A determination was carried out upon receipt of the application under Regulation 12(1) of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 as to whether the proposal would be EIA development. The Planning Department is satisfied that the proposed development when considered alongside the proposed changes to its phasing as requested under this Section 54 application, would not be likely to result in any significant environmental effects and therefore is not considered to be EIA development and as such does not need to be accompanied by an Environmental Statement. The Planning Department is also satisfied that there have been no material changes in circumstances relevant to the site or surrounding area since the approval of the original permission which would result in any significantly greater environmental impact.

### **Development Plan Context**

Section 6(4) of the Planning Act (Northern Ireland) 2011 ("the Act") states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. Section 45 (1) of the Act requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations.

The purported adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) was quashed by the Court of Appeal on 18th May 2017. Consequently, the North Down and Ards Area Plan 1984-1995 (NDAAP) is the statutory development plan for the area, alongside the Bangor Town Centre Plan.

The draft BMAP remains a material consideration. The Chief Planner in his fourth update to Councils dated 29 November 2019 confirmed that the draft Belfast Metropolitan Area Plan remains as an emerging plan and, as such, the draft plan, along with representations received to the draft plan and the associated Planning Appeals Commission Public Inquiry reports, remain as a material consideration to be weighed by the decision-maker.

The site lies within the development limit of Bangor as defined in NDAAP. The site is also located within the centre of Bangor as identified in the draft BMAP. There are several other designations and policies in the draft plan which are also applicable to the site as follows:

- Existing open space at Wilson's Point Local Landscape Policy Area (BR31)
- Bangor Urban Waterfront (BR32)
- Bangor Town Centre Primary Retail Core (BR40)
- Bangor Town Centre Primary Retail Frontage (BR41)
- Development Opportunity Site (BR44)
- Bangor Central Area of Townscape Character (ATC) (BR49)
- Bangor Town Centre Urban Design Criteria (BR48)
- Policy TRAN 4 Areas of Parking Restraint (BR47)
- Policy TRAN 5 Publicly owned off street surface car parks within city and town centres



**Figure 3 - Bangor Town Centre (Draft BMAP Map 3I)**

All matters concerning the extant Development Plan, draft Development Plan and Town Centre Plan are all assessed in detail within the case officer report for the original application LA06/2020/0097/F as appended to this report.

### **Principle of Development and Proposed Variation of Conditions**

As outlined above, the principle of development on this site has already been established through extant planning permission LA06/2020/0097/F and the subsequent Section 54 approval LA06/2023/1500/F. As commencement of development approaches, some further variations to the scheme have been identified as necessary, prompting submission of this further Section 54 application.

The only matter under consideration is the proposed variation of Conditions 2, 3, 6, 14, 16, 43, 44, 45, 48, 49, 54, 56 and 57 of the permission LA06/2020/0097/F.

Conditions 2 and 3, relating to the phasing of the development and the development of the public realm, have previously been granted permission for variation under application LA06/2023/1500/F. A further amendment to Condition 2 is proposed under this current application to amend the phasing to encompass all of the public realm within Phase 1 of the development. The previously amended wording of Condition 3 will be repeated under the current application but will also now refer to the proposed updated landscaping plans.

Condition 6 is also proposed to be amended to refer to the updated landscaping plans for the public realm; Condition 43 is to be amended to reflect the amended drainage proposals for the development; and Conditions 48, 49, 54 and 56 are to be amended to reflect updated phasing of roadworks.

The remaining Conditions proposed for variation (Conditions 14, 16, 44, 45 and 57) simply require drawing references to be updated to correspond with the submitted amended plans in line with the aforementioned variation of Conditions 2, 3, 6 and 43.

Conditions 6, 16, 44 and 45 also include a minor amendment referring to a single site compound instead of two site compounds as a single compound is only required now for Phase 1 which will encompass the entirety of the Marine Gardens Public Realm.

Upon review of all of the planning conditions, it has also been noted that condition 35 relating to ventilation for the approved hotel rooms, contains a small error. The Environmental Health Department has confirmed that the condition should refer to windows on the second floor rather than the first floor as condition 33 already covers the first floor of the building. This minor error has been corrected in the final conditions listed at the end of this report and is not considered to constitute any material change to the overall planning permission.

All other aspects of the development remain unchanged and will not be revisited.

All other planning conditions of the original permission and as amended under the associated Non-Material Change permission (LA06/2024/0614/NMC) will continue to apply to the development and shall be included in the decision for this Section 54 application. This includes any conditions previously discharged under the original planning permission and previous Section 54 application as the applicant will be required to seek written confirmation from the Council that it is content that these conditions are also considered to have been discharged in respect of the current Section 54 application.

This report should therefore be read in conjunction with the report for the original permission LA06/2020/0097/F attached as Appendix 1, the report for the previous Section 54 application LA06/2023/1500/F attached as Appendix 2, and the report for the approved Non-Material Change (LA06/2024/0614/NMC) to LA06/2020/0097/F.

It should be noted that the existing condition wording for LA06/2020/0097/F listed in the table below, includes any wording of conditions previously amended under Non-Material Change application LA06/2024/0614/NMC.

The table below sets out the current and proposed wording of each condition proposed for variation. Proposed amended text is highlighted in bold italics below for ease of reference.

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 2</b>	
<p>The development hereby approved shall be carried out in accordance with the sequential (numeric) phasing plans as indicated on Drawing Nos. 58D, 59D, 60D and 61D. The development hereby approved shall commence with Phase 1 and be built out sequentially thereafter. No subsequent phase of development shall be commenced unless the preceding phase has been completed and written approval issued by the Council confirming completion.</p>	<p>The development hereby approved shall be carried out <b><i>in the following sequence and restrictions thereon, with each phase as referred to being as delineated on approved drawing Nos. 58E, 59E, 60E and 61E:</i></b></p> <ol style="list-style-type: none"> <li data-bbox="799 1771 1385 1872">1. <b><i>The developer may commence concurrently phases 1, 2 and 3 of the development hereby approved.</i></b></li> <li data-bbox="799 1906 1385 2036">2. <b><i>The developer may not occupy or operate phases 1, 2 or 3 of the development until the areas of open space within phase 1 of the</i></b></li> </ol>

	<p><i>development as delineated on drawing No. 64A, hereby approved have been completed in full and written confirmation of such satisfaction provided by the Council.</i></p> <p><i>3. The residential development within phase 2 shall not be occupied until the area of open space within phase 2 of the development as delineated on drawing No. 64A hereby approved has been completed in full and written confirmation of such satisfaction provided by the Council.</i></p> <p><i>4. The developer may not occupy or operate phase 3 of the development until the areas of open space within phase 3 of the development hereby approved comprising the Market Place, Trinity Square and the pedestrian linkage between Market Place and Marine Gardens, as delineated on drawing No. 60E, have been completed in full and written confirmation of such satisfaction provided by the Council.</i></p> <p><i>5. Prior to the commencement of construction of any building within phase 4 of the development, the construction of phases 1 and 2 of the development hereby approved must be completed (excluding interior fit-out) and confirmation of completion of construction provided in writing by the Council.</i></p> <p><i>6. Prior to the occupation of, or operation from, any building within phase 4, the construction of phases 1, 2 and 3 of the development hereby approved must be completed (excluding interior fit-out) and confirmation of completion provided in writing by the Council.</i></p>
--	---

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 3</b>	
The proposed public realm areas of open space as indicated on drawing No. 64A shall be laid out in accordance with drawing Nos. 64A, 65A, 66A, 67A and 68A bearing the date and in accordance with the timing as set out in	The proposed public realm areas of open space as indicated on the approved drawing No. <b>64A</b> shall be laid out in accordance with drawing Nos. <b>64A, 67A and 68A and in accordance with the timing and</b>

<p>the above phasing plans. The public realm areas of open space within phases 1 and 2 shall be completed prior to the occupation of any residential unit in phase 2. These areas shall not thereafter be used for any purpose other than as open space (with the exception of the approved kiosks and pavilion buildings) as indicated on drawing No. 64A.</p>	<p><b>requirements set out in condition 2 above.</b> These areas shall not thereafter be used for any purpose other than open space (with the exception of the approved kiosks and pavilion buildings) as indicated on drawing No. <b>64A</b>.</p>
---	--

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 6</b>	
<p>No development/site clearance works, lopping, topping or felling of trees, trucking machinery over tree roots, shall take place with the exception of the establishment of the two site compounds as shown on phasing drawing No. 58D until full details of both the hard and soft landscape works required in conjunction with the development have been submitted to and approved in writing by the Council and these works shall be carried out in accordance with the approved phasing plans as indicated on Drawing No.58D, 59D, 60D and 61D. The works as approved shall be completed during the first available planting season following completion of each phase.</p>	<p>No development/site clearance works, lopping, topping or felling of trees, trucking machinery over tree roots, shall take place with the exception of the establishment of the site compound as shown on phasing drawing No. <b>58E</b> until full details of both the hard and soft landscape works required in conjunction with the development have been submitted to and approved in writing by the Council and these works shall be carried out in accordance with the approved phasing plans as indicated on drawing No. <b>58E, 59E, 60E and 61E</b>. The works as approved shall be completed during the first available planting season following completion of each phase.</p>

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 14</b>	
<p>The height and floorspace of the proposed plant rooms and housing on the roofs of blocks 5, 6 and 10 (otherwise known as the hotel, office and cinema buildings) shall not exceed that shown on drawing Nos. 41 and 42 bearing the date stamp 28 January 2020 and 43B and 44B bearing the date stamp 22 December 2020.</p>	<p>The height and floorspace of the proposed plant rooms and housing on the roofs of blocks 5, 6 and 10 (otherwise known as the hotel, office and cinema buildings) shall not exceed that shown on drawing Nos. <b>39C, 38B, 43B and 44B</b>.</p>

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 16</b>	
<p>No development activity, including ground preparation or vegetation clearance, shall take place, with the exception of the established of the two site compounds and any archaeological works required under conditions 17 and 18 as shown on Phasing</p>	<p>No development activity, including ground preparation or vegetation clearance, shall take place, with the exception of the establishment of the site compound and any archaeological works required under conditions 17 and 18 as shown on Phasing Drawing No. <b>58E</b> any</p>

<p>Drawing No. 58D and any archaeological works required under conditions 17 and 18 below, until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. This shall reflect all of the mitigation and avoidance measures detailed in the outline CEMP and the Ecological Impact Assessment. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Council. The CEMP shall include the following:</p> <ul style="list-style-type: none"> <li>a) Construction methodology and timings of works;</li> <li>b) Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction material, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site;</li> <li>c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;</li> <li>d) Water Quality Monitoring Plan;</li> <li>e) Environmental Emergency Plan;</li> <li>f) Details of appropriate mitigation measures to protect hedgehogs;</li> <li>g) Details of updated Japanese knotweed surveys to be carried out and any necessary mitigation and/or management measures required;</li> <li>h) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities.</li> <li>i) A construction Event Management Plan and Construction Site Traffic Management Plan</li> </ul>	<p>archaeological works required under conditions 17 and 18 below, until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. This shall reflect all of the mitigation and avoidance measures detailed in the outline CEMP and the Ecological Impact Assessment. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Council. The CEMP shall include the following:</p> <ul style="list-style-type: none"> <li>a) Construction methodology and timings of works;</li> <li>b) Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction material, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site;</li> <li>c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;</li> <li>d) Water Quality Monitoring Plan;</li> <li>e) Environmental Emergency Plan;</li> <li>f) Details of appropriate mitigation measures to protect hedgehogs;</li> <li>g) Details of updated Japanese knotweed surveys to be carried out and any necessary mitigation and/or management measures required;</li> <li>h) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities.</li> <li>i) A construction Event Management Plan and Construction Site Traffic Management Plan</li> </ul>
---	---

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 43</b>	
<p>Prior to commencement of any development hereby approved with the exception of the establishment of the two site compounds as shown in drawing 58D and any archaeological works required under conditions 17 and 18 above, a final drainage assessment, containing a detailed drainage network design</p>	<p>The surface water drainage system for the development hereby approved, shall be constructed in accordance with the details as shown on drawing Nos. 78B, 80B and 83 and the approved Doran Consulting Drainage Assessment (dated 12th June 2024 (11.09.24</p>



<p>and compliant with Annex D of PPS 15 must be submitted to the Council for approval.</p>	<p>revision). Prior to the commencement of any development within Phases 3 &amp; 4 of the development hereby approved, with the exception of the establishment of the <b>site compound</b> as shown in drawing No. 60E, evidence of agreement from NI Water for any alteration to the existing foul sewer network within Phases 3 &amp; 4 and the details of those alterations, must be submitted in an updated Drainage Assessment to the Council for approval in writing in consultation with DfI Rivers. The approved drainage system shall be managed and maintained in accordance with the approved details and retained as such thereafter.</p>
--	---

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<p><b>Condition 44</b></p>	
<p>Prior to the commencement of any works, with the exception of the establishment of the two site compounds as shown on drawing 58D and any archaeological works required under conditions 17 and 18 above, an on-site inspection shall be undertaken to review the site conditions and the potential for any re-occurrence of Japanese knotweed. If Japanese knotweed or other invasive species are found, necessary action shall be taken prior to works commencing on site. Details of these inspections and any action required shall be included in the final Construction Environmental Management Plan (CEMP) referred to in condition 16 above. The development shall be carried out in accordance with the approved details.</p>	<p>Prior to the commencement of any works, with the exception of the establishment of the <b>site compound</b> as shown on drawing <b>58E</b> and any archaeological works required under conditions 17 and 18 above, an on-site inspection shall be undertaken to review the site conditions and the potential for any re-occurrence of Japanese knotweed. If Japanese knotweed or other invasive species are found, necessary action shall be taken prior to works commencing on site. Details of these inspections and any action required shall be included in the final Construction Environmental Management Plan (CEMP) referred to in condition 16 above. The development shall be carried out in accordance with the approved details.</p>

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<p><b>Condition 45</b></p>	
<p>No development activity, including ground preparation or vegetation clearance, shall take place with the exception of the establishment of the two site compounds as shown on drawing 58D and any archaeological works required under conditions 17 and 18 above, until an updated breeding bird survey of the site has been undertaken by a suitably qualified and experienced ecologist between April and June and the findings of this survey</p>	<p>No development activity, including ground preparation or vegetation clearance, shall take place with the exception of the establishment of the <b>site compound</b> as shown on drawing <b>No. 58E</b> and any archaeological works required under conditions 17 and 18 above, until an updated breeding bird survey of the site has been undertaken by a suitably qualified and experienced ecologist between April and June and the findings of this survey</p>

<p>and appropriate mitigation and compensation measures to be implemented are included in a Breeding Bird Survey and Mitigation Report which shall be submitted to and approved by writing by the council. The approved Breeding Bird Survey and Mitigation Report shall be implemented in accordance with the approved details and all works on site shall conform to the approved Breeding Bird Survey and Mitigation Report, unless otherwise agreed in writing by the Planning Authority. The Breeding Bird Survey and Mitigation Report shall include the following:</p> <ul style="list-style-type: none"> <li>a) Details of the results of the updated breeding bird survey carried out at the appropriate time of year and using appropriate methodology;</li> <li>b) Details of mitigation and compensation measure for birds, including the specifications and locations of the compensatory measures such as nest boxes/bricks;</li> <li>c) Details of the appointment of an Ecological Clerk of Works (ECoW) to oversee the implementation of mitigation and compensation measures for birds and their roles and responsibilities.</li> </ul>	<p>and appropriate mitigation and compensation measures to be implemented are included in a Breeding Bird Survey and Mitigation Report which shall be submitted to and approved by writing by the council. The approved Breeding Bird Survey and Mitigation Report shall be implemented in accordance with the approved details and all works on site shall conform to the approved Breeding Bird Survey and Mitigation Report, unless otherwise agreed in writing by the Planning Authority. The Breeding Bird Survey and Mitigation Report shall include the following:</p> <ul style="list-style-type: none"> <li>a) Details of the results of the updated breeding bird survey carried out at the appropriate time of year and using appropriate methodology;</li> <li>b) Details of mitigation and compensation measure for birds, including the specifications and locations of the compensatory measures such as nest boxes/bricks;</li> <li>c) Details of the appointment of an Ecological Clerk of Works (ECoW) to oversee the implementation of mitigation and compensation measures for birds and their roles and responsibilities.</li> </ul>
---	---

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 48</b>	
<p>The Private Streets (NI) Order 1980 as amended by the Private Streets (Amendment) (NI) Order 1992.</p> <p>Prior to development in each phase becoming occupied/ operational, the works necessary for the improvement of a public road shall be completed in accordance with the phasing particulars outlined below and the works outlined in blue on Drawing No.82 bearing the date stamp 24 May 2021. The council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).</p> <p>Phase 1</p> <ul style="list-style-type: none"> <li>- Footway works- connection to Marine Gardens at Queen’s Parade/Bridge Street junction and at Trinity Way connection to Main Street</li> </ul>	<p>The Private Streets (NI) Order 1980 as amended by the Private Streets (Amendment) (NI) Order 1992.</p> <p>Prior to development in each phase becoming occupied/ operational, the works necessary for the improvement of a public road shall be completed in accordance with the phasing particulars outlined below and the works outlined in blue on Drawing No. 82 bearing the date stamp 24 May 2021. The council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).</p> <p><b>Phase 2</b></p> <ul style="list-style-type: none"> <li>- <b>Southwell Road widened and made two-way between Primrose Street and Queen’s Parade/ Gray’s Hill/ Southwell</b></li> </ul>

<ul style="list-style-type: none"> <li>- Carriageway works at Trinity Way/ Main Street junction to create a new vehicular egress route onto Main Street</li> <li>- Improvements to the kerb line radii and loading bay amendments to Main Street/ King Street junction</li> </ul> <p>Phase 2</p> <p>Southwell Road widened and made two-way between Primrose Street and Queens parade/ Gray's Hill/ Southwell Road mini roundabout junction to allow</p> <ul style="list-style-type: none"> <li>- creation of basement car park access</li> <li>- Works to King Street footway to allow creation of residential courtyard</li> <li>- Marking of loading bays to western section of Queen's Parade</li> <li>- Marking of disabled parking bays on Queen's Parade</li> </ul> <p>Phase 3</p> <ul style="list-style-type: none"> <li>- Raised table on Queen's Parade at end of Phase 3</li> <li>- Loading bays marked out to eastern section of Queen's Parade</li> </ul> <p>Phase 4</p> <ul style="list-style-type: none"> <li>- Works to King Street footway and final surfacing to The Vennel</li> </ul>	<p><b>Road mini roundabout junction to allow creation of basement car park access</b></p> <ul style="list-style-type: none"> <li>- <b>Works to King Street footway to allow creation of residential courtyard</b></li> <li>- <b>Marking of loading bays to western section of Queen's Parade</b></li> <li>- <b>Marking of disabled parking bays on Queen's Parade</b></li> </ul> <p><b>Phase 3</b></p> <ul style="list-style-type: none"> <li>- <b>Footway works - connection to Marine Gardens at Queen's Parade/Bridge Street junction and at Trinity Way connection to Main Street</b></li> <li>- <b>Carriageway works at Trinity Way/ Main Street junction to create a new vehicular egress route onto Main Street</b></li> <li>- <b>Raised table on Queen's Parade at end of Phase 3</b></li> <li>- <b>Loading bays marked out to eastern section of Queen's Parade</b></li> <li>- <b>Works to King Street footway and final surfacing to The Vennel.</b></li> </ul> <p><b>Phase 4</b></p> <ul style="list-style-type: none"> <li>- <b>Improvements to the kerb line radii and loading bay amendments to Main Street/ King Street junction.</b></li> </ul>
--	---

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 49</b>	
No development hereby permitted shall be occupied or become operational as detailed in the phasing plan until hard surfaced areas associated with that phase have been constructed and permanently marked in accordance with the approved Drawing Nos. 58D (Phase 1), 59D (Phase 2), 60D (Phase 3) and 61D (Phase 4) to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.	No development hereby permitted shall be occupied or become operational as detailed in the phasing plan until hard surfaced areas associated with that phase have been constructed and permanently marked in accordance with the approved drawing Nos. <b>58E</b> (Phase 1), <b>59E</b> (Phase 2), <b>60E</b> (Phase 3) and <b>61E</b> (Phase 4) to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 54</b>	
The vehicular access associated with each phase of the development, including visibility splays and any forward sight distance, shall be	The vehicular access associated with each phase of the development, including visibility splays and any forward sight distance, shall be

<p>provided in accordance with Drawing Nos. 58D (Phase 1), 59D (Phase 2), 60D (Phase 3) and 61D (Phase 4) prior to the commencement of any works within that phase. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.</p>	<p>provided in accordance with drawing Nos. <b>58E</b> (Phase 1), <b>59E</b> (Phase 2), <b>60E</b> (Phase 3) and <b>61E</b> (Phase 4) prior to the commencement of any works within that phase. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.</p>
---	---

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 56</b>	
<p>A Road Safety Audit in accordance with GG119 of the Design Manual for Roads and Bridges shall be carried out at appropriate stages within the construction and operation process. Any outworking of the safety audit shall be submitted to and approved in writing by the council (in consultation with DfI Roads) with Stage 1 and 2 Audits being prior to the commencement of development with the exception of the establishment of the two site compounds as shown on Phasing Drawing No 58D.</p>	<p>A Road Safety Audit in accordance with GG119 of the Design Manual for Roads and Bridges shall be carried out at appropriate stages within the construction and operation process. Any outworking of the safety audit shall be submitted to and approved in writing by the council (in consultation with DfI Roads) with Stage 1 and 2 Audits being prior to the commencement of development, with the exception of the establishment of the <b>site compound</b>, as shown on Phasing drawing No. <b>58E</b>.</p>

Existing Condition Wording under LA06/2020/0097/F	Proposed Condition Wording
<b>Condition 57</b>	
<p>Details of the temporary structure required to enclose the undercroft car park, and screening/ safety structures adjacent to the proposed retail units and steps required to be constructed within Phase 2 of the development, as indicated on Drawing No.59D, shall be submitted to and approved in writing by the council prior to the occupation/ operation of any of the residential or retail uses within Phase 2 and shall be removed prior to the occupation/ operation of any part of Phase 3.</p>	<p>Details of the temporary structure required to enclose the undercroft car park, and screening/ safety structures adjacent to the proposed retail units and steps required to be constructed within Phase 2 of the development, as indicated on Drawing No.<b>59E</b>, shall be submitted to and approved in writing by the council prior to the occupation/ operation of any of the residential or retail uses within Phase 2 and shall be removed prior to the occupation/ operation of any part of Phase 3.</p>

**Consideration of Proposed Variation of Conditions**

**Condition 2 - Phasing**

The previous Section 54 application approved under planning permission LA06/2023/1500/F) allowed the concurrent delivery of Phases 1, 2 and 3 with the Marine Gardens public realm before occupation or operation of any other part of the development.

The amended wording of condition 2 as approved under LA06/2023/1500/F is as follows:

*'The development hereby approved shall be carried out in the following sequence and restrictions thereon, with each phase as referred to being as delineated on approved plans 58C, 59C, 60C and 61C bearing the date stamp 30th June 2022:*

1. *The developer may commence concurrently, phases 1, 2 and 3 of the development hereby approved.*
2. *The developer may not occupy or operate phases 1, 2 or 3 of the development until the areas of open space within phases 1 and 2 of the development as delineated on drawing No. 64 date stamped received 28th January 2022, hereby approved have been completed in full and written confirmation of such satisfaction provided by the Council.*
3. *The developer may not occupy or operate phase 3 of the development until the areas of open space within phase 3 of the development hereby approved comprising the Market Place, Trinity Square and the pedestrian linkage between Market Place and Marine Gardens, as delineated on drawing No. 60C date stamped 30th June 2022, have been completed in full and written confirmation of such satisfaction provided by the Council.*
4. *Prior to the commencement of construction of any building within phase 4 of the development, the construction of phases 1 and 2 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion of construction provided in writing by the Council.*
5. *Prior to the occupation of, or operation from, any building within phase 4, the construction of phases 1, 2 and 3 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion of construction provided in writing by the Council.'*

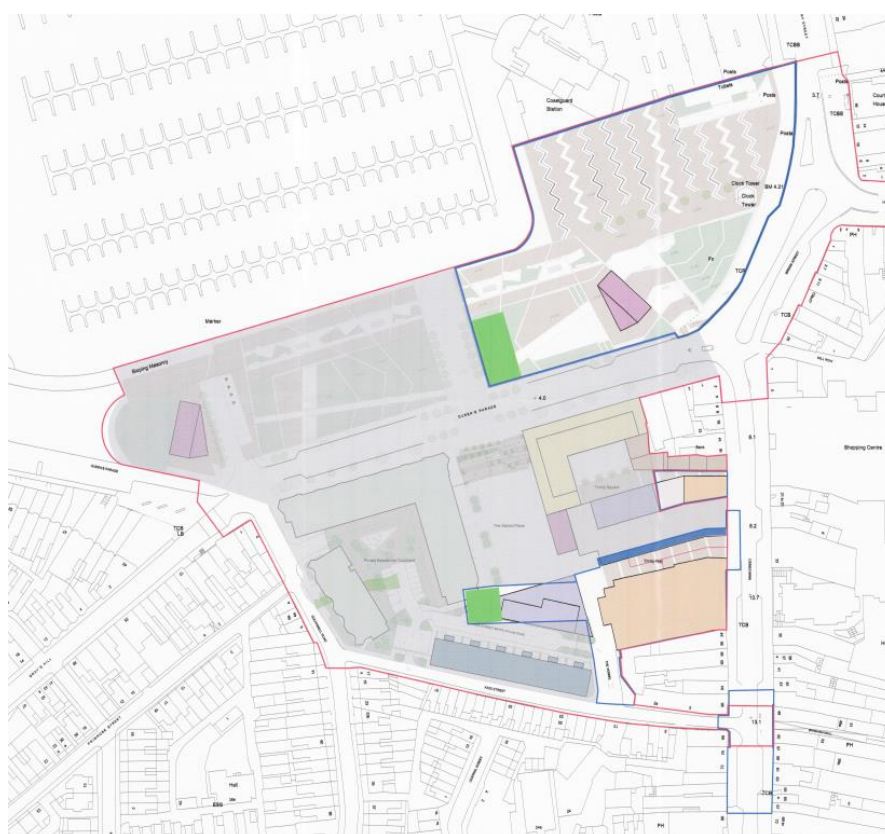
The current Section 54 application seeks to retain this amended wording but also proposes to further revise the phasing by way of a change to the approved phasing plans themselves. The main revision proposed will incorporate all of the Marine Gardens public realm area within Phase 1 (rather than split between Phase 1 and Phase 2). In practical terms, this application seeks to replace references to Drawing Nos. 58C, 59C, 60C and 61C with the updated versions. This also has implications for several other planning conditions which reference one or more of these drawings. Such instances are included in the schedule above. The proposed revised wording for condition 2 is set out below with amendments highlighted in bold:

*The development hereby approved shall be carried out in the following sequence and restrictions thereon, with each phase as referred to being as delineated on approved plans **58E, 59E, 60E and 61E**:*

1. *The developer may commence concurrently, phases 1, 2 and 3 of the development hereby approved.*
2. *The developer may not occupy or operate phases 1, 2 or 3 of the development until the areas of open space within phase 1 of the development as delineated on drawing No. 64A, hereby approved have been completed in full and written confirmation of such satisfaction provided by the Council.*
3. *The residential development within phase 2 shall not be occupied until the area of open space within phase 2 of the development as delineated on drawing No. 64A hereby approved has been completed in full and written confirmation of such satisfaction provided by the Council.*
4. *The developer may not occupy or operate phase 3 of the development until the areas of open space within phase 3 of the development hereby approved comprising the Market Place, Trinity Square and the pedestrian linkage between Market Place and Marine Gardens, as delineated on drawing No. 60E have been completed in full and written confirmation of such satisfaction provided by the Council.*
5. *Prior to the commencement of construction of any building within phase 4 of the development, the construction of phases 1 and 2 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion of construction provided in writing by the Council.*

6. *Prior to the occupation of, or operation from, any building within phase 4, the construction of phases 1, 2 and 3 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion provided in writing by the Council.*

A number of other minor changes are also proposed to the phasing plans under this current application (see phasing drawings below). The proposed demolition of 34 & 36 Main Street, minor alterations to TK Maxx and Caffé Nero buildings and works at Trinity Way/Main Street junction to create new vehicular egress which were originally included in Phase 1 of the development will now be delivered as part of Phase 3 (which can still be commenced concurrently with Phases 1 and 2). Phase 1 will take in the northern half of Phase 2, resulting in a reduced Phase 2 area. Phase 4 will be largely unchanged.



**Figure 4 - Phase 1 (Approved)** - Delivery of first part of Marine Gardens, demolition of 34 & 36 Main Street, minor alterations to TK Maxx and Caffé Nero buildings, existing right of way agreements to be extinguished prior to commencement, works at Trinity Way/Main Street junction to create new vehicular egress.



**Figure 5 - Phase 1 (Proposed) – Marine Gardens Public Realm**



**Figure 6 - Phase 2 (Approved) – Delivery of remaining public realm at Marine Gardens and commencement of development on under-croft car park and residential blocks 1 and 2 with all remaining buildings demolished with exception of King Street, widening of Southwell Road, marking of loading bays at western end of Queen's Parade**



**Figure 7 - Phase 2 (Proposed)** – Car park (works to be completed excluding interior fit-out – extent in relation to current phase only as highlighted dashed orange). Blocks A, B and C to be constructed excluding interior fit-out before title transfer.



**Figure 8 - Phase 3 (Approved)** – Commencement of work on hotel, kids' zone, offices, Market Square and associated steps and completion of works to Trinity Square, installation of raised table at Queen's Parade, marking of loading bays at eastern end of Queen's Parade marked out.





**Figure 9 - Phase 3 (Proposed)** – Hotel, Commercial/Retail/Restaurant space, office space. Remaining extent of full car park works.



**Figure 10 - Phase 4 (Approved)** – Demolition of King Street terrace and completion of 24 new residential units and cinema building and completion of all hard and landscaped surfaces.



**Figure 11 - Phase 4 (Proposed) – Destination/cinema building, commercial/restaurant space & residential units**

The effect of the drawing changes will be to bring all of Marine Gardens public realm scheme into a single first phase, to provide greater simplicity for the developer in relation to pre-commencement requirements. However, the revised wording also continues to incorporate a number of clauses which will continue to ensure that the development within each phase is completed in a timely manner and that the important public realm and open space aspects of each phase are delivered.

The revised wording continues to contain safeguards to ensure that the public realm works would be completed first and that no development relating to later phases becomes operational/be occupied until written approval from the Council has been obtained to confirm that the preceding phases have been completed as outlined above.

I am satisfied that the proposed amendments to the phasing for the development will continue to comply with all the relevant planning policy and development plan requirements as previously set out in the detailed planning report for application LA06/2020/0097/F. The changes to the phasing will not result in any additional adverse impact on interests of acknowledged importance including:

- visual impact
- impact on the character of the area and appearance of the proposed ATC
- traffic impact, road safety and parking (DFI Roads consulted and advised no objections)
- archaeology and built heritage
- flooding and drainage
- natural heritage interests including impact on designated sites and protected species
- residential amenity of nearby occupied dwellings

- retail impact/impact on the vitality and viability of the city centre
- the provision of public open space
- existing sewerage infrastructure

### Conditions 3 & 6 – Provision of Public Realm and Landscaping

The landscape design for the public realm at Marine Gardens has developed further since the approval of the original application LA06/2020/0097/F. As such, some minor alterations to the landscape design are proposed and these are reflected in the updated landscaping drawing Nos. 64A, 65A, 66A, 67A and 68A and also in the updated phasing plans.

It is important to note that there is no proposed reduction in the public realm area, nor is any significant change to the layout sought and these amendments have been previously approved as a Non-Material Change (LA06/2024/0614/NMC). This NMC approval also included the removal of the previously proposed central water feature from the scheme. The description of development for this current Section 54 application therefore reflects this and does not include reference to the water feature. The original and revised landscaping plans are shown in figures 12 and 13 below. The main amendments in the revised plans comprise:

- A reduction in width of the central waterfront plaza
- Removal of the central water feature
- Change in footprint of the two pavilion buildings
- Provision of a small area of hardstanding to the west of pavilion building 2 ('B2')
- Replacement of hard landscaping within the 'multi-purpose open space' area with grass
- Minor increase in size of the garden area around McKee clock
- Minor changes to soft landscaping

As determined under the NMC, all of the above amendments are considered to be extremely minor in the context of the overall development as a whole. The general layout and arrangement of the public realm remains unchanged. While the footprint of the two pavilion buildings has taken on a more rectangular conventional form, there is no significant increase in size proposed and their respective position and orientation within the public realm remain unchanged.



**Figure 12 – Approved Landscaping Plan (Drawing No. 64 - LA06/2020/0097/F)**



**Figure 13 – Proposed Revised Landscaping Plan (Drawing No. 64A)**

I am satisfied that the proposed amendments to the phasing for the development will continue to comply with all the relevant planning policy and development plan requirements as previously set out in the detailed planning report for application LA06/2020/0097/F.

**Condition 14 – Roof Plant**

Revised plans showing the proposed position and extent of roof plant on the buildings have also been submitted. These drawings do not propose any changes to the position or size of the roof plant itself but have merely been submitted to supersede drawing Nos. 41 and 42 which were referred to in error in the original condition of permission LA06/2020/0097/F as these show the roof plans of an earlier superseded version of the scheme.



**Figure 14 – Revised drawing Nos. 38B & 39B showing roof plant**

**Conditions 16, 44, 45, 47 & 56 – Amendments to reflect updated drawing references**

The proposed variation to the above conditions only relates to updating the phasing drawing references 58E and 59E to correspond with condition 2. No other changes are proposed.

**Condition 43 – Revised Drainage Proposal**

As part of the original planning permission (LA06/2020/0097/F) there were initially two surface water drainage options put forward for the development. One option was for the use of sub-surface attenuation and controlled discharge via the existing watercourses running through the site, into the Marina. The other option was the delivery of a direct discharge into the Marina.

During the course of the processing of the original application, DFI Rivers required the applicant to confirm which of these solutions would be taken forward for the development. The applicant chose to proceed with the first option and further details were submitted at the request of DFI Rivers. The details for this option, including detailed drainage plans, were therefore approved under the original permission subject to Condition 43 requiring a final drainage assessment and design based on this solution to be submitted and approved prior to commencement of development.

The applicant is now seeking to change the drainage proposals to the alternative solution of a direct 'single pipe' discharge option, which is more environmentally sustainable. To that end, a variation to Condition 43 is sought to require compliance with a revised drainage design and a final drainage assessment submitted with this application. The proposed reworded Condition 43 is set out in the schedule above. Figures 15 and 16 below show the original approved and revised surface water drainage proposals respectively.

A Pre-Development Enquiry (PDE) was submitted by the applicant to NI Water in July 2019, to determine whether the required capacity was available either within, adjacent or close to the proposed development. The PDE response, returned August 2019, confirmed that there is no public storm sewer available which can serve the development.

The surface water run-off from the existing site is generally conveyed by drainage infrastructure to the current NI Water combined sewer system. Surface water to the south of Queen's Parade is collected via a gully system that discharges to the combined sewer network. Surface water to the north of Queen's Parade drains via a gully and drainage channel system that discharges both directly into the Bangor Marina and into the NI Water combined sewer. Queen's Parade drains via a gully system that ultimately discharges to the NI Water combined sewer. NI Water has a policy of promoting removal of storm water from the combined sewer network wherever possible.

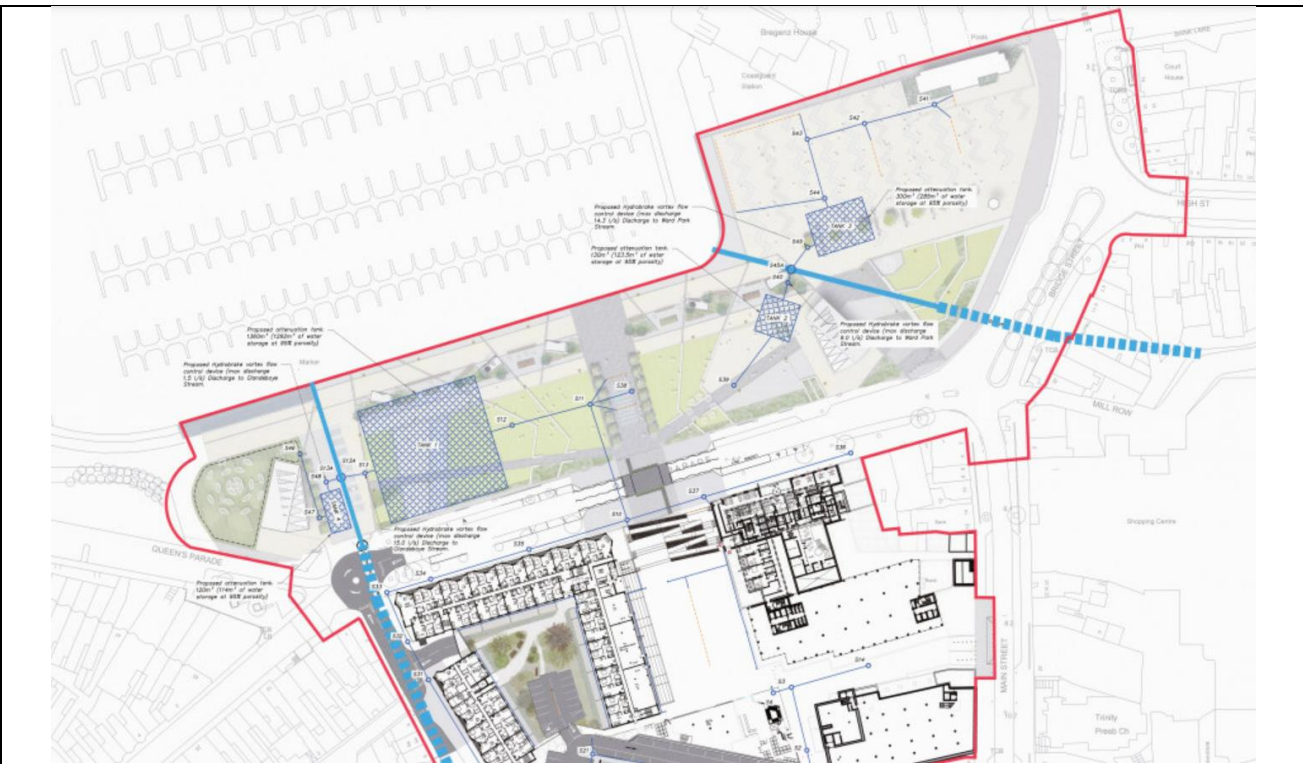


Figure 15 - Original approved drainage proposals (LA06/2020/0097/F) showing attenuation tanks underground

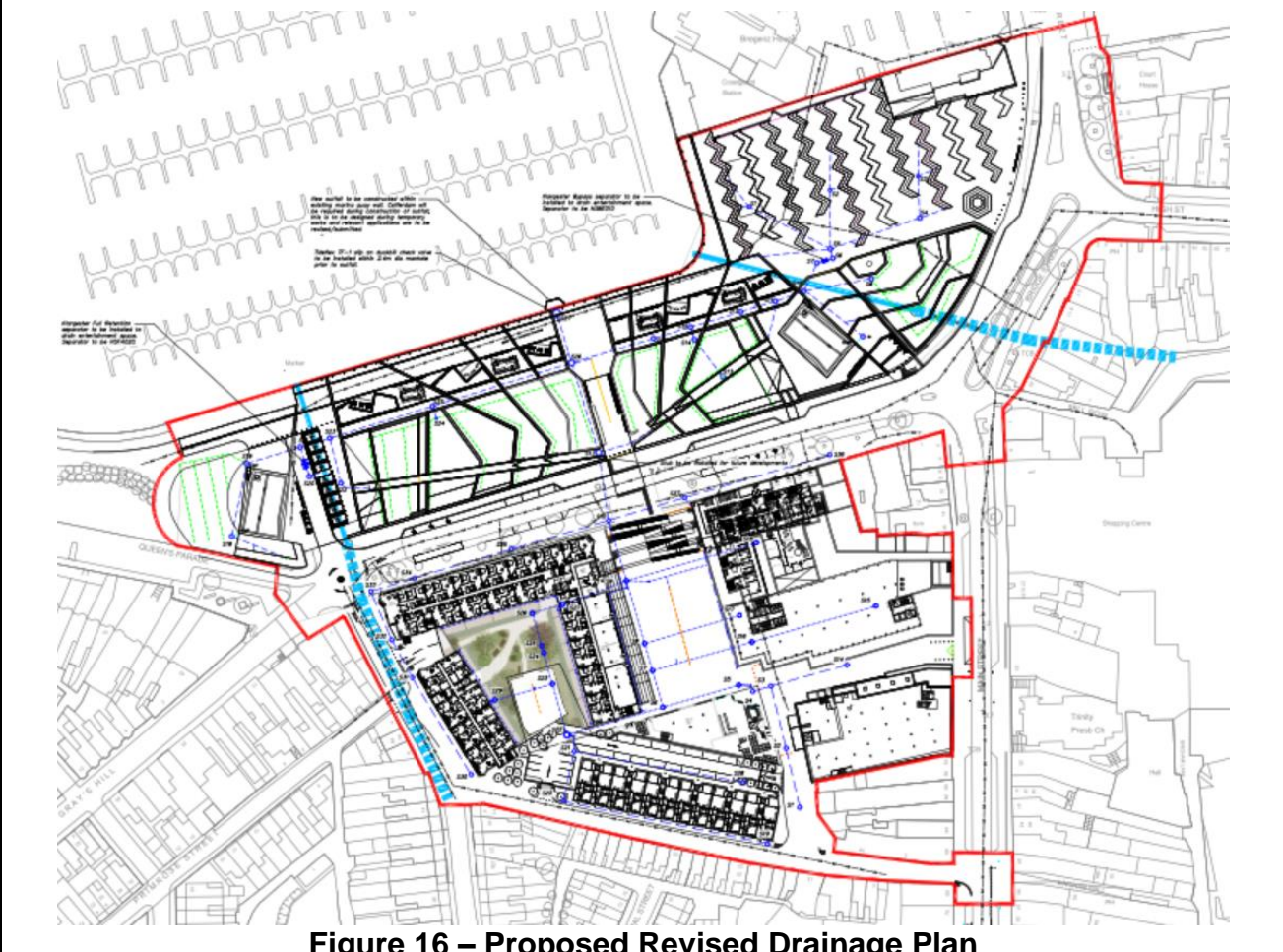


Figure 16 – Proposed Revised Drainage Plan

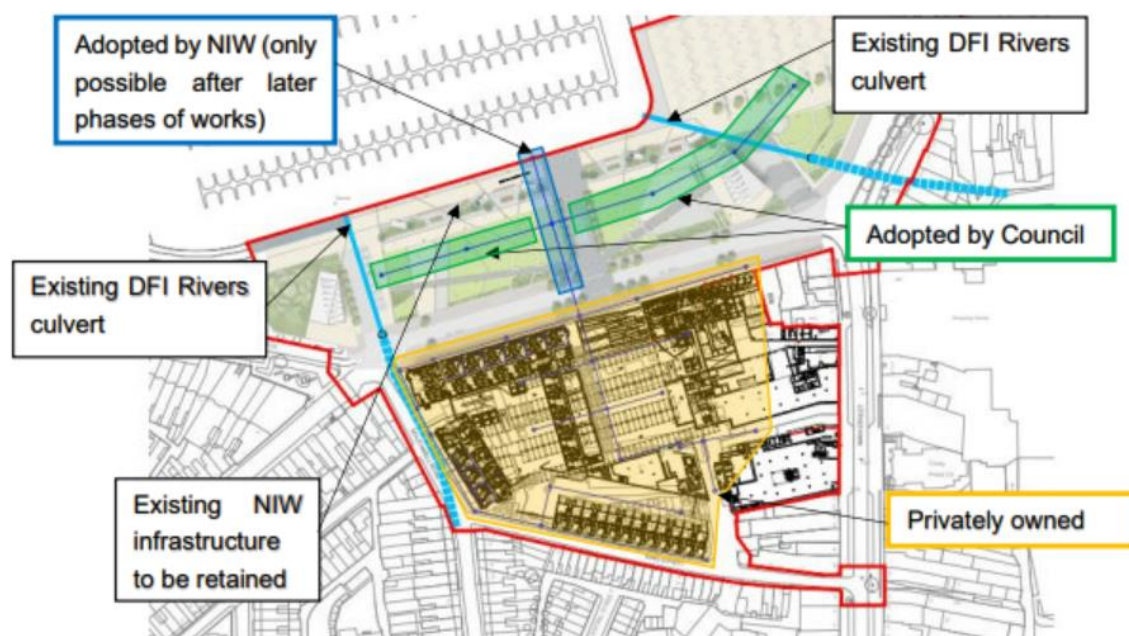
The original approved drainage solution incorporated an attenuated surface water discharge to the existing DFI Rivers culverts within Marine Gardens. Attenuation was to be provided via several large capacity underground cellular storage tanks, constructed within Marine Gardens. Flows were proposed to be restricted to both the Clandeboye and Ward Park culverts using vortex flow control chambers. This option was approved in principle by DFI Rivers, via Schedule 6; however, it would require considerable drainage infrastructure to be constructed within existing lands owned by The Crown Estate and leased to the Council.

The alternative option now proposed incorporates a new dedicated outfall sewer to be constructed, discharging surface water from the development directly into the Marina. As the outfall will be direct to tidal waters, attenuation will not be required. This option has required additional approvals to be obtained from NIEA Water Regulation Unit in relation to consent to discharge and from DAERA's Marine and Fisheries Division regarding a Marine Construction Licence.

The alternative option now proposed, is considered to be the most advantageous solution due to several factors:

- It allows full removal of surface water (generated from across the development site) from the existing NI Water combined sewer network, relieving pressure on local sewer infrastructure, wastewater treatment facilities and helps to mitigate potential local out-of-sewer flooding. There are NI Water Combined Sewer Overspill facilities noted to be present, which are understood to overspill into the existing DFI Rivers culverts. The removal of surface water from the NI Water and DFI networks should help to mitigate in some way overspill requirements.
- It allows full removal of surface water (generated from across the development site) from the existing DFI Rivers culvert infrastructure, relieving upstream capacity pressures.
- It negates the requirement for large underground attenuation tanks within Marine Gardens. There were concerns in relation to achieving adequate space to construct such tanks, in relation to both existing and proposed services, as well as proposed planting, hardstanding and buildings. There were also concerns in relation to tidal influence on the tanks and potential buoyancy issues associated with such tanks.
- Maintenance requirements are considerably less, and ownership arrangements are likely to be more logical, with the system being fully aligned with adoptable standards.
- It reflects an overall more sustainable approach, utilising less construction materials, requiring a shorter installation programme and providing a longer design life.

The drainage system will be constructed to an adoptable standard. It is proposed that the network will be divided as shown in the image below, outlining the anticipated ownership and maintenance responsibilities. Upon completion, it may be offered for adoption by either the Council or NI Water. A maintenance schedule has been included in Appendix K of the submitted Drainage Assessment.



**Figure 17 – Extract from Doran Consulting Drainage Assessment (June 2024)**

DFI Rivers has reviewed the updated Drainage Assessment (DA) by Doran Consulting dated 12th June 2024. The applicant previously received a Schedule 6 letter of Consent to Discharge to the Ward Park Stream and to the Clandeboye Stream from DFI Rivers local area office on 16/09/2019. While this consent has now expired, the applicant's consultant has advised that it is intended that no storm water run-off will be discharged to the designated watercourses. The applicant will update the Drainage Assessment to reflect this, prior to any final decision being issued.

The applicant has submitted a maintenance schedule for the drainage system and has provided written confirmation, via email on 7<sup>th</sup> October 2024, that the drainage systems serving the main development buildings etc. shall remain in private ownership/management. The systems shall be owned and maintained by Bangor Marine Ltd. until such time as it is appropriate to transfer to a facility management company etc. or similar entity. The main outfall storm sewer, serving the main development, which routes across the Queen's Parade carriageway, through the public gardens area and discharging to Bangor Marina, is intended to be offered for adoption by NI Water; however, the sewer will remain in private ownership until such time that adoption becomes viable. DFI Rivers is content that the above assurances provide sufficient evidence from all 'anticipated' owners that they will accept adoption responsibility for the proposed drainage networks.

In terms of the detailed drainage calculations, DFI Rivers has advised that the applicant has submitted Micro-Drainage calculations for the 1, 5, 30 and 100 year return periods, including climate change and urban creep, as required under Sewers for Adoption Northern Ireland – 1st Edition. These demonstrate that the system will not be exceeded during a 100 year return period. Furthermore, following consultation with the applicant's consultant, it has been confirmed that annotation reading 'preliminary' included on the submitted drawings was included in error and updated drawings to address this have been submitted.



DFI Rivers has requested that evidence of the NIEA 'consent to discharge' (surface water to the Bangor Marina) and the Marine Construction Licence is submitted for appraisal prior to the granting of planning permission, to ensure the safe discharge of surface water from the proposed development is viable. Consent to discharge storm water to the Bangor Marina was issued by NIEA on 1<sup>st</sup> October 2024 (evidence of which has been submitted to the Council). DFI Rivers is also satisfied that significant progress has been made in relation to acquiring the Marine Construction Licence

DFI Rivers has requested evidence of the formal approvals associated with the diversion and/or divestiture of NI Water sewer assets within The Vennel prior to the granting of planning permission to ensure the safe discharge of surface water from the proposed development is viable. DFI Rivers initially advised that until this evidence was provided to prove that NI Water will commit to such works, it would not be satisfied from a flood risk and drainage perspective. However, in its last response dated 25 October 2024, DFI Rivers confirmed that, following further clarification from the applicant's consultant regarding the proposed phasing of the development, it is content with the proposals subject to a negative condition requiring submission of evidence of the outstanding NI Water consents prior to commencement of Phases 3 and 4. The applicant has advised that the combined sewerage system in The Vennel area is part of Phase 3 of development only which will commence after Phases 1 and 2.

### **Conditions 48 and 54 – Roadworks**

An implication for the proposed phasing alterations is that the phasing of roadworks will also change, to reflect the changes to phasing boundaries.

This application seeks to change the delivery of some of the roadworks previously intended for Phase 1, to deliver them as part of Phases 3 and 4. A proposed revised cCondition 48 is set out in the schedule above to reflect this.

Condition 54, which requires the vehicular access associated with each phase of the development to be provided prior to the commencement of any works within that phase, will also be varied to reflect the drawing numbers of the updated phasing plans. DFI Roads has been consulted and has no objections to the changes. These amendments to the timing of the delivery of the various required roadworks and provision of accesses are considered to be minor in nature and will not affect the delivery of the overall scheme.

### **Potential Impact on Designated Sites and Natural Heritage**

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

The Shared Environment Service (SES) has advised that on review of all relevant information, the conclusions of the Appropriate Assessment (AA) (LA06/2020/0097/F) are unaffected by this Section 54 application, as no substantive variations are proposed to conditions relating to the Habitats Regulations Assessment. SES has confirmed that both

drainage solutions originally proposed under application LA06/2020/0097/F were considered under the HRA. SES is therefore satisfied that the AA can be adopted for this application.

DAERA – Marine and Fisheries has also confirmed that it has considered the impacts of the proposal and on the basis of the information provided is content.

### **Section 76 Planning Agreement**

The Section 76 Planning Agreement executed under the original planning permission LA06/2020/0097/F relating to the provision of Travel Cards and off-site parking for the proposed office space remains valid. The Agreement was previously updated to relate to the earlier Section 54 application (LA06/2023/1500/F) and any subsequent Section 54 applications.

### **5. Representations**

No representations have been received.

### **6. Recommendation**

### **Grant Planning Permission**

### **7. Conditions**

1. The development hereby permitted shall be begun before 29 September 2027.  
  
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011 and in accordance with planning permission LA06/2020/0097/F.
2. The development hereby approved shall be carried out in the following sequence and restrictions thereon, with each phase as referred to being as delineated on approved drawing nos. 58E, 59E, 60E and 61E:
  - i. The developer may commence concurrently, Phases 1, 2 and 3 of the development hereby approved.
  - ii. The developer may not occupy or operate Phases 1, 2 or 3 of the development until the areas of open space within Phase 1 of the development as delineated on drawing No. 64A, hereby approved have been completed in full and written confirmation of such satisfaction provided by the Council.
  - iii. The residential development within Phase 2 shall not be occupied until the area of open space within Phase 2 of the development as delineated on drawing No. 64A hereby approved has been completed in full and written confirmation of such satisfaction provided by the Council.

- iv. The developer may not occupy or operate Phase 3 of the development until the areas of open space within Phase 3 of the development hereby approved comprising the Market Place, Trinity Square and the pedestrian linkage between Market Place and Marine Gardens, as delineated on drawing No. 60E have been completed in full and written confirmation of such satisfaction provided by the Council.
- v. Prior to the commencement of construction of any building within Phase 4 of the development, the construction of Phases 1 and 2 of the development hereby approved must be completed (excluding interior fit-out) and confirmation of completion of construction provided in writing by the Council.
- vi. Prior to the occupation of, or operation from, any building within Phase 4, the construction of Phases 1, 2 and 3 of the development hereby approved must be completed (excluding interior fit-out) and confirmation of completion of construction provided in writing by the Council.

Reason: To ensure the orderly development of the site.

- 3. The proposed public realm areas of open space as indicated on the approved drawing No. 64A shall be laid out in accordance with drawing Nos. 64A, 67A and 68A and in accordance with the timing and requirements set out in Condition 2 above. These areas shall not thereafter be used for any purpose other than open space with the exception of the approved kiosks and pavilion buildings as indicated on drawing No. 64A.

Reason: To ensure the provision, retention and maintenance of a high standard of public open space.

- 4. The proposed public realm areas of open space as indicated hatched purple on the approved drawing No. 63A, shall remain open and accessible to the public, 24 hours a day and 7 days a week.

Reason: To ensure that an adequate level of public access through the site is maintained in perpetuity.

- 5. The proposed public realm areas of open space as indicated hatched purple and red on the approved drawing No. 63A shall be managed and maintained in perpetuity by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, must be submitted to and agreed in writing by the Council prior to the occupation/operation of the development. These public realm areas of open space shall be completed in accordance with the approved plans prior to occupation of the residential units in Phase 2 and prior to operation of the hotel, offices and culture/leisure facilities in Phase 3.

Reason: To ensure the provision and maintenance of open space within the development, including provision of appropriate access.

6. No development/site clearance works, lopping, topping or felling of trees, trucking machinery over tree roots, shall take place with the exception of the establishment of the site compound as shown on phasing drawing No. 58E until full details of both the hard and soft landscape works required in conjunction with the development have been submitted to and approved in writing by the Council and these works shall be carried out in accordance with the approved phasing plans as indicated on drawing Nos. 58E, 59E, 60E and 61E. The works as approved shall be completed during the first available planting season following completion of each phase.

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

7. The hard and soft landscape works to be submitted as required by condition 6 above shall include the following details:
  - a) proposed finished levels and proposed contours;
  - b) any means of enclosure, hard surface materials/minor artefacts and structures e.g. street furniture, play equipment, refuse storage, lighting, existing and proposed services above and below ground;
  - c) soft landscape works including planting plans; written planting specifications; schedules of plants and trees indicating site preparation, planting methods, planting medium and additives together with the species, appropriate numbers of native species trees and shrubs, the size at time of planting, the presentation, location, spacing and numbers and an implementation programme.
  - d) details of the protection of retained trees and hedgerows by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations.

Reason: To ensure the provision of amenity afforded by appropriate landscape design, to compensate for the loss of existing vegetation on the site and to minimise the impact of the proposal on the biodiversity of the site.

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

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

9. A detailed landscape management and maintenance plan, including long term design objectives, performance indicators, management responsibilities and maintenance schedules for the areas of open space and public realm as indicated hatched red and purple on the approved drawing No. 63A, shall be submitted to and agreed in writing prior to the commencement of development. The landscape management and maintenance plan shall be carried out as approved.

Reason: To ensure the sustainability of the approved landscape design through its successful establishment and long-term maintenance.

10. Prior to the commencement of each phase of development, with the exception of ground preparation, site investigation works, vegetation clearance, or any archaeological works required under conditions 17 and 18, no works shall commence until detailed drawings showing the proposed design and finishes for all of the structures, buildings and street furniture located within the public realm areas as indicated on drawing No. 64A have been submitted to and approved in writing by the Council. The development shall be carried out in accordance with the approved details and in accordance with the approved phasing plans referred to in condition 2 above.

Reason: In the interest of visual amenity and to allow the Council to control the external appearance of the structures, buildings and street furniture.

11. The two pavilion buildings indicated as B1 and B2 on drawing No. 64A, shall be single storey and shall have a maximum ridge height of 6.5m in height when measured from finished floor level and a maximum internal floor space of 200sqm. Details of the design and finishes shall be submitted to and approved in writing by the Council prior to commencement of construction of either of the pavilion buildings. The development shall be carried out in accordance with the details as subsequently approved.

Reason: In the interest of visual amenity and to ensure that the buildings will not appear dominant in the coastal setting.

12. The proposed kiosks and shelters indicated as S1-S5 and K1-K4 on Drawing No. 64A shall not exceed 4.25m in height when measured from finished floor level. The internal floor space of the kiosks shall not exceed 20sqm and the footprint of the shelters hereby approved shall not exceed 32sqm. Details of the design and finishes shall be submitted to and approved in writing by the Council prior to commencement of construction of the kiosks and shelters. The development shall be carried out in accordance with the details as subsequently approved.

Reason: In the interest of visual amenity and to ensure that the kiosks/shelters will not appear dominant in the coastal setting.

13. Prior to the commencement of development within Phase 2 and onwards, details of the specification and colour of the proposed brick to be used for the buildings within each phase shall be submitted to and approved in writing by the Council. The development shall be carried out in accordance with the details as subsequently approved.

Reason: To ensure that the materials and finishes of the built development will respect the character and appearance of the area.

14. The height and floorspace of the proposed plant rooms and housing on the roofs of blocks 5, 6 and 10 (otherwise known as the hotel, office and cinema buildings) shall not exceed that shown on drawing Nos. 39C, 38B, 43B and 44B.

Reason: To ensure the that the plant will not appear as an adversely prominent feature within the existing townscape setting.

15. Prior to the installation of any rooftop plant as referred to in condition 14 above, details of the proposed materials and finishes for all plant rooms and enclosures shall be submitted to and approved in writing by the Council. The development shall be carried out in accordance with the details as subsequently approved.

Reason: To ensure that the materials and finishes of the built development will respect the character and appearance of the area.

16. No development, including ground preparation or vegetation clearance, shall take place, with the exception of the establishment of the site compound and any archaeological works required under conditions 17 and 18 as shown on phasing drawing No. 58E and any archaeological works required under conditions 17 and 18 below, until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. This shall reflect all of the mitigation and avoidance measures detailed in the outline CEMP and the Ecological Impact Assessment. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Council. The CEMP shall include the following:

- a) Construction methodology and timings of works;
- b) Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction materials, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site;
- c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- d) Water Quality Monitoring Plan;
- e) Environmental Emergency Plan;
- f) Details of appropriate mitigation measures to protect hedgehogs;
- g) Details of updated Japanese knotweed surveys to be carried out and any necessary mitigation and/or management measures required;
- h) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities
- i) A Construction Event Management Plan and Construction Site Traffic Management Plan.

Reason: To ensure that the appointed contractor undertaking the work is fully appraised of all the risks associated with the proposal and to provide effective mitigation ensuring there are no adverse impacts on the integrity of European sites or priority habitats and species.

17. 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, and submitted to 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.

- 18.No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 17 above.

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

- 19.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 17 above. These measures shall be implemented, and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated, and the excavation archive is prepared to a suitable standard for deposition.

- 20.The development hereby permitted shall not commence until a detailed remediation strategy to address all unacceptable risks to environmental receptors identified in Atkins Ltd Contaminated Land Assessment, Queen's Parade, Bangor August 2019 has been submitted to and agreed in writing by the Council. This strategy shall identify all unacceptable risks on the site, the remedial objectives/criteria and the measures which are proposed to mitigate them (including maps/plans showing the remediation design, implementation plan detailing timetable of works, remedial criteria, monitoring program, etc).

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

- 21.The development hereby permitted shall not be occupied until the remediation measures as described in the remediation strategy submitted under condition 20 have been implemented to the satisfaction of the Council. The Council must be given two weeks written notification prior to the commencement of remediation work.

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

22. In the event that contamination or risks not previously considered are encountered during any of the approved development phases, all works shall cease, and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>, as applicable. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction. Development on the phase within which contamination is identified shall only recommence upon receipt of the Council's agreement in writing to the Remediation Strategy and implemented thereafter in accordance with the detail of the Remediation Strategy.

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

23. After completing the remediation works under conditions 21 and 22; and prior to occupation of the development, a verification report shall be submitted to and agreed in writing by the Council. This report shall be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>, as applicable. The verification report shall present all the remediation, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and wastes in achieving the remedial objectives.

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

24. No piling work shall commence on this site until a piling risk assessment has been submitted to and agreed in writing by the Council. Piling risk assessments should be undertaken in accordance with current best practice.

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

25. All noise mitigation measures for the construction and demolition phase shall be incorporated into the development as detailed in section 4.3 of Noise Impact Assessment, Redevelopment at Queen's Parade, Bangor, prepared by RPS, referenced NI2123 17th December 2019.

Reason: To ensure the occupiers of nearby premises are not adversely affected by construction noise

26. Demolition or construction works shall not take place outside the following hours: Mondays – Fridays: 07:00hrs - 19:00hrs, Saturdays: 08:00hrs -13:00hrs and not at all on Sundays or Public/Bank Holidays.



Reason: To ensure the occupiers of nearby properties are not adversely affected by construction noise.

27. Noise from the construction site shall not exceed the Category A noise threshold limit of 65dB at nearest residential premises. Construction noise monitoring shall be carried out throughout the construction period to ensure compliance with the noise threshold limits set and records be kept for inspection by the Council.

Reason: To ensure the occupiers of nearby premises are not adversely affected by construction noise.

28. Prior to the commencement of development in each phase, a construction barrier shall be erected around the perimeter of the site which shall provide at least 10dB reduction in noise levels and shall be retained until the relevant phase is complete.

Reason: To ensure the occupiers of nearby premises are not adversely affected by construction noise.

29. Glazing, capable of providing a sound reduction index of at least 33dB Rw shall be installed within all habitable rooms within the residential development prior to occupation and shall be permanently retained thereafter.

Reason: To ensure future occupants of the apartments are not adversely affected by noise.

30. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 33dB Rw when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all habitable rooms in the residential development prior to occupation and shall be permanently retained thereafter.

Reason: To ensure future occupants of the apartments are not adversely affected by noise.

31. Prior to the commencement of operation of each commercial/retail unit, details of the location and specification of all plant and equipment to be used in connection with the commercial/retail units shall be submitted to and agreed in writing by the Council. All plant and equipment associated with the commercial/ retail units must be demonstrated to comply with the derived threshold limits at noise sensitive receptors as detailed in Table 5.5 of Noise Impact Assessment, Redevelopment at Queen's Parade, Bangor, prepared by RPS, referenced NI2123 17th December 2019. The development shall be carried out in accordance with the approved details.

Reason: To ensure future occupants of the apartments and patrons of the hotel are not adversely affected by noise.

32. Glazing, capable of providing a sound reduction index of at least 36dB Rw shall be installed within all hotel rooms on the first floor prior to the commencement of operation and shall be permanently retained thereafter.

Reason: To ensure future patrons of the hotel are not adversely affected by noise.

33. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 36dB Rw when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all hotel rooms on the first floor prior to the commencement of operation and shall be permanently retained thereafter.

Reason: To ensure future patrons of the hotel are not adversely affected by noise.

34. Glazing, capable of providing a sound reduction index of at least 33dB RW shall be installed within all hotel rooms on the second floor prior to the commencement of operation and shall be permanently retained thereafter.

Reason: To ensure future patrons of the hotel are not adversely affected by noise.

35. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 33dB Rw when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all hotel rooms on the second floor prior to the commencement of operation and shall be permanently retained thereafter.

Reason: To ensure future patrons of the hotel are not adversely affected by noise.

36. Prior to the commencement of operation of the hotel, details of the location and specification of all plant and equipment to be used in connection with the hotel shall be submitted to and approved in writing by the Council. All plant and equipment associated with the hotel must be demonstrated to comply with the derived threshold limits at noise sensitive receptors as detailed in Table 5.8 of Noise Impact Assessment, Redevelopment at Queen's Parade, Bangor, prepared by RPS, referenced NI2123 17th December 2019. The development shall be carried out in accordance with the approved details.

Reason: To ensure future occupants of the apartments and patrons of the hotel are not adversely affected by noise.

37. The details of the specific sound insulation/design measures and noise control measures for the cinema shall be submitted to and approved in writing by the Council, prior to the commencement of development of the cinema. The development shall be carried out in accordance with the approved details.

Reason: To ensure nearby residents and future occupants of the apartments and patrons of the hotel are not adversely affected by noise.

38. Prior to the commencement of development, a dust management plan shall be submitted to and agreed in writing by the Council. This shall outline the site-specific dust mitigation measures to be employed during demolition and construction phases to minimise the generation and movement of dust from the proposed development to surrounding areas.

Reason: To ensure the emission of dust is controlled during the demolition and construction phase of the development.

39. The measures agreed in the dust management plan secured by condition 38 above shall be implemented, controlled and managed, with all records held on-site and made available to the Council if required.

Reason: To ensure the emission of dust is controlled during the demolition and construction phase of the development.

40. Prior to installation, full details and specifications of all combustion units to be installed are to be submitted to and approved in writing by the Council (in consultation with its Environmental Health Department). All installations as approved shall be completed and commissioned prior to occupation. No changes to the approved heating system provision shall be made without the prior written approval of the Council.

Reason: To control impact on air quality through emissions from any associated combustion plant.

41. Prior to commencement of any tenant fit-out, for each unit or part thereof, full details and specifications of extract ventilation and odour control shall be submitted to and approved by the Council in writing (in consultation with its Environmental Health Department) prior to installation. All installations shall be completed and commissioned in accordance with the approved details prior to occupation/commencement of use and are to be retained throughout the tenancy. No changes shall be made to the occupancy or ventilation provision without the prior written approval of the Council.

Reason: To ensure the occupants of nearby residential premises are not adversely affected by cooking odours from the proposed food businesses.

42. Deliveries by commercial vehicles shall not take place outside the following hours: 07:00-23:00hrs Monday to Saturday and not at all on Sundays or Public/Bank Holidays.

Reason: To ensure nearby residents are not adversely affected by noise from delivery vehicles and associated activity.

43. The surface water drainage system for the development hereby approved, shall be constructed in accordance with the details as shown on drawing Nos. 78B, 80B and 83 and the approved Doran Consulting Drainage Assessment (dated 12th June 2024 (11.09.24 revision)). Prior to the commencement of any development within Phases 3 and 4 of the development hereby approved, with the exception of the establishment of the site compound as shown in drawing No. 60E, evidence of agreement from NI Water for any alteration to the existing foul sewer network within Phases 3 and 4 and the details of those alterations, must be submitted in an updated Drainage Assessment to the Council for approval in writing in consultation with DfI Rivers. The approved drainage system shall be managed and maintained in accordance with the approved details and retained as such thereafter.

Reason: To safeguard against flood risk to the development and elsewhere.

44. Prior to the commencement of any works on site, with the exception of the establishment of the site compound as shown on drawing No. 58E and any archaeological works required under conditions 17 and 18 above, an inspection shall be undertaken to review the site conditions and the potential for any re-occurrence of Japanese knotweed. If Japanese knotweed or other invasive species are found, necessary action shall be taken prior to works commencing on site. Details of these inspections and any action required shall be included in the final Construction Environmental Management Plan (CEMP) referred to in condition 16 above. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the presence of any invasive species is eradicated from the site.

45. No development activity, including ground preparation or vegetation clearance, shall take place with the exception of the establishment of the site compound as shown on drawing No. 58E and any archaeological works required under conditions 17 and 18 above, until an updated breeding bird survey of the site has been undertaken by a suitably qualified and experienced ecologist between April and June and the findings of this survey and appropriate mitigation and compensation measures to be implemented are included in a Breeding Bird Survey and Mitigation Report which shall be submitted to and approved in writing by the Council. The approved Breeding Bird Survey and Mitigation Report shall be implemented in accordance with the approved details and all works on site shall conform to the approved Breeding Bird Survey and Mitigation Report, unless otherwise agreed in writing by the Council. The Breeding Bird Survey and Mitigation Report shall include the following:

- a) Details of the results of the updated breeding bird survey carried out at the appropriate time of year and using appropriate methodology;
- b) Details of mitigation and compensation measures for birds, including the specifications and locations of the compensatory measures such as nest boxes/bricks;
- c) Details of the appointment of an Ecological Clerk of Works (ECoW) to oversee the implementation of mitigation and compensation measures for birds and their roles and responsibilities.

Reason: To protect breeding birds.

46. No vegetation clearance or building demolition shall take place between 01 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active birds' nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Council within six weeks of works commencing.

Reason: To protect breeding birds.

47. 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. 82 bearing the date stamp 24 May 2021.

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.

48. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

Prior to development in each phase becoming operational/occupied, the works necessary for the improvement of a public road shall be completed in accordance with the phasing particulars outlined below and the works outlined in blue on drawing No. 82 bearing the date stamp 24 May 2021. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3(4C).

#### Phase 2

- Southwell Road widened and made two-way between Primrose Street and Queen's Parade/ Gray's Hill/ Southwell Road mini roundabout junction to allow creation of basement car park access.
- Works to King Street footway to allow creation of residential courtyard
- Marking of loading bays to western section of Queen's Parade
- Marking of disabled parking bays on Queen's Parade

#### Phase 3

- Footway works - connection to Marine Gardens at Queen's Parade/Bridge Street junction and at Trinity Way connection to Main Street
- Carriageway works at Trinity Way/ Main Street junction to create a new vehicular egress route onto Main Street
- Raised table on Queen's Parade at end of Phase 3
- Loading bays marked out to eastern section of Queen's Parade
- Works to King Street footway and final surfacing to The Vennel.

#### Phase 4

- Improvements to the kerb line radii and loading bay amendments to Main Street/ King Street junction.

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

49. No development hereby permitted shall be occupied or become operational as detailed in the phasing plan until hard surfaced areas associated with that phase have been constructed and permanently marked in accordance with the approved drawing Nos. 58E (Phase 1), 59E (Phase 2), 60E (Phase 3) and 61E (Phase 4) to provide adequate facilities for parking, servicing and circulating

within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

50. No development hereby permitted shall be occupied or become operational until a Parking Management Plan has been submitted to and agreed in writing by the Council. The Plan as submitted shall be generally in accordance with that detailed on figure 8-2 of the Transport Assessment bearing the date stamp 10 February 2020. The development shall be carried out in accordance with the Parking Management Plan as agreed.

Reason: To ensure the safe and functional operation of the parking provided in accordance with its associated planned use.

51. The development hereby permitted shall not be occupied or become operational until a Travel Plan has been submitted to and agreed in writing by the Council. The Travel Plan as submitted shall be generally in accordance with the Travel Plan framework bearing the date stamp 10 February 2020. The development shall operate in accordance with the Travel Plan as agreed.

Reason: To facilitate access to the site by means other than the private car and in the interests of road safety and traffic progression to ensure the adequacy of the service facilities.

52. The development hereby permitted shall operate in accordance with the Service Management Plan bearing the date stamp 10 February 2020.

Reason: To facilitate access to the site by means other than the private car and in the interests of road safety and traffic progression to ensure the adequacy of the service facilities.

53. Refuse collection for the development hereby approved shall be carried out utilising Euro Bins or such other bin as approved by the Council in writing. Details of the final management arrangements for refuse collection shall be submitted to and approved in writing by the Council prior to the occupation or operation of any part of the development hereby approved and the approved arrangements shall be carried out in perpetuity thereafter.

Reason: In the interests of road safety and traffic progression and to ensure the adequacy of the service facilities.

54. The vehicular access associated with each phase of the development, including visibility splays and any forward sight distance, shall be provided in accordance with drawing Nos. 58E (Phase 1), 59E (Phase 2), 60E (Phase 3) and 61E (Phase 4) prior to the commencement of any works within that phase. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

55. The access gradients to the development hereby permitted shall not exceed 4% (1 in 25) over the first 10 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

56. A Road Safety Audit in accordance with GG119 of the Design Manual for Roads and Bridges shall be carried out at appropriate stages within the construction and operation process. Any out workings of the safety audit shall be submitted to and approved in writing by the Council (in consultation with DFI Roads) with Stage 1 and 2 audits being prior to the commencement of development with the exception of the establishment of the site compound as shown in phasing drawing No. 58E.

Reason: In the interest of safety and convenience of road users.

57. Details of the temporary structure required to enclose the undercroft car park, screening/safety structures adjacent to the proposed retail units and steps required to be constructed within Phase 2 of the development, as indicated on drawing No. 59E, shall be submitted to and approved in writing by the Council prior to the occupation/operation of any of the residential or retail uses within Phase 2 and shall be removed prior to the occupation/operation of any part of Phase 3.

Reason: In the interests of site safety and visual amenity.

58. The proposed lift as indicated on drawing No. 25 bearing the date stamp 28 January 2020 shall be installed and fully functional prior to the occupation/operation of any of the residential or retail uses within Phase 2 and shall be permanently retained thereafter.

Reason: To ensure the provision of suitable means of alternative access to the development between the Market Place and Queen's Parade.

### **Informatives**

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.
2. This approval is subject to a Planning Agreement prepared under Section 76 of the Planning Act (Northern Ireland) 2011.

### **SITE PHOTOGRAPHS**

**Main Street**



**(Google Streetview image May 2023)  
Queen's Parade**





(Google Streetview image May 2023)

**Marine Gardens**





(Google Streetview image September 2022)

### Location of New Outfall



### King Street



Existing entrance to site from King Street (Google Streetview image September 2022)

### Southwell Road



### PLANS ACCOMPANYING APPLICATION



**Site Location Plan**



**Phase 1**



Phase 2



Phase 3





Phase 4



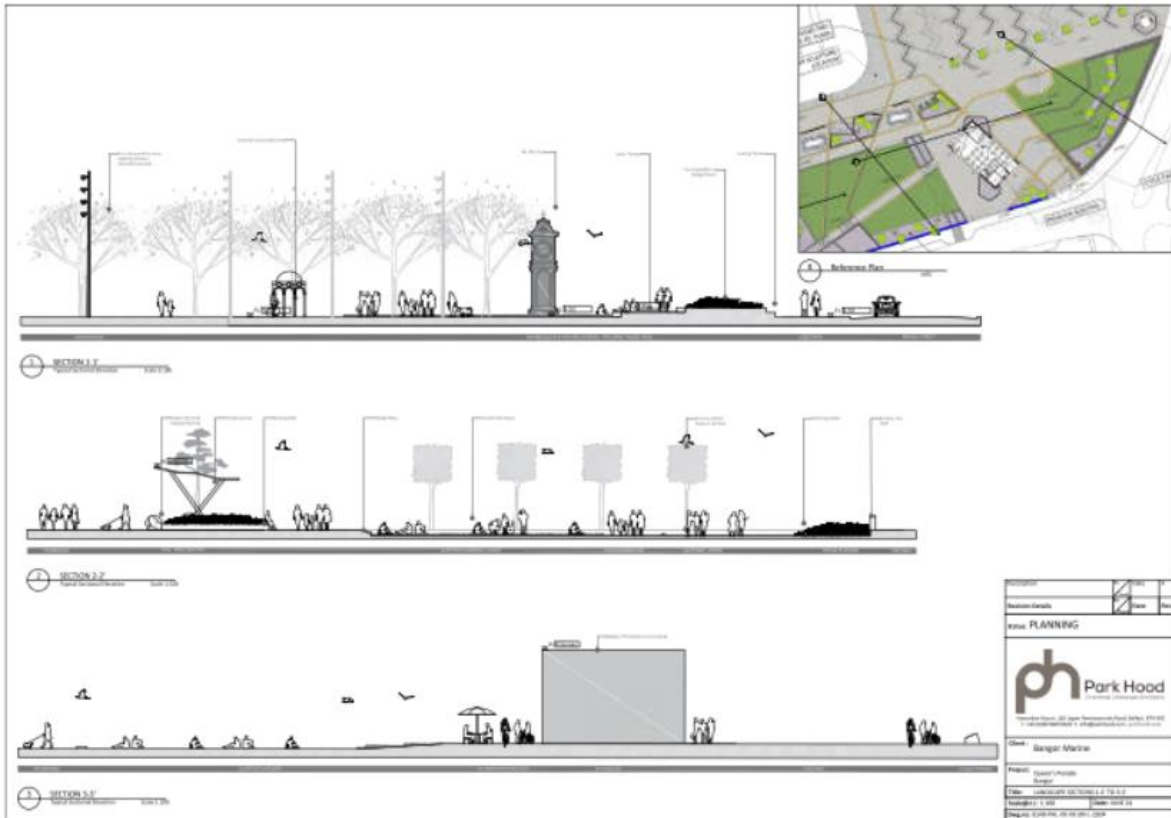
Landscape Layout



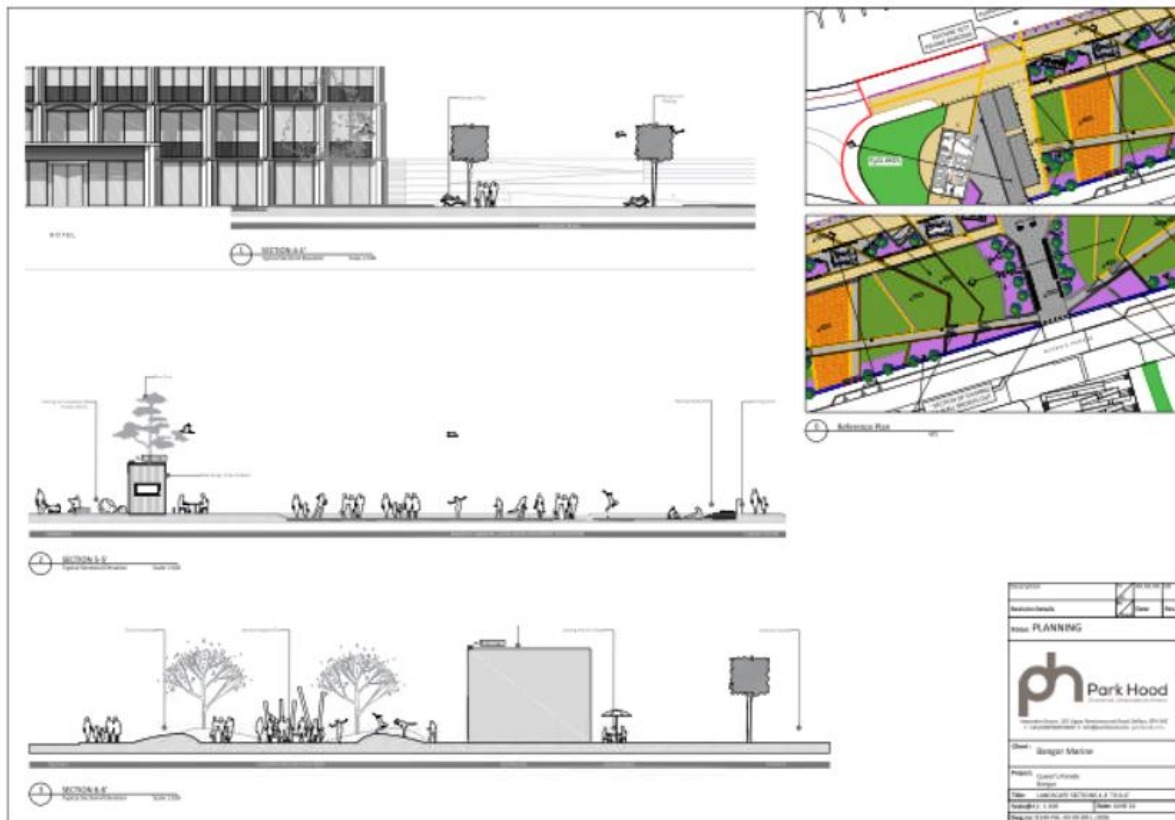
Key Landscape Elements



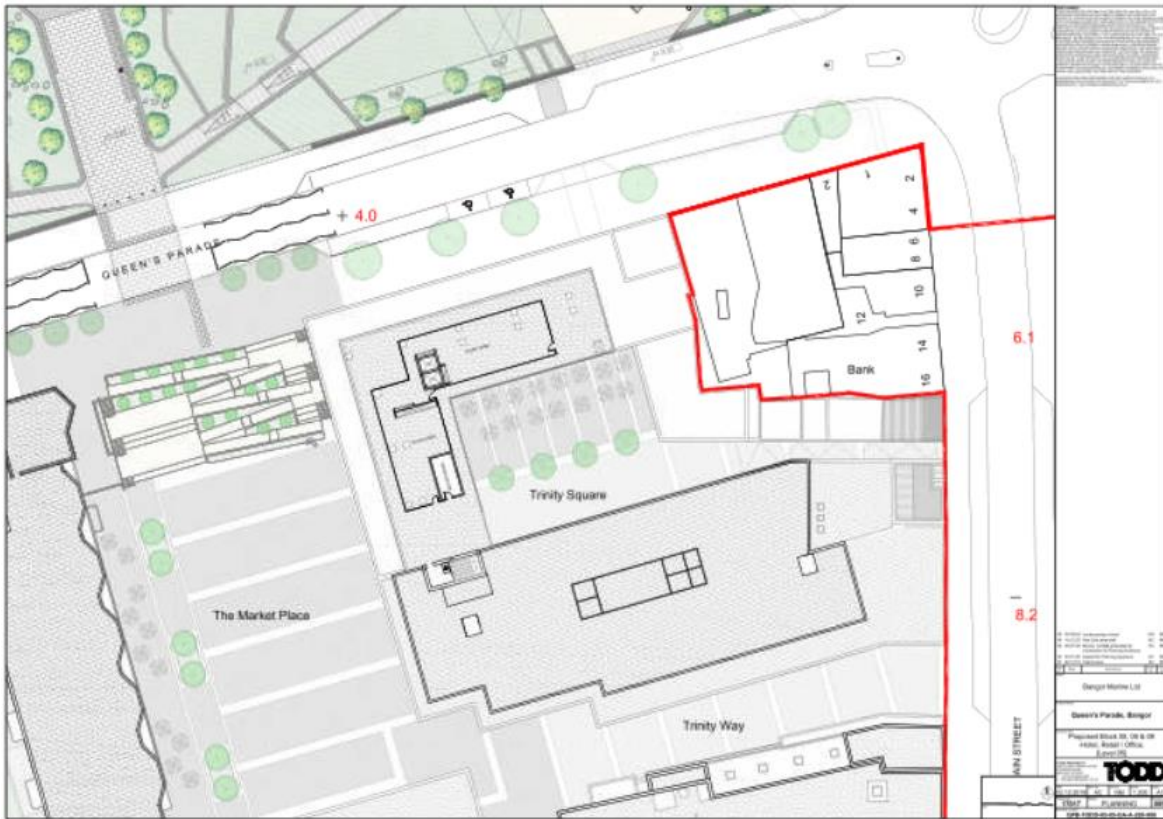
Key Landscape Elements



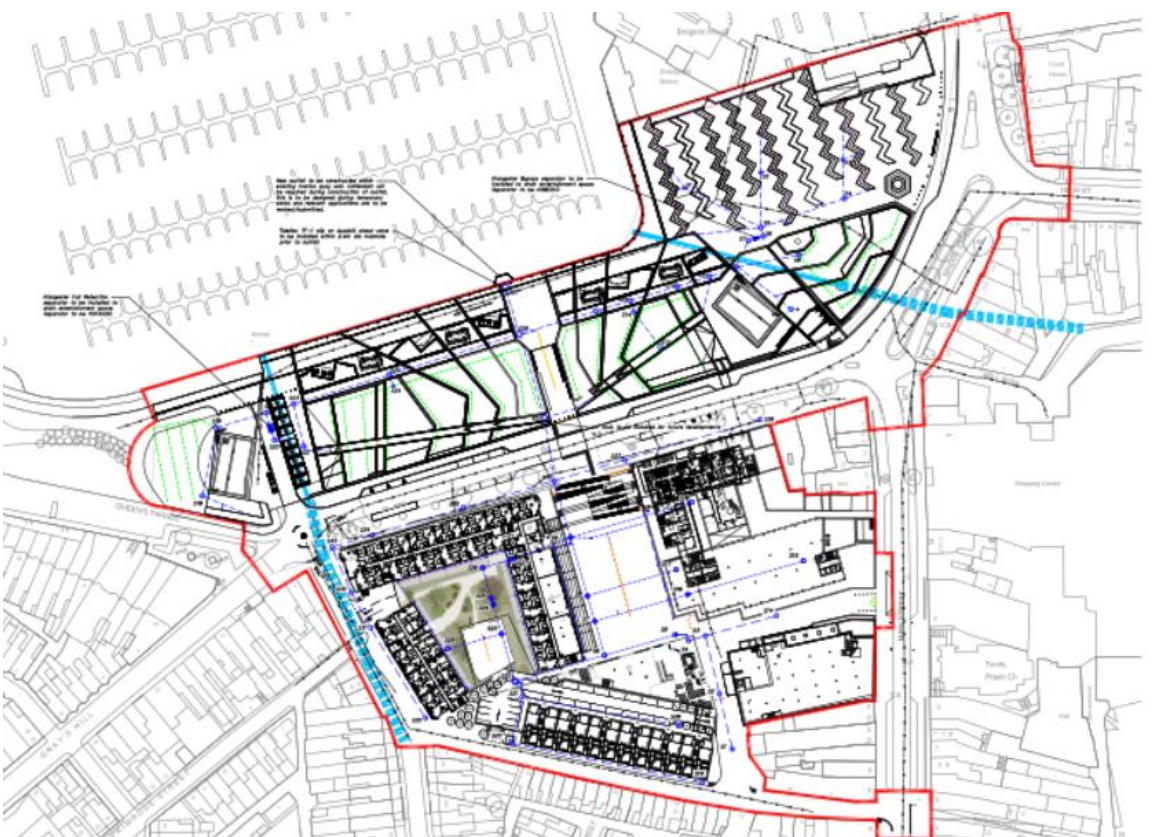
Landscape Section



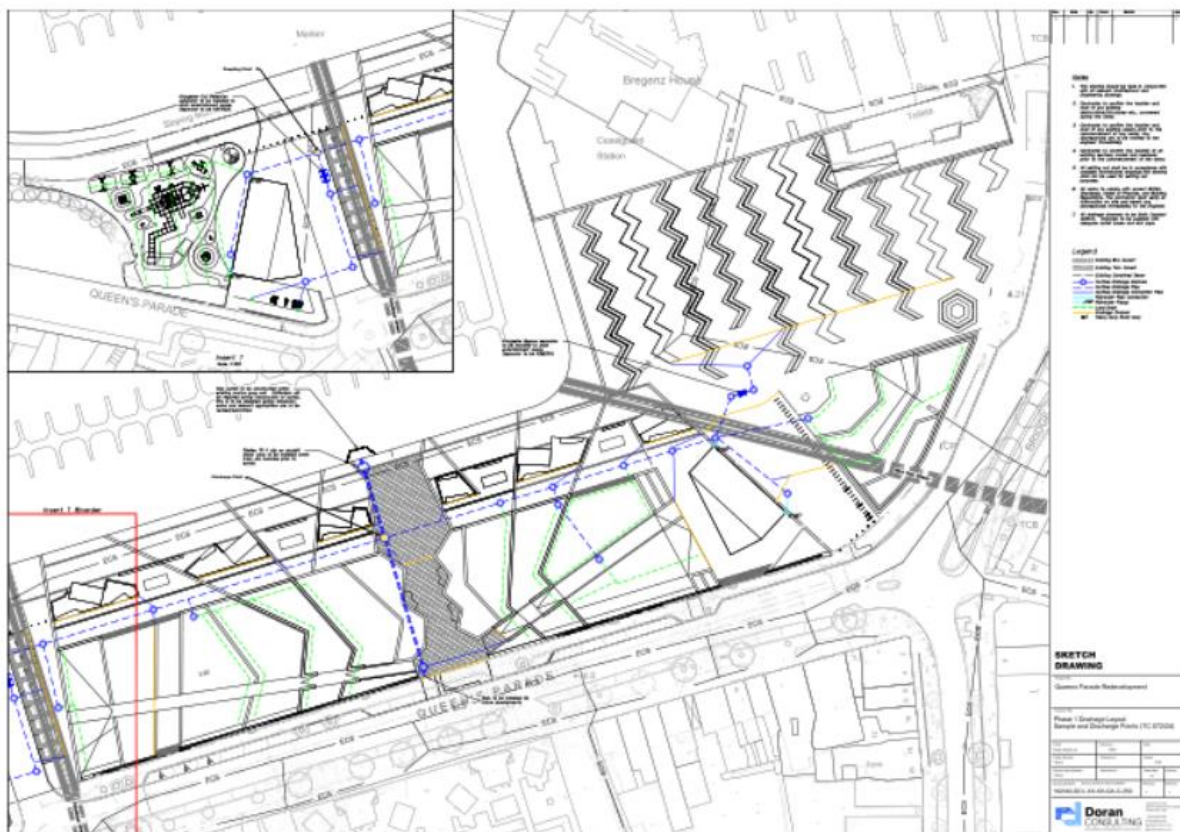
Landscape Section



Roof Plan



Drainage Plan



Phase 1 Drainage Plan

**APPENDIX 1**  
**LA06/2020/0097/F PLANNING REPORT**

**APPENDIX 2**  
**LA06/2023/1500/F PLANNING REPORT**

**APPENDIX 3**  
**LA06/2024/0614/NMC PLANNING REPORT**



<b>Development Management Case Officer Report</b>	
<b>Application Ref:</b> LA06/2020/0097/F   <b>DEA:</b> Bangor Central	
<p><b>Proposal:</b></p> <ul style="list-style-type: none"> <li>• Demolition of existing buildings at 5-12 and 35-41 Queen's Parade, 22-30 Main Street (formerly B&amp;M Bargains), 34-36 Main Street (Oxfam and Hospice shops), 6-34 King Street and 5-17 Southwell Road;</li> <li>• Minor extension and elevational changes to 40-42 Main Street (Caffe Nero);</li> <li>• Creation of new means of escape and installation of rooflights to 20 Main Street (Halifax);</li> <li>• Creation of new bin storage and basement access together with minor facade works to 48 Main Street (TK Maxx);</li> <li>• Erection of a mixed use development comprising: <ul style="list-style-type: none"> <li>– culture and leisure facilities (class D)</li> <li>– a 66 bedroom hotel</li> <li>– retail units</li> <li>– food and beverage outlets</li> <li>– offices (class B1 (a))</li> <li>– 137 residential units comprising 113 apartments in 3 blocks and 12 duplex apartments along King Street</li> </ul> </li> <li>• Creation of new vehicular access onto Southwell Road to serve under-croft car park comprising 217 spaces together with 14 courtyard spaces and 24 on-street;</li> <li>• Creation of new vehicular access onto King Street to serve residential parking;</li> <li>• Minor modifications to the Main Street and King Street junction and creation of a two-way street along Southwell Road from the junction with Primrose Street;</li> <li>• Creation of a new service vehicle access onto Main Street;</li> <li>• Creation of new public squares and courtyards including new pedestrian access points; and</li> <li>• the redevelopment of Marine Gardens Car Park including partial demolition of sea-wall to create a public realm space comprising gardens and lawns, play areas, events spaces, covered shelters, 4 kiosks and 2 pavilions (housing food and beverage operators), and water feature together with other ancillary development.</li> </ul>	
<p><b>Location:</b> Lands at and to the rear of 18 to 52 Main Street (Reeds Rain to TK Maxx), 2 to 34 King Street, 5 to 17 Southwell Road, 5 to 41 Queen's Parade, Marine Gardens car park, the Esplanade Gardens and the area around McKee Clock, Bangor</p>	
<b>Applicant:</b> Bangor Marine Limited	<b>Agent:</b> Turley
<b>Date Valid:</b> 31/01/2020	<b>Env Statement Requested:</b> No
<b>Date last Advertised:</b> 07/01/2021	
<b>Date last Neighbour Notified:</b> 07/01/2021	

<b>Consultations:</b> Yes					
<b>Representations:</b> Yes					
<b>Letters of Support</b>	9	<b>Letters of Objection</b>	4	<b>Petitions</b>	0
<b>Summary of Main Issues:</b> <ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Consideration against Development Plan and draft Development Plan</li> <li>• Regeneration and economic benefits of development</li> <li>• Public interest</li> <li>• Overall design of development</li> <li>• Impact on the setting of nearby listed buildings</li> <li>• Impact on the appearance of the proposed ATC and the demolition of buildings</li> <li>• Traffic impact and parking provision</li> <li>• Impact of contaminated land on human/environmental receptors</li> <li>• Ecological and environmental impact on features of natural heritage importance</li> <li>• Environmental impacts including noise impact and impact on air quality</li> <li>• Flooding and Drainage issues</li> <li>• Impact on the residential amenity of existing properties</li> </ul>					
<b>Case Officer:</b>	<b>Andrea Todd</b>				
<b>Recommendation: Grant Planning Permission</b>  <b>Agreed by Authorised Officer</b>					
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal <a href="http://www.planningni.gov.uk">www.planningni.gov.uk</a>					

## 1. Introduction and Outline of Proposal

- 1.1 In May 2019, Bangor Marine Ltd, a joint venture partnership between Farrans and the Karl Group, was appointed as the preferred developer to deliver a £50 million investment project for this site. The proposals align with the principles identified by the former Department for Social Development (DSD), now the Department for Communities DfC), within its town centre masterplan for Bangor, the Queen's Parade Development Brief and the previous planning permission for the site, granted in 2015.
- 1.2 A Pre-Application Discussion (PAD) was held in 2018 with the Council's Planning Department prior to the submission of the application, involving the input of representatives from a wide range of statutory and non-statutory bodies.
- 1.3 The final proposal submitted under this application has been informed by the views expressed through the pre-application consultation process. This included engagement with members of the public, key stakeholders, statutory and non-statutory consultees and the Council's Planning Department.
- 1.4 The proposal comprises:
  - The demolition of existing buildings at 5-12 & 35-41 Queen's Parade, 22-30 & 34-36 Main Street, 6-34 King Street and 5-17 Southwell Road
  - Refurbishment of 5,330 sq. metres of commercial property along Main Street
  - An indoor kids' recreational area (1,440 sq. metres)
  - A 3-screen cinema (1,503 sq. metres)
  - A 66-bedroom hotel (5,627sqm)
  - Retail units (1,323 sqm)
  - Food and beverage outlets (430sqm)
  - Office accommodation (6,599 sq. metres)
  - 137 residential units comprising 113 apartments in 3 blocks and 12 duplex apartments.
  - Under-croft car park comprising 217 spaces together with 14 courtyard spaces and 24 on street spaces
  - Minor modifications to Main Street/King Street junction and creation of two-way street from along Southwell Road from junction of Primrose Street
  - Creation of new vehicular accesses onto Southwell Road and King Street and new pedestrian and service vehicle access onto Main Street
  - Creation of new public squares and courtyards
  - Redevelopment of Marine Gardens Car Park to create a public realm space (to include 2 pavilion buildings and 4 kiosks) and event space

## 2. Description of Site and Surrounding Area

- 2.1 The application site is located at Queen's Parade within Bangor town centre and covers an area of land just over 5 hectares. The immediate area within which the site lies is predominantly commercial in nature given the town centre location, with a variety of retail and service uses along Main Street. However, there are also existing residential areas to the immediate south and west of the site on King Street and Southwell Road as well as the leisure and recreation uses associated with the various areas of public open space and Pickie Fun Park to the north of the site adjacent to Bangor Marina. The site itself encompasses the existing Marine Gardens car park adjacent to Bangor Marina, along with areas of existing open space to the north and west of this, and an area of land on the southern side of Queen's Parade which is framed by Main Street, King Street and Southwell Road.



Figure 1 - Aerial View of Site

- 2.2 The area of land on the southern side of Queen's Parade comprises a mix of occupied and vacant properties which front onto each of the streets. A significant number of buildings which originally fronted Queen's Parade were demolished some years ago. In recent years, this vacant piece of land has been occupied by the Council-run initiative, Project 24, on a temporary basis pending redevelopment of the site. Project 24 contains a number of re-purposed painted shipping containers occupied by various artists set within a landscaped area

with pebbled paths throughout along with a covered canopy area which is used for a number of events throughout the year ('The Hub'). To the immediate rear of the Project 24 area is an existing temporary car park and beyond this is the public King Street car park. The site is affected by two rights of way; one known as The Vennel, which runs across the site from Queen's Parade at the immediate east of Project 24, along the rear of the properties on Main Street and through to King Street to the north; the other right of way runs across the site in an east/west direction from Southwell Road towards the Vennel.



**Figure 2 - Project 24 and The Hub, Queen's Parade**

- 2.3 The Marine Gardens car park, lying at a slightly lower level on the opposite side of Queen's Parade, has pockets of trees and planting dispersed throughout with a low stone wall along the boundary with Queen's Parade. To the immediate east of the car park is an area of open space including a fountain as a central feature and the listed McKee Clock. Beyond this to the north is an additional hard landscaped area of open space with trees dispersed throughout, with the existing public toilet block located along the northern boundary of the site.



**Figure 3 - Marine Gardens Car Park**

- 2.4 The topography of the site falls initially quite steeply in a north/north westerly direction from its highest point at the junction of Main Street/King Street down

to Southwell Road and Queen’s Parade where the ground then levels out and is relatively flat across Queen’s Parade itself and the Marine Gardens car park. Fronting King Street within the confines of the site to the south, is an existing row of red brick and render terraced dwellings with their associated rear gardens. These properties have been vacant for some time now pending redevelopment of the site. Fronting onto Southwell Road along the western boundary of the site is a mix of two and three storey terraced dwellings. These are larger properties than those on King Street and have painted render finishes and bay window detailing. These buildings are all also now primarily vacant. The building at the corner of Southwell Road and Queen’s Parade appears to have been last used as a bar/public house and has some attractive architectural features including a curved bay feature on the corner of the building which seems to be an architectural feature quite typical of this part of Bangor town centre. Beyond this building on Queen’s Parade, the remaining buildings are three storey in height with commercial uses at ground floor and traditional sliding sash windows and painted render finish on the upper floors.



**Figure 4 - King Street (Looking towards Southwell Road)**



Figure 5 - The Vennel at King Street showing the rear of TK Maxx



Figure 6 - Southwell Road (at junction with King Street)



Figure 7 - Queen's Parade viewed from junction with Southwell Road

2.5 Beyond the Project 24 area on Queen’s Parade there is a three storey terrace with painted render finish and some attractive bay features at first floor level. These properties are also now vacant. The remaining buildings fronting Queen’s Parade beyond this (towards Main Street) are outside of the application site boundary. These include the Fountain Centre which is a more modern three storey rendered building, Queen’s Parade Methodist Church which is a building of stone construction, Caproni’s ice cream shop which has a brightly coloured painted render finish and then the Red Berry Café which is a traditional three storey painted rendered building occupying the corner of Queen’s Parade and Main Street. This building also displays some attractive architectural features including a corner tower feature with turreted conical roof similar to that on the building at the corner of Queen’s Parade and Southwell Road.



**Figure 8 - Junction of Queen’s Parade/Main Street**

2.6 On Main Street, beyond the Red Berry Cafe, are three more three storey rendered buildings which lie outside the site boundary. These include The Courtyard café and shop, RnB’s Barista Bar and Barclay’s Bank. Beyond these, the stretch of buildings from Reeds Rains up to TK Maxx are all included within the site boundary with the remaining buildings leading up to the junction with King Street excluded from the application site. The existing buildings between Reeds Rains and TK Maxx are primarily modern flat roofed two to three storey buildings with brick, render and glazing panel frontages.





Figure 9 - Main Street (Looking towards Marina)

**3. Site Location**



Figure 10 - Site location plan showing existing right of ways in green

#### 4. Planning History

- LA06/2019/0608/PAN** Regeneration proposal for Bangor town centre comprising redevelopment of Marine Gardens car park to create public realm area, gardens, kiosks and event space; and the redevelopment of lands at Queen's Parade comprising a mixed use development consisting of hotel, retail, office, community, cultural and recreation floor space, eateries and residential development together with the creation of new public squares and courtyards including new pedestrian access points; car parking and the relocation of Project 24, Lands bounded by 18-52, 66 and 68 Main Street, 2-51 King Street, 5-18 Southwell Road, 5-41 Queen's Parade and Marine Gardens car park, Bangor (PAN – Proposal of Application Notice for current application)
- W/2014/0456/F** Demolition of existing buildings at 9-12 and 35-41 Queen's Parade, 20-42 Main Street, 6-34 King Street and 5-17 Southwell Road; retention, conversion and extension of 5-8 Queen's Parade for a 40 bedroom hotel; erection of a mixed use development comprising culture and leisure facilities (class D), a 64 bedroom hotel, retails units, restaurants, offices (class B1 (a), 72 apartments and 8 terraced dwelling houses, multi-storey car park comprising 351 spaces, new accesses at King Street and Southwell Road, creation of a courtyard plaza and public open space on Marine Gardens including: play equipment, landscaping, bandstand, covered walkways, relocation of temporary buildings (Project 24) and covered event spaces as well as other ancillary uses, Lands bounded by 18-52 66 and 68 Main Street, 2-51 King Street, 5-18 Southwell Road, 5-41 Queen's Parade and Marine Gardens car park, Bangor  
**Approved 20.07.2015**
- X/2014/0199/F** An aluminium-framed temporary structure with pvc roof, to be erected over an event space at the centre of "Project 24" A public space used for community engagement through Art. The structure is intended to provide shelter for events held by and on behalf of the council. (The Hub)  
**Approved 23.06.2014**
- W/2012/0423/F** 24 month temporary permission to erect 6 Urban Art Pods with associated community gardens and landscape features, Land between 12 and 33 Queens Parade, Bangor (Project 24)  
**Approved 25.04.2013**
- W/2007/0667/F** Site for temporary car parking prior to full scale development. The site will be cleaned of vegetation and

the surface smoothed to remove obstructions, Re-development Site at 13-34 Queens Parade, Bangor  
**Approved 27.11.2008**

**W/2003/0946/F** Redevelopment to include theatre, hotel, tourist information centre, retail development, restaurants, bars, shops, car parking, apartments, sheltered housing, 13-34 Queens Parade, 4-34 Kings Street & former King Street Timber Yard, Bangor.  
**Appeal Upheld 27.04.2005**

**W/2002/0943/F** Temporary Public Car Park, Re-development site at 13-34, Queens Parade, Bangor.  
**Approved 10.07.2003**

A number of applications to extend the time permissions for Project 24 and The Hub have been approved under W/2015/0007/F, LA06/2016/0885/F, LA06/2018/0137/F, LA06/2019/0121/F, and LA06/2019/122/F, with the final dates for removal being 24 April 2021 for Project 24 and 30 June 2021 for The Hub. Further applications are anticipated to extend the time periods on Project 24 and The Hub to ensure continuity of use whilst awaiting redevelopment of the site.

### Consideration of Planning Permission W/2014/0456/F

The planning history of most relevance to the current proposal is W/2014/0456/F which granted permission for a similar mixed-use redevelopment scheme for the site to that currently proposed. This was submitted by the Department for Social Development. The permission for this previous scheme expired relatively recently on 19 July 2020 and remains an important material consideration in the assessment of the current application.

Table 11 below sets out a comparison of the development approved under the previous permission with the current development proposals which is useful in establishing a baseline for the assessment of the current application and highlights the main differences between the two schemes.

**Table 11 – Comparison of current proposal with previous approval**

	<b>W/2014/0456/F</b>	<b>LA06/2020/0097/F</b>
<b>Extent of Demolition</b>	9-12 & 35-41 Queen's Parade, 20-42 Main Street, 6-34 King Street & 5-17 Southwell Rd	5-12 & 35-41 Queen's Parade, 22-30 & 34-36 Main Street, 6-34 King Street & 5-17 Southwell Rd
<b>Open Space and Public Realm</b>	Courtyard plaza at Queen's Parade, public open space at Marine Gardens including	Central 'Market Place' Square at Queen's Parade, smaller 'Trinity Square' courtyard to rear

	playground, artificial beach area, grassed areas, water feature, bandstand, covered event space and kiosks	of hotel, residential courtyard at centre of apartment complex, public open space at Marine Gardens including hard surfaced and grassed/landscaped areas, central water feature, four kiosks and two pavilion buildings
<b>Office Accommodation</b>	1,505sqm floorspace	6,599sqm floorspace
<b>Residential Accommodation</b>	72 apartments 8 terraced dwellings	137 apartments
<b>Hotel Accommodation</b>	One 40-bed hotel (conversion and extension of 5-8 Queen's Parade)  One new 64 bed hotel	One new 67-bed hotel
<b>Leisure/Recreation Uses</b>	3,389sqm floorspace	2,943sqm floorspace
<b>Retail Uses (Class A1)</b>	3,779sqm floorspace	1323sqm floorspace
<b>Restaurants/Food &amp; Beverage Retail</b>	481sqm floorspace	430sqm floorspace
<b>Parking Provision</b>	Removal of all existing parking and provision of 390 new spaces	Removal of all existing parking and provision of 255 new spaces

In summary, compared to the previous permission, the current proposal involves:

- a significant increase in office and residential accommodation
- a reduction in retail and hotel provision
- comparable levels of leisure/recreation and restaurant provision
- a more simplified public realm area at Marine Gardens, to facilitate 'event space' which also now includes two pavilion buildings for food/beverage operators, and inclusion of four small scale kiosks
- demolition of 5-8 Queen's Parade in addition to the extent of demolition previously approved
- inclusion of an additional public square at Queen's Parade (Trinity Square) and a private residential courtyard for the proposed apartments

- a reduction in parking provision from 390 spaces to 255 spaces

## 5. Planning Policy Framework

- North Down and Ards Area Plan 1984-1995
- Bangor Town Centre Plan 1995
- Draft Belfast Metropolitan Area Plan 2015 (BMAP)
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement (PPS) 2 Natural Heritage
- PPS 3 Access, Movement and Parking
- PPS 4 Planning and Economic Development
- PPS 6 Planning, Archaeology and the Built Heritage
- PPS 6 Addendum - Areas of Townscape Character
- PPS 7 Quality Residential Environments
- PPS 8 Open Space, Sport and Outdoor Recreation
- PPS 15 Planning and Flood Risk (revised)
- PPS16 Tourism

## 6. Supplementary Planning Guidance

- Development Control Advice Note (DCAN)15: Vehicular Access Standards
- Creating Places
- Living Places
- DCAN 8 Housing in Existing Urban Areas

## 7. Consultations

7.1 Consultation was carried out with the following statutory and non-statutory consultees and a synopsis of responses is listed in the table below.

Consultee	Response
DFI Roads	No objections subject to conditions
DAERA - Water Management Unit	The proposal has the potential to adversely affect the surface water environment; however, it is considered to be acceptable subject to conditions.
DAERA – Marine and Fisheries	Content with proposal.
NI Water	A network capacity check for the watermain and foul sewer is required. The receiving Waste Water Treatment Facility has capacity. No public storm sewer is available. Applicant should liaise with DFI Rivers Agency to ascertain if discharge is possible to any local watercourses. If this option is

	not deemed viable the applicant may wish to requisition NI Water to provide a suitable storm outfall sewer.
Environmental Health	No objections subject to conditions
DAERA – Regulation Unit Land and Groundwater Team (Land, Soil & Air)	No objections subject to conditions.
DAERA Natural Heritage	No objections subject to conditions
DfC – Archaeology and Built Heritage	<p>HED Historic Monuments is content with the proposal subject to conditions.</p> <p>HED Historic Buildings is content with the principle of the development. However, it is considered that the proposed 'cinema' building would result in a negative impact on the setting of 1st Bangor Presbyterian Church, when long views are considered. In addition, proposed plant will be highly visible on the hotel, Main Street and cinema blocks. HED advises the Council that this should be explored thoroughly in terms of townscape prior to determination if it is minded to approve the application.</p>
DFI – Rivers Agency	<p>The site is in an area of inundation emanating from Clandeboye Lake, Ballysallagh Upper Reservoir and Ballysallagh Lower Reservoir. It has not been demonstrated to DfI Rivers that the condition, management and maintenance regime of Clandeboye Lake is appropriate to provide sufficient assurance regarding reservoir safety so as to enable the development to proceed. The overall hazard rating at this site is considered high. This is therefore considered by DfI Rivers to be an unacceptable combination of depth and velocity for this particular development proposal.</p> <p>With regard to potential impact on coastal or fluvial flood plains, DfI Rivers, while not being responsible for the preparation of the Flood Risk Assessment, accepts its logic and has no reason to disagree with its conclusions.</p> <p>With regard to drainage of surface water, DfI Rivers, while not being responsible for the preparation of the Drainage Assessment, accepts its logic and has no reason to disagree with its conclusions subject to</p>

	submission of a final drainage assessment prior to commencement.
Shared Environmental Service	No objections. Proposal will not have an adverse effect on the integrity of any European site subject to the recommended conditions.
Health and Safety Executive NI	No comment

## 8. Legislative Requirements

### Proposal of Application Notice (PAN) and Consideration of Pre-Application Community Consultation (PACC) Process

- 8.1 As the proposal falls within the category of major development as outlined in The Planning (Development Management) Regulations (Northern Ireland) 2015, this proposal was subject to legislative requirements to carry out pre-application community consultation prior to submission of the planning application. A PAN was submitted to the Council on 29 May 2019. The Council wrote to the applicant on 21 June 2019 confirming that the PAN submission was acceptable. The current planning application was submitted to the Council on 31 January 2020, more than 12 weeks after receipt of the PAN, as required by Section 27 of the Planning Act (Northern Ireland) 2011 ('the Act').
- 8.2 In accordance with Section 28 of the Act, a Planning Application Community Consultation (PACC) Report was submitted with the application. The report satisfactorily outlines how community consultation was carried out in accordance with the requirements of Section 27 of the Act and Regulation 5 of The Planning (Development Management) Regulations (Northern Ireland) 2015 ('the DM Regs').
- 8.3 Two public events were held as part of the consultation process, the first on 18<sup>th</sup> and 19<sup>th</sup> June 2019 and the second on 1<sup>st</sup> and 2<sup>nd</sup> August 2019, both at 'The Hub', Project 24, Queen's Parade, Bangor. Both events were advertised respectively in the local press on 6<sup>th</sup> June and 25<sup>th</sup> July 2019 in accordance with Regulation 5 of the DM Regs. In total, approximately 440 people actively took part in the four public events and provided feedback. In addition to this, two unmanned public exhibitions were stationed in the Aurora Leisure Centre, Bangor from 28<sup>th</sup> June - 5<sup>th</sup> July and from 5<sup>th</sup> August – 16<sup>th</sup> August 2019. 2,400 information leaflets with freepost feedback forms were also distributed to existing residents and surrounding properties within 500m of the site prior to the June public events. Postcard style flyers were issued to properties in the surrounding area prior to the August events. Finally, a dedicated website for the consultation process was launched on 18<sup>th</sup> June 2019 ([www.queensparadebangor.co.uk](http://www.queensparadebangor.co.uk)). By 16<sup>th</sup> August 2019, the site had received 4,554 views.

#### 8.4 Other means of consultation undertaken included the following:

- A dedicated drop-in session was held for elected representatives of the area during the June event and during the August consultation, Councillors were given a presentation about the latest scheme.
- A dedicated consultation hotline was established;
- A meeting with representatives of For a Better Bangor (FAAB) was held on 8<sup>th</sup> July 2019;
- A meeting with representatives of the Inclusive Mobility and Transport Advisory Committee (IMTAC) was held on 11<sup>th</sup> September 2019; and
- A meeting with Ards and North Down Borough Council Disability Forum was held on 7<sup>th</sup> November 2019.

#### 8.5 The PACC Report submitted includes copies of advertisements of the two public events held and details of materials made available. It also sets out the discussions which took place with the local community, groups and elected representatives. The feedback received during the consultation process provided the project team with an opportunity to provide clarification on issues prior to the submission of the planning application and where possible to introduce amendments to the proposals. The main comments received during the consultation process included the following:

- General support for the development coming forward and for the project vision;
- Attractive public spaces and emphasis on connections welcomed;
- A desire that the destination building should have a view of the seafront;
- The need for accessibility to be a key consideration, particularly with the steps down to Queen's Parade;
- Attractions for rainy days need to be incorporated;
- The long-term approach for parking for the development and the town in general and how demand would be dealt with;
- Much greater parking provision required;
- Accessibility for all should be a key consideration;
- The design proposals need to be further developed and should better reflect Bangor's built heritage; and
- Some of the older Victorian and Edwardian buildings on the site should be retained.

#### 8.6 Feedback was gathered across a spectrum of ages with the most representations coming from those aged 51-60 (28%). The feedback received from 197 feedback forms is summarised as follows:

- 88% of respondents either agreed or strongly agreed that they supported the vision for the mixed-use regeneration proposal
- 83% of the respondents either agreed or strongly agreed that they supported the vision for the new public realm at Marine Gardens
- Public open space and community and cultural uses were considered to be the most important uses at the site



- 81% of respondents either agreed or strongly agreed that they supported the demolition and replacement of the vacant and derelict buildings on the site.
- 86% of respondents either agreed or strongly agreed that they supported the creation of new streets and laneways and public spaces to integrate the development into the town centre
- 74% of respondents either agreed or strongly agreed that they supported the traffic calming measures proposed for Queen's Parade
- 89% of respondents either agreed or strongly agreed that they supported the proposed investment into the town.

8.7 Following the June public event and in response to the feedback received, the design of the scheme was further developed given the support for the wider vision for the project. While the development team acknowledged that the loss of the existing parking provision was a sensitive issue, when considered in the context of the wider support for the scheme, including the delivery of the Marine Gardens open space, the plans to remove the free car park were retained. It is also argued by the applicant that surveys carried out for the application have indicated that there is capacity in the surrounding area to accommodate the loss of these parking spaces. With regard to the concerns raised in relation to the demolition of existing buildings, the plans continue to propose the same extent of demolition to support the long-term regeneration of the site.

### **EIA Scoping**

8.8 A determination was carried out upon receipt of the application under Regulation 12(1) of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 as to whether the proposal would be EIA development. Following consultation with statutory bodies, based on information provided by the applicant and taking into account the extant planning permission for similar development on the site, the Planning Department determined on 9<sup>th</sup> April 2020 that the proposal was not considered to be EIA development and as such did not need to be accompanied by an Environmental Statement. The application has however been accompanied by a full suite of reports and surveys to ensure the potential impact of the proposed development on its surrounding environment can be assessed in detail. The documents submitted in support of the application include the following:

- Transport Assessment
- Service Management Plan
- Demolition Report
- Japanese Knotweed Report
- CGI Photomontages
- Archaeological and Cultural Heritage Assessment
- Ecological Impact Assessment
- Outline Construction Environmental Management Plan
- Noise Impact Assessment
- Contaminated Land Assessment

- Bat Survey
- Drainage Assessment
- Flood Risk Assessment
- Aire Quality Impact Assessment
- Travel Plan

### **Design and Access Statement (DAS)**

- 8.9 As the proposal involves major development, a DAS has been submitted in accordance with the legislative requirements of the Act and The Planning (General Development Procedure) Order (Northern Ireland) 2015. Addendums to the DAS were also submitted on 10<sup>th</sup> February 2020 and 29<sup>th</sup> July 2020.
- 8.10 The submitted statement provides an analysis of the existing site conditions and surrounding context identifying the constraints and opportunities that have informed the development of the proposals. The statement outlines the design principles and concepts that have been applied to the development, incorporating the feedback obtained from the consultation events and provides an overview of the phased approach to delivering the development. The main findings of the DAS are summarised as follows:

#### Appraisal of Site and Context

- 8.11 The DAS highlights Bangor's history of being a popular Victorian holiday resort which declined as a tourist resort from the 1960's onwards with the growing popularity of inexpensive foreign holidays. The site is strategically located at the meeting point of different uses within the town centre, with the open space and recreation areas along the coast, residential areas to the west, retail to the south and east and the predominant evening economy uses to the north and east. The site is centrally located in the bay and forms an important part of Bangor's urban waterfront.
- 8.12 The majority of the site to the south of Queen's Parade has been lying vacant for a significant period of time, creating a large gap in the frontage. There are various uses on the site including retail, housing, car parking and Project 24. There is a significant difference in levels across the site with an overall drop of approximately 9m from the highest point on King Street down to Queen's Parade.
- 8.13 The following constraints and opportunities apply to the site:
- Topography of the site and the significant difference in levels between King Street and Queen's Parade
  - Quality of existing buildings constrains potential access and parking requirements
  - Existing retail uses
  - Existing servicing arrangements constrain potential along King Street however there is an opportunity to consolidate and improve the existing arrangements

- Car parking at Marine Gardens is a visual and physical constraint. Removal would provide an opportunity to reconnect the town with the sea

### Design Principles and Concepts

8.14 The following key design principles are set out within the DAS:

- The relationship of the site within and to the character of the wider Bangor Bay is key
- The creation of a wide range and mix of uses
- Creating positive frontages to existing and proposed streets and spaces
- Reconnecting the site to the town centre and its waterfront setting
- The creation of innovative and inclusive public open spaces
- Provision of a sufficient level of parking and support the use of sustainable modes of travel
- The creation of new streets and lanes to integrate the development into the existing fabric of the town centre
- All new buildings are designed to reflect existing character by respecting heights, rhythm and corner elements whilst creating contemporary buildings of their time
- The bay proportions of the existing Victorian buildings are key to the overall façade design and the proposals for the Queen's Parade apartments draw heavily on this design analysis
- The proposed buildings are designed to be flexible to enable accommodation to be adapted for different uses in the future

### Access and Parking

8.15 Both the Bangor train and bus stations are within a five-minute walk from the site. The DAS states that there are also approximately 1,300 car parking spaces within a ten-minute walk from the site. A direct consequence of the development will be the loss of the King Street and Marine Gardens car parks (collectively 240 spaces); however, it is asserted that there is sufficient capacity within existing car parks to accommodate the loss of these two car parks. The car parking strategy for the development proposes to combine sustainable transport measures with the provision of on-site parking via an under-croft car park and surface-level parking. Traffic calming measures will be implemented on Queen's Parade and, through the use of a raised table, pedestrian movements will be prioritised. Level access will be provided from King Street and Main Street into the heart of the development. For users requiring assistance in accessing Market Square from Queen's Parade, a lift is to be provided beside the steps within close proximity to disabled parking bays and parent and child parking.

### Sustainability

8.16 The DAS demonstrates how the proposed development addresses the sustainability objectives within the SPPS and will provide local social and economic benefits while protecting the natural environment as follows:

- The development provides an opportunity to bring betterment to the NI Water network through the separation of the surface water runoff from the combined sewer network, helping to mitigate against the risk of surface water flooding. In addition, the introduction of new green spaces will increase the amount of permeable surfaces, further reducing flood risk and providing an opportunity for the introduction of SuDs within the development.
- The proposal fully embraces the use of sustainable transport measures through the use of public transport and incentivising its use through Travel Cards and the provision of cycle parking.
- The development delivers on the core SPPS objectives focusing on making more effective use of car parks to reduce the reliance on the private car which in turn reduces congestion and improves air quality.

### Phasing of Development

8.17 It is expected to take four years to complete the development, with phasing proposed as follows:

- Phase 1 - Delivery of first part of Marine Gardens, demolition of 34 & 36 Main Street, minor alterations to TK Maxx and Café Nero
- Phase 2 – Delivery of remaining public realm at Marine Gardens and commencement of development on under-croft car park and residential blocks 1 and 2 with all remaining buildings demolished with exception of King Street
- Phase 3 – Commencement of work on hotel, kids' zone, offices, Market Square and associated steps and completion of works to Trinity Square, minor alterations to Halifax, installation of raised table
- Phase 4 – Demolition of King Street terrace and completion of 24 new residential units and cinema building and completion of all hard-landscaped surfaces

## 9 Development Plan Consideration

### The Development Plan

9.1 Section 6(4) of the Planning Act (Northern Ireland) 2011 (“the Act”) states that where regard is to be had to the Development Plan, the determination **must** be made in accordance with the Plan unless material considerations indicate otherwise.

- 9.2 Section 45 (1) of the Planning Act requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations.
- 9.3 McCloskey J helpfully clarified the requirements of Section 6(4) of the Act when determining a planning application in *Sands v Newry and Mourne District Council [2018] NIQB 80* where he held:
- “Section 6(4) of the 2011 Act does not impose the relatively gentle duty of merely having regard to the LDP. On the contrary, it obliges the deciding authority....to determine planning applications in accordance with the LDP unless it considers that material considerations indicate otherwise. In this way LDPs are given primacy and....attract a statutory presumption in their favour”.*
- 9.4 The purported adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) was quashed by the Court of Appeal on 18<sup>th</sup> May 2017. Consequently, the North Down and Ards Area Plan 1984-1995 (NDAAP) is the statutory development plan for the area, alongside the Bangor Town Centre Plan.
- 9.5 The draft BMAP is a material consideration. Further, it is the position of Planning Department that, pursuant to the Ministerial Statement of June 2012, which accompanied the release of the Planning Appeals Commission’s reports into the draft BMAP public inquiry, a decision on a development proposal can be based on draft plan provisions that will not be changed as a result of the Commission’s recommendations.
- 9.6 The Chief Planner in his fourth Update to Councils dated 29 November 2019 confirmed that the draft Belfast Metropolitan Area Plan remains as an emerging plan and, as such, the draft plan, along with representations received to the draft plan and PAC inquiry reports, remains as a material consideration to be weighed by the decision-maker.

### **Regional Development Strategy (RDS)**

- 9.7 In terms of the regional policy context, draft BMAP highlights a number of Strategic Planning Guidelines relevant to North Down and specifically Bangor. These include developing the town of Bangor and strengthening the multi-functional role of the town centre by:
- Consolidating the role of Bangor as an attractive residential location and important retail centre and improve rail and road links to Belfast, boosting its role as a commercial centre within the Belfast Metropolitan Area (BMA)
  - Recognising Bangor’s status as an important commuter settlement while accepting the need to widen the economic base as a means of reducing its role as a dormitory town
  - Enhancing the leisure potential of Bangor as an important maritime resort on Belfast Lough, focusing on the marina, revitalised seafront and town centre shopping area.

- 9.8 Draft BMAP also identifies that two of the key components of the transport strategy for Bangor as identified in the Belfast Metropolitan Transport Plan (BMTP) are to introduce measures which will reduce car usage and encourage the use of other modes of transport and to introduce measures which will enhance the urban environment in Bangor Town Centre.
- 9.9 All of these guidelines are relevant to the redevelopment proposal. The scheme will encourage the use of alternative modes of transport rather than relying on use of the private car through the provision of Travel Cards for occupants of the residential units and for office workers. The regeneration scheme will also very much help to strengthen the multi-functional role of the town centre as a result of the wide variety of uses proposed, ranging from offices to residential to leisure, tourism and retail.

### **North Down and Ards Area Plan (NDAAP) 1984 – 1995**

- 9.10 While the NDAAP has passed its end date, NDAAP remains the statutory local development plan and is material to the consideration of this proposal, especially in respect of Section 6(4) of the Act referring to the plan-led system.
- 9.11 The site lies within the development limit of Bangor as defined in NDAAP. Paragraph 9.5 of the Plan states that commercial activity will be expected to be concentrated within the town centre boundary to ensure a compact town centre. Appropriate town centre uses are listed as retail, retail services and offices. A principal objective of the Plan is the consolidation of the main shopping area to achieve compactness, continuity, convenience and efficiency of shopping. A shopping core for Bangor is defined within which non-retail uses at ground floor are to be controlled. Paragraph 17.42 of the Plan identifies Main Street as the principal shopping street while the focus for recreational and tourist activity is identified as being along the seafront. The proposed scheme would comply with these main objectives of the plan. While some existing retail uses will be lost on Main Street to accommodate the new offices and pedestrian link into the site (Trinity Way) the loss is not considered to be significant in the context of Main Street as a whole and would not in itself be at odds with the aim of retaining Main Street as the principal shopping street. There are numerous vacant retail units along both sides of Main Street providing ample opportunities for new retail businesses to establish. It is anticipated that the regeneration scheme proposed will act as a catalyst to encourage more retail uses back into Main Street in the future. The proposed public realm scheme at Marine gardens and its ancillary facilities along with the proposed food and beverage units throughout the scheme and the hotel, will also cumulatively create a new draw for tourist and recreational activity at the seafront.
- 9.12 Paragraph 17.41 of the Plan also identifies Bangor Marina as a magnet for tourists. Paragraph 17.43 states that other acceptable town centre activities include service, civic and cultural uses, and entertainment facilities, all of which make an important contribution to the vitality of the town. The Plan goes on to state that the development of further entertainment and tourist facilities along the seafront is expected and that the environment in this location should be

upgraded. According to the Bangor town centre map within the Plan, the site is located within the areas zoned for town centre uses and within the shopping core, while Queen's Parade itself is identified for tourism and entertainment. The proposed development scheme with its variety of mixed uses to serve both the retail and tourist/leisure elements within the town centre will be wholly in accordance with these main aims and objectives of the Plan for Bangor town centre.

- 9.13 With regard to parking, paragraph 11.7 of the Plan states that developers will be required to provide car parking in line with car parking standards. While the parking provision for the development does not strictly adhere to the relevant parking standards, justification for reduced provision has been submitted by the agent and is considered in detail below under PPS 3: Access, Movement and Parking.
- 9.14 Specifically in relation to the urban environment, the Plan states that the nature of future growth should ensure that existing assets are preserved and should contribute to the improvement of the quality of the urban environment. New development should be carefully designed to respect the scale and character of existing buildings using sympathetic materials and should respect existing street patterns, landmarks, topographical and other features which contribute to the character of the town. The impact of the development on the character and appearance of the existing townscape will be considered in detail below under the Draft BMAP policies and the Addendum to PPS6: Areas of Townscape Character.

### **Bangor Town Centre Plan (BTCP)**

- 9.15 The Bangor Town Centre Plan was adopted in 1995 and, whilst like the NDAAP it is past its end date, it remains a material consideration in determining planning applications until such time as BMAP is formally adopted or the Council has adopted its own Local Development Plan.
- 9.16 **The Seafront**  
The Plan advises that in places, the physical appearance of the seafront is unattractive and uninviting. Demolition has created an unsightly gap in the Queen's Parade frontage where many properties suffer from lack of maintenance or are disused. Despite environmental improvements carried out along the seafront over the years, there remains an inherent conflict between traffic and pedestrians. Linkages between the seafront and the main shopping streets could be strengthened and improved. The proposed development seeks to improve linkages through the provision of pedestrian routes from Main street and King Street through the site onto Queen's Parade. Pedestrians will also be given priority for crossing Queen's Parade through the provision of a raised table. The policies of the Plan that are relevant to the proposed development are as follows:

9.17 **Policy SEA1 – To support the provision of appropriate tourist and recreational facilities at appropriate locations on the seafront**

It is clear from this proposal that the redevelopment of the Marine Gardens car park, to incorporate significant environmental improvements and public realm, will appropriately address this policy within the Town Centre Plan. Attractions will include a central water feature, event spaces, play area, vending kiosks and future pavilions for retail/food and beverage, a Kids' Zone, hotel and proposed cinema building. The seafront location and proximity to other inter-related activities along the Bangor Waterfront, such as Pickie and Ballyholme Yacht Club and beach and as proposed within the Council's bid for Belfast Region City Deal funding for this area, will further provide valuable facilities for both the resident, day visitor and longer-term visitor, resulting in a longer dwell time focussed on this central area of the town.

9.18 **Policy SEA2 – To ensure that the open space around Bangor Bay from the North Pier to Pickie is kept free from further development**

The Plan states that it is important that visual and physical links between the Seafront and the Town Centre are retained. This application proposes removal of the car parking at Marine Gardens and replacement with a high-quality environmental scheme and public realm which will provide much enhanced visual linkages from the land side to the Marina. It is considered acceptable for the inclusion of small kiosks for food and beverages alongside the proposed pavilions which will be conditioned as single storey in order to reduce their impact in long range views across the bay. These buildings will have an ancillary function to the new public realm area and will not in any way cause an obstruction to the use of the area as open space.

9.19 **Policy SEA3 – To support the introduction of environmental enhancement measures on Bangor Seafront**

The proposal has been developed in conjunction with the Council in order to provide a high quality environmental improvement scheme in place of the current Marine Gardens car park which currently acts as a barrier between the town centre and the coast and fails to visually enhance the seafront area. A promenade will be created which will incorporate walking and cycling from either side of the town centre, providing linkages with Pickie and Ballyholme. The proposal will provide further linkages from the Main Street through the site, via the introduction of two new streets and the Market Place, relinking the landside with the water. The expansive areas of existing hard surfacing will be removed and replaced predominantly with grassed, landscaped areas as well as quality hard landscaping including natural stone paving around the central water feature. Lighting will also play a key role in enhancing the seafront area with RGB LED lighting proposed to enhance the water feature and trees within the area.

9.20 **The Shopping Area**

The planning strategy set out in the Plan for the shopping area endeavours to ensure that there is scope for an adequate range of shopping uses providing a lively, interesting and attractive shopping environment within a compact area. The application site is identified in the Plan as a development opportunity. The Plan advises that this can provide additional retail, office and service business



to strengthen Bangor's commercial role and create jobs. The following policy is relevant to the development proposal:

**9.21 Policy S3 – Applications for non-retail uses within the shopping core will be assessed in terms of their impact on the vitality and viability of this area of the town centre.**

The main shopping core, as relevant to this development proposal, is indicated on the Plan Proposals map as Main Street. With the exception of demolition of a portion of frontage along Main Street in order to create a new access from Main Street through to the site and Queen's Parade and to create new office space, the main shopping core will continue to be respected. Current policy for retailing and town centres is encompassed within the SPPS which states that its aim is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the Regional Development Strategy. The regional strategic objectives for town centres and retailing include securing a town centres first approach for the location of future retailing and other main town centre uses. Such uses include cultural and community facilities, retail, leisure, entertainment and businesses. It is considered that the proposal respects this policy within the Town Centre Plan.

**9.22 Accessibility**

The Plan references that Marine Gardens and the Flagship Centre have provided Bangor with approximately 1000 additional car parking spaces. However, it is acknowledged that long stay car parking by business operators and workers reduces parking options for shoppers and visitors. The Plan suggests that a parking strategy undertaken by the Department and the Council could produce more efficient and effective usage of public car parks. The Flagship Centre is currently closed with no certainty at the moment of its future use, therefore the car parking associated with it cannot be considered in the assessment of the application. The development itself will also result in the loss of the existing car parking at Marine Gardens and King Street. The impact of the development on parking will be considered in more detail under draft BMAP and PPS3 below.

**9.23** The Council is working to develop a Car Parking Strategy for the borough. It is aimed at supporting the prosperity and sustainability of our town and village centres by ensuring car parking provision is accessible, convenient and of a quality standard. It considers how this aspiration can be financed. In line with the Council's commitment to sustainable development, it also considers how the strategy can support modal shift and methods of sustainable transport. To develop its proposals, the Council has engaged extensively with key statutory partners including the Department for Infrastructure and with the Chambers of Trade in each of the borough's five main towns. This draft Strategy is currently out for consultation, seeking feedback from the wider public, local stakeholders and businesses that may be impacted by the proposed changes. The Strategy has been developed cognisant of how the current practices of long-term parking within the town centre have had the impact of affecting availability for

shoppers and visitors to the town. The following plan policies are relevant to the development proposal.

**9.24 Policy AC3 – To ensure that the supply of car parking provision in the Town Centre is adequate to meet future demand**

The policy advises that provision of adequate car parking in convenient locations is essential to the continued prosperity of the business and commercial life of the town centre. It states that major growth in parking supply in the town centre is only likely to result from multi storey development. The provision of parking will be an important factor in considering development proposals, especially those for major development sites at the Vennel and Upper Main Street. The Plan highlights that provision of parking will be a particularly important factor for the application site (referred to as the Vennel). Parking provision for the development is considered below under the relevant Draft BMAP and PPS3 policies.

**9.25 Policy AC4 – The provision of rear servicing will be required where practicable when proposals for commercial development are being considered**

The existing commercial premises on Main Street are currently serviced via the Vennel which is the right of way running from King Street along the rear of the Main Street properties. A new through route from King Street to Main Street is proposed and will operate as the main servicing area for both the properties on Main Street and the new central areas of the development. On Queen's Parade, a number of existing on street parking spaces will be removed and replaced with two loading/unloading bays. These will service the hotel, residential and retail units that front onto Queen's Parade. While this servicing arrangement is not to the rear of the properties, due to the topography of the site and the overall design of the scheme incorporating public squares and residential development, it is not considered to be practical to locate servicing to the rear in this instance.

**9.26 Policy AC6 – The needs of people with disabilities will continue to be taken into account in the layout of car parks and footpaths and in considering proposals for development of public and commercial buildings**

I consider that the current proposal takes account of the above policies which are encompassed in regional prevailing policy. Level access is proposed throughout the site and lifts are proposed in all buildings. The steps from Market Square down to Queen's Parade have also incorporated a shallow gradient ramp system and a lift has also been provided adjacent to the steps.

**9.27 Townscape and Environment**

The Victorian/Edwardian period provided Bangor with a legacy of fine townscape which contributes greatly to the character and setting of the town centre. The town centre also contains a number of listed buildings which make an important contribution to its character and appearance. The following policies are relevant to the application.

9.28 **Policy TE1 – To enhance the environment of the town centre by means of landscaping schemes and environmental improvements.**

I consider that the current proposal complies as it encompasses significant investment into the provision of a high-quality public realm, connecting in with the public realm improvements undertaken by the Council since 2015. The replacement of the existing Marine Gardens car park with high quality open space will greatly enhance the environmental quality of this part of the town centre. The final details of the landscaping will be conditioned to be submitted and agreed prior to commencement of development. Significant areas of open space are proposed which include large seafront lawns with associated lighting and seating. The promenade will be retained and improved and enhanced through the provision of all-weather shelters and small kiosks alongside it.

9.29 **Policy TE2 – To ensure that proposals for new development respect the scale and character of existing development within the town centre.**

The Planning Department and architects undertook significant liaison to ensure that the design of each component of the built development took cognisance of its setting and adopted appropriate design cues accordingly. Consequently, a number of design changes were undertaken within the current application to address such matters. The impact of the final amended proposals on the scale and character of existing development is considered in detail below against the relevant policies contained within Draft BMAP, the SPPS, PPS6, PPS6 Addendum and PPS7.

9.30 **Housing**

There is a demand for housing accommodation within the town centre from single persons and small households, from the elderly and from those without cars who wish to avail of town centre facilities. This scheme proposes a significant number of dwelling units within the town centre, which will appeal to a range of occupants, from young professionals, small households and the elderly. The attractiveness of the scheme, its proximity to not just bus and rail services, but proximity to retail, cultural, leisure and community facilities means the proposal provides sustainable choices for those who can contribute to a 24/7 town centre, aiding its vibrancy and vitality.

9.31 **Offices**

The planning strategy is to allow for expansion of office floorspace in appropriate circumstances throughout the commercial area whilst ensuring that the vitality and viability of the shopping core and the amenity of existing housing areas are not adversely affected. The following policies are of relevance.

9.32 **Policy OF2 – Proposals for financial or professional services within the shopping core will be assessed on the basis of their likely impact on the vitality and viability of the streets within it. There will be a presumption against business office use at ground floor level in this area.**

Ground floor level offices are proposed on Main Street and along the new street stretching from Main Street into the centre of the Market Place (Trinity Way), however, this is balanced by the creation of a significant number of other units for retailing accordingly. The new street being created falls within the Primary Retail Core in draft BMAP, its purpose being to allow control to be exercised

over development inside that area to ensure continuance of a compact, lively and attractive shopping environment. Bangor has experienced significant decline over the past number of decades, and this is apparent in the level of vacancy through the main shopping streets. It is envisaged that the introduction of offices/space for professional services will enhance the area, providing it is carefully balanced, and can provide for an attractive frontage where carefully designed. The loss of the existing retail uses on Main Street as a result of the proposed offices and the impact of this on the shopping core will be assessed in detail below under the provisions of the SPPS and the retail policies set out in the Draft Belfast Metropolitan Area Plan.

### Draft Belfast Metropolitan Area Plan (BMAP)

9.33 The site is located within the town centre of Bangor as identified in the draft BMAP. There are several other designations and policies in the draft plan which are also applicable to the site as follows:

- Existing open space at Wilson's Point Local Landscape Policy Area (BR31)
- Bangor Urban Waterfront (BR32)
- Bangor Town Centre Primary Retail Core (BR40)
- Bangor Town Centre Primary Retail Frontage (BR41)
- Development Opportunity Site (BR44)
- Bangor Central Area of Townscape Character (ATC) (BR49)
- Bangor Town Centre Urban Design Criteria (BR48)
- Policy TRAN 4 Areas of Parking Restraint (BR47)
- Policy TRAN 5 Publicly owned off street surface car parks within city and town centres

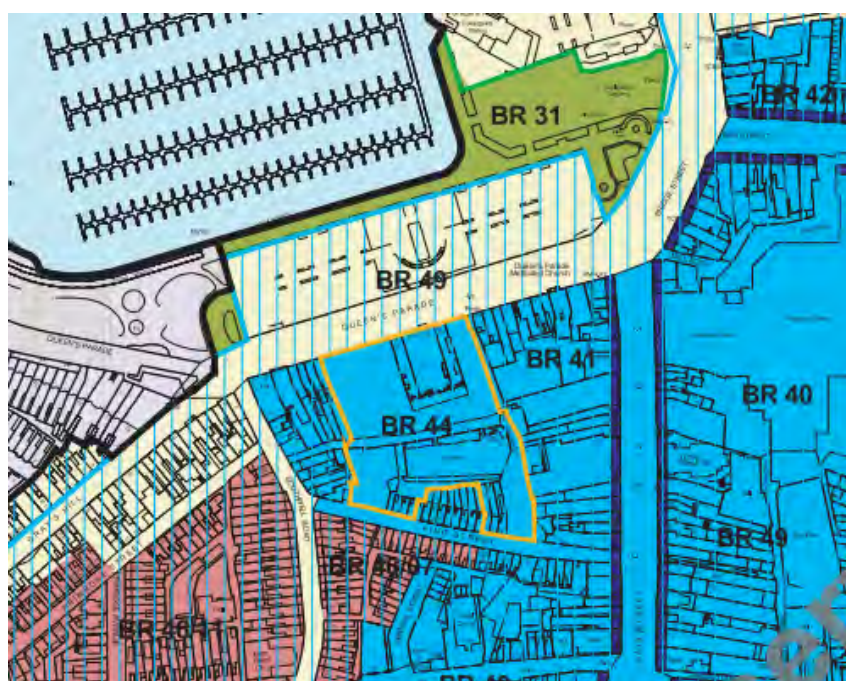


Figure 12 - Bangor Town Centre (Draft BMAP Map 31)

9.34 **Designation BR31 Wilson's Point Local Landscape Policy Area (LLPA)**

The following features are listed as contributing to the environmental quality, integrity or character of the area:

- Archaeological sites and monuments and their surroundings including Bangor Abbey
- Listed buildings and their surroundings including McKee Clock,
- Area of local amenity importance with nature conservation interest – North Down Coastal Path, Bangor Promenade and Pickie Fun Park.

9.35 Policy ENV3 of Draft BMAP states that in LLPAs, planning permission will not be granted for development that would be likely to have a significant adverse effect on those features, or combination of features that contribute to the environmental quality, integrity or character of the area. Designation BR31 covers an extensive area along Bangor's urban coastline stretching from Smelt Mill Bay right round to the McKee Clock (see Figure 13 below).

9.36 No objections were received in respect of the LLPA designation (BR31); therefore, it is likely that the designation would be included in any future lawfully adopted BMAP. The development proposal affects only a small area of the overall LLPA which includes the existing area of public open space around the McKee Clock and the promenade adjacent to Bangor Marina. As shown in Figure 15 below, the public realm function of these areas will remain with the development proposing overall environmental and landscaping improvements to the area including upgraded hard surfacing and a tiered landscaped area adjacent to the McKee Clock to enhance its setting. HED has confirmed it is content with the design approach for the area surrounding McKee Clock. The proposals seek to return the McKee clock to being a key standalone focal point with unobstructed views from Main Street, High Street, Quay Street and along the Promenade (see Figure 16 below which shows the historical setting of the clock). The immediate surroundings of the clock will be emphasised by paving materials and patterning to create a setting without any obstructions in a similar character to its original setting. It is therefore considered that the development proposal will not harm any of the listed features of the proposed LLPA.



Figure 13 – Designation BR31 Wilson's Point LLPA (Draft BMAP Map 3b\*)



Figure 14 – Aerial view of section of LLPA within the application site



Figure 15 – Proposed landscaping plan



Figure 16 – McKee Clock Circa 1918 (postcard of Bangor)

### 9.37 Designation BR32 Bangor Urban Waterfront

This area is focused on Bangor Marina and its surroundings. The Plan identifies the area as offering potential for the development of a vibrant and attractive waterfront in association with tourism and recreation. Policy for the control of development within the area is set out in policy COU5 of the Plan. The policy states that within the designated urban waterfronts, planning permission will only be granted for development proposals that:

- Enhance and regenerate the urban waterfront
- Enhance the environmental quality of the waterfront with the careful siting and design of new development and by the implementation of appropriate and attractive landscaping schemes
- Retain and where possible further develop public access to the coast
- Protect existing coastal open space
- Enhance tourism potential and recreational facilities
- Protect important heritage features

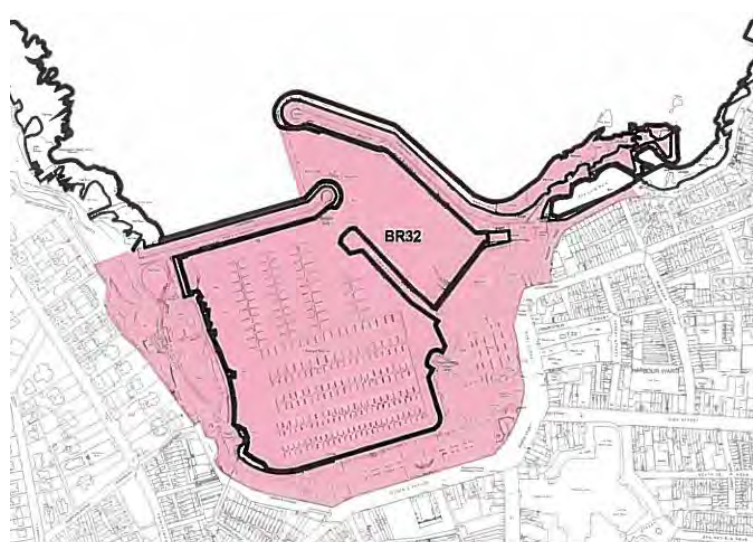


Figure 17 - Bangor Urban Waterfront (Draft BMAP Map 3m)

9.38 No objections were received regarding the draft Urban Waterfront designation (BR32); therefore, it is likely that the designation would be included in any future lawfully adopted BMAP. In addition, no amendments to the policy text of Policy COU5 were recommended by the PAC. The development proposal will fully comply with the policy requirements set out in the Plan for Bangor Urban Waterfront. At the heart of the proposal is the desire to reconnect the town centre with the sea again. This will be achieved through the removal of the existing Marine Gardens car park which currently acts as a physical barrier between Queen's Parade and the Marina.

9.39 The whole urban waterfront will be enhanced by the development proposal through the replacement of the car park with an extensive area of public realm. This will incorporate not only high quality hard and soft landscaping which will enhance the overall appearance of the waterfront but will also

include a new natural play area, a water feature, five small kiosks and two pavilion buildings which will serve retail and food and beverage uses. The introduction of these active uses and attractions within the waterfront area will serve as a further enticement to aid in the regeneration of the waterfront, drawing visitors into the area. It is considered that the proposals strike just the right balance between introducing particular features and attractions within the area and leaving plenty of multi-purpose open space to ensure that the potential use of the area for various events is kept as flexible as possible. The proposals provide an abundance of different types of seating throughout the area as well as a number of canopies to provide shelter along with plenty of cycle parking, all of which will encourage visitors to stop and spend time within the waterfront area. While the areas of planting and soft landscaping have been indicated on the landscaping layout, details in terms of species, size etc. are still to be confirmed so it is proposed that approval of planning permission would be subject to a condition requiring submission of these details for approval prior to the commencement of development in order to ensure a high standard of design and layout.

#### 9.40 **Designations BR40 Bangor Primary Retail Core and BR41 Bangor Primary Retail Frontage**

Policy for the control of retail development within the Primary Retail Core is contained in Policy R1 of the draft Plan – Retailing in City and Town Centres. The policy states that within designated primary retail cores, planning permission will only be granted for non-retail uses at ground floor where all the following criteria are met:

- it is not located within a designated Primary Retail Frontage;
- there is no significant loss of retail floor space at ground floor level;
- it does not create a cluster of non-retail uses; and
- it would not lead to a pre-dominance of non-retail uses

Policy for the control of retail development within Primary Retail Frontages is contained in Policy R2 of the draft Plan – Primary Retail Frontages. The policy states that planning permission will not be granted for non-retail uses at ground level within the Primary Retail Frontage.

- 9.41 With regard to draft BMAP, no objections were received in respect of the proposed Town Centre, or the Primary Retail Core or Frontage. Although there is no indication as to when BMAP might be adopted, it seems likely that if and when BMAP is lawfully adopted, a Bangor Town Centre designation, including a Primary Retail Core and Frontage, will be included therefore significant weight should be placed on these designations. However, during the Public Inquiry into Draft BMAP, the Planning Appeals Commission recommended that policies R1 and R2 as outlined above should be replaced with a single policy as follows:

*“Planning permission will be granted for retail development in all town and city centres. Non-retail development will be restricted in designated Primary Retail Cores (and Primary Retail Frontages) so that no more than 25% of the frontage of the shopping street(s) to which it relates is in non-retail use and no more than three adjacent units are in non-retail use. The Primary Retail Cores will be the preferred location for new comparison and mixed retail development. Outside*



*designated Primary Retail Cores, planning permission will only be granted for comparison and mixed retail development where it can be demonstrated that there is no suitable site within the Primary Retail Core.”*

The Department accepted this amendment which was included in the unlawfully adopted plan. Therefore, appropriate weight should be attached to this amended policy wording in the consideration of the proposal.

- 9.42 The SPPS also contains a dedicated section on Town Centres and Retailing, which replaced retail policy as was previously contained in Planning Policy Statement 5 – Retailing and Town Centres. The publication of the SPPS represented a major shift in retail policy. At paragraph 6.271 it lists a series of regional strategic objectives for town centres, including to secure a town centres first approach for the location of future retailing and other main town centre uses and to adopt a sequential approach to the identification of retail and main town centre uses in local development plans and when decision taking. The NDAAP and BTCP designated a Shopping Core and Main Shopping Core respectively within the town centre. Whilst those designations do not bear the name Primary Retail Core (PRC) or Primary Retail Frontage (PRF), they serve very much the same function as that of a PRC, which is a more modern term. Thus, a continuity of approach to the envisaged location of retailing for Bangor in those LDPs is evident, one which was carried through into the dBMAP.
- 9.43 Policy R1 above as amended following the Public Inquiry into Draft BMAP, requires that no more than 25% of the frontage of the shopping street(s) to which it relates should be in non-retail use and no more than three adjacent units should be in non-retail use. It can be considered that this particular line of the policy is aimed at existing shopping streets within the PRC as it was likely not anticipated that large scale regeneration proposals such as this would come forward which included creation of new streets/frontages. The existing streets affected by the proposed development include Queen’s Parade, Main Street, King Street and Southwell Road, all of which are within the PRC with Main Street identified as a PRF. Southwell Road and King Street are already predominantly residential in use, therefore it is considered that it would be unreasonable to apply the 25% to these streets. The existing residential use will be retained on these streets. Queen’s Parade itself already significantly exceeds the 25% referred to in the policy as its frontage is largely vacant given the large gap in the frontage and the large number of disused properties. The current application proposes a number of new retail units along Queen’s Parade which will significantly increase the retail offer at this location. Furthermore, as outlined above, the NDAAP identifies the seafront area as the focus for recreational and tourist uses and the BTCP identifies the site as a Development Opportunity Site considered suitable for a mix of uses including not only retail but office and service businesses to strengthen Bangor’s commercial role and create jobs. It is therefore considered that a mix of uses which cater not only for shoppers, but also for tourists, workers and visitors, is most appropriate along Queen’s Parade. The proposed mix of retail, hotel and leisure uses at ground floor on Queen’s Parade is considered to

achieve this, providing a good degree of variety and attraction to this part of the PRC.

- 9.44 On Main Street, the TK Maxx, Café Nero and Reeds Rains buildings are all to be retained. The proposal will however result in the loss of the Oxfam unit, the Hospice Shop and the now vacant B&M building as these units are to be demolished and replaced with offices. In total, this will result in a loss of a ground floor retail footprint of approximately 1133sqm and a ground floor retail frontage of 28m in width. The retail frontage proposed for replacement with offices, represents 48% of the total existing class A1 retail frontage along the stretch of Main Street from King Street to Queen's Parade. 61% of this stretch of frontage is already occupied by non-retail uses as it is dominated by food and beverage or financial and professional uses and there are also two vacant units within the frontage. The existing non-retail use within this section of the Main Street frontage therefore already significantly exceeds the 25% requirement set out in policy. The proposed replacement of the existing retail units with offices will result in a further increase in non-retail use along this stretch of the PRF meaning that approximately 80% of this particular section of the Main Street frontage will be in non-retail use. However, ample opportunities still exist along both sides of Main Street for the introduction of new retail uses into the Primary Retail Frontage, given the number of premises which are currently vacant. It is in this context that I have assessed this stretch of Main Street from the frontage of Queen's Parade to King Street, cognisant of the high vacancy rates and the prohibitive nature of the Plan policy in the current economic climate.
- 9.45 There is a high vacancy rate generally for properties within the town centre as evidenced in Table 18 below which is an extract from the Department for Communities' Town Centre Database. A significant number of retailers have vacated units within Main Street in recent years including Eason's, Clarks, retailers within the Flagship Centre, Dorothy Perkins, HMV and H Samuel. There is simply no longer a high demand for class A1 retail within the town centre and the number of vacant units even within the Primary Retail Frontage continues to grow. The concern is that if the retail policies of Draft BMAP, which restrict the amount of non-retail uses within the PRC and PRF, are applied rigidly then there is the potential that these areas could soon become dominated by vacant frontages. Several examples of vacant units already along Main Street are shown in Figures 19-21 below. The SPPS acknowledges this shift in retailing and the changing function of town centres by recognising that a variety of different main town centre uses are appropriate rather than just class A1 retail.

	17th May 2020 <sup>1</sup>			31st October 2019			30th April 2019		
TOWN CENTRE	No. of Properties	No. of Vacant Properties	% of Vacant Properties	No. of Properties	No. of Vacant Properties	% of Vacant Properties	No. of Properties	No. of Vacant Properties	% of Vacant Properties
BANGOR	697	168	24.1%	700	178	25.4%	700	177	25.3%

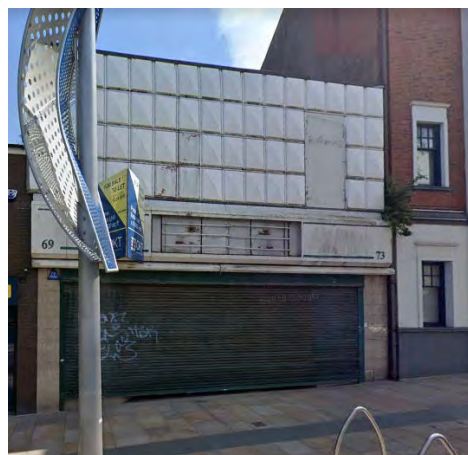
Table 18 - Extract from Department for Communities Town Centre Database showing vacancy rates for Bangor town centre



Figure 19 – Vacant Property at the top of Main Street



Figure 20 – Vacant properties adjacent to the application site on Main Street



**Figure 21 – Vacant properties opposite the site on Main Street**

- 9.46 Rather than including restrictive policies such as those in Draft BMAP which focus on a need to retain class A1 Retail uses as the predominant use in PRCs, the SPPS adopts a wider approach which supports a mix of retail and other main town centre uses. This approach acknowledges the changing role of town centres, many of which simply no longer have a retail led function. The more flexible approach of the SPPS allows for other uses to be introduced such as businesses, offices, community and cultural uses, all of which help to contribute to a vibrant town centre day and night.
- 9.47 Following the Council's request for the agent to submit supporting information to justify the loss of the existing retail floor space on Main Street, the agent submitted a short statement on 18<sup>th</sup> December 2020. In the statement it is argued that the PRF designation has its origins in the former Planning Policy Statement 5: Retailing and Town Centres which was withdrawn in 2015 and superseded by the SPPS. The agent highlights that the PRF designation is not referred to in the SPPS and while it is an operational policy within the adopted plan (now quashed), it is suggested that determining weight should not be afforded to it. The agent acknowledges that the proposal does not comply with policy R1 of the Plan; however, considers that the loss of retail floorspace must be balanced against current market conditions and the regeneration aims of the project as a whole.
- 9.48 On balance, I consider that the mix of uses contained within the proposed regeneration scheme are appropriate for the Primary Retail Core and will not

involve a significant departure from any of the main aims and objectives set out in the draft Plan for Bangor town centre as a whole. While some existing retail units will be lost to offices on Main Street, new retailing proposed on Queen's Parade within the PRC will help to compensate for this loss. Above all, it is considered that the mixed-use development will act as a catalyst for further regeneration within the town centre. It will attract a wide variety of visitors into the PRC including tourists, residents and employees which in turn is likely to increase the demand for retail and other services within the immediate area. The Living Places guidance document lists vibrancy and diversity as one of the 10 key qualities of urban design. It advocates that great urban centres buzz with activity. They are formed by a concentration of different uses, services and facilities, thereby attracting different people over a sustained period of time. Busy places are safe, engaging and even exciting. They sustain footfall with dependent businesses and create opportunities for cultural events and activities, both planned and impromptu. Taking account of this guidance it is considered that a development dominated by retail, on this important site within the town centre, is not the appropriate solution, rather, the proposed mixed-use development has the greatest potential to achieve the desired vibrancy and diversity that Bangor town centre needs.

9.49 **Designation BR44 Development Opportunity Site (DOS) at Lands between Queen's Parade and King Street**

The key site requirements of the designation are as follows:

- Uses other than retailing shall not be accepted at ground floor level.
- Access shall be from King Street. Detailed consultation with Roads Service DRD shall be required to identify any necessary improvements to the road network/public transport/transportation measures in the area to facilitate development of the site. A Transport Assessment (TA) may be required to identify such improvements.

9.50 At paragraph 2.6.3 of its report on the Strategic Plan Framework, the PAC stated that draft BMAP Policy SETT 5 regarding Development Opportunity Sites merely indicated that development in DOSs shall be in accordance with specified Key Site Requirements (KSRs) which was self-evident. As most did not specify preferred land uses, the KSRs merely repeated regional policy or policy contained elsewhere in the draft plan. The PAC therefore saw no purpose in their designation and recommended a need for a more focussed and pro-active approach by the Department if DOSs were to deliver the regeneration benefits set out in the amplification to Policy SETT 5 – i.e. to promote the vitality and viability of the urban area. The Department in its adoption statement accepted that criticism and considered that it was appropriate, given the time that had elapsed since publication of the draft Plan to exclude the DOSs from the Plan with the exception of five larger strategic sites within Belfast City Centre. It was considered that the Department for Social Development (DSD, now Department for Communities) was better placed to pursue city and town centre regeneration objectives through its city and town centre Masterplans. As such it is considered that the DOS designation would not be included in any forthcoming lawfully adopted Plan.

9.51 While the draft designation stipulates that uses other than retail at ground floor will not be accepted, it is considered that this is overly restrictive for a site of this size with a proposal seeking to bring forward a vibrant mixed use development. The extant North Down and Ards Area Plan identifies the seafront and Queen's Parade as the focus for recreational and tourist uses rather than just retail and states that other acceptable town centre activities should include service, civic and cultural uses and entertainment facilities, all of which make an important contribution to the vitality of the town. The current proposal includes no class A1 retail use within the boundary of the identified Development Opportunity Site (DOS); however some ground floor retail is proposed at the western end of Queen's Parade just beyond the DOS and food and beverage, leisure, office and hotel uses are all proposed at ground floor elsewhere within the site, the idea being that this mix of uses will provide a vibrant day and night time economy. The mixed-use approach is also consistent with the SPPS which defines acceptable main town centre uses as including; cultural and community facilities, retail, leisure, entertainment and businesses. The previous planning approval for the site is also a material consideration as the principle of some non-retail uses at ground floor level was considered to be acceptable. Therefore, on balance, the proposed mix of uses at ground floor level rather than exclusively retail is considered to be much more appropriate for this site. Access is proposed off Southwell Road in addition to King Street which was considered to be acceptable in the previous planning permission.

9.52 **Proposal BR47 Bangor Town Centre Area of Parking Restraint**

The draft Plan states that car parking standards within this area will be assessed in accordance with policy TRAN4. This applies a standard of 1.5 spaces per dwelling and for non-residential parking 1 space per 50sqm for non-operational and 1 space per 930sqm for operational spaces for Bangor. However, during the Public Inquiry into Draft BMAP, the PAC considered an objection to the parking standard of 1.5 spaces per residential unit for Lisburn City Centre, Bangor town centre and Carrickfergus town centre. The Commission concluded that the same residential standard of 1 space per unit (as proposed for Belfast in the Draft Plan) should be applied throughout all Areas of Parking Restraint. Therefore, in the consideration of this application, material weight will be afforded to the findings of the PAC following the Public Inquiry which the Department accepted at the time. The required level of parking for the site will be considered against the standards set out in policy TRAN1 of the unlawfully adopted BMAP. The overall parking provision for the development and its impact on existing parking is assessed in detail below under PPS3: Access, Movement and Parking.

9.53 **Policy BR48 Bangor Town Centre - Urban Design Criteria**

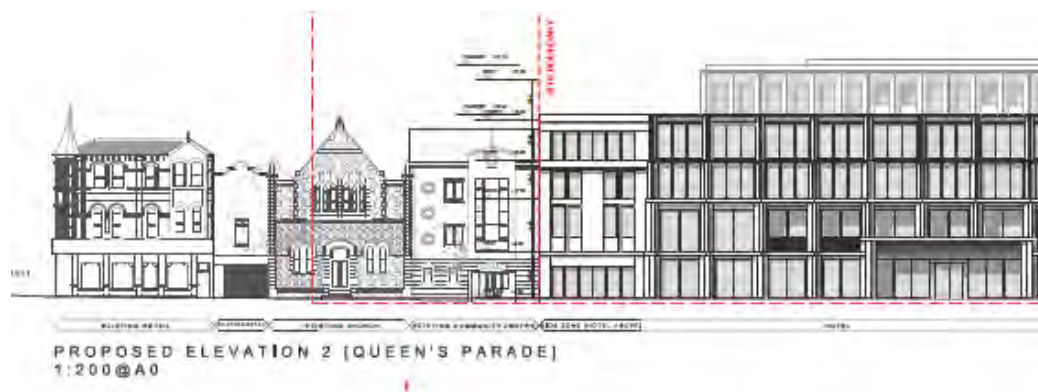
The following criteria shall be applied to Bangor Town Centre:

- Development shall respect the established building line
- Building heights shall generally be 3 storeys on principal streets (Main Street, Queen's Quay Street, Bridge Street and Lower High Street between Bridge Street and Albert Street/Bingham Street) to reinforce scale and character, and between 2 and 3 storeys elsewhere. Taller buildings of up to 5 storeys will only be acceptable where it is demonstrated that they act as landmark buildings to aid legibility.

- Development along Queen's Parade shall be consistent with the height of existing buildings
  - The external façade of development sites shall reflect the fine pattern and traditional character of the town centre.
- 9.54 Policy UE1 of Draft BMAP requires that within designated city and town centres, planning permission will only be given to development proposals which comply with the urban design criteria in the District Proposals. Following the Public Inquiry into Draft BMAP, the PAC recommended that the wording of Policy UE1 should be amended to require that development proposals should be in '*general accordance*' with the urban design criteria rather than being in compliance with the criteria. This recommendation was accepted by the Department at the time through its adoption statement. It is therefore likely that in the event of any future lawful adoption of BMAP, that the amended wording incorporating '*in general accordance with*' would be included and ergo should be afforded appropriate weight in the assessment of the development proposals.
- 9.55 The PAC recommended that the wording of Policy UE1 should be amended as some of the requirements within the design criteria contained a degree of precision that may not be appropriate in all cases and would allow no flexibility on the basis of the original wording of the policy which required proposals to '*comply with*' urban design criteria. The PAC considered that it was difficult to envisage how minor variations to the design criteria would damage the character of an area.
- 9.56 In respect of the four urban design criteria outlined above for Bangor Town Centre, I consider that the proposal would be in general accordance with these for the following reasons:
- The development will respect the established building lines. The original building line along Queen's Parade will be maintained by the proposed development and the building line along Main Street will also be replicated by the new development. On King Street, the new duplex apartment buildings will be set slightly further back to enable the provision of wider footpath however, will still be in keeping with existing building lines on the street. The proposed building line along Southwell Road will be comparable to that of the existing dwellings to be demolished at the corner of Southwell Road/King Street, sitting approximately 4m back from the footpath. While the proposed building at the corner of Southwell Road/Queen's Parade will sit slightly further back from the road than the existing building, the difference of approximately 1-2m is not considered to be significant, particularly when there is already a varied building line along this section of Southwell Road.
  - Building heights on Main Street will be maintained at a maximum height of three storeys with the exception of the new office block which will be four storeys. However, the fourth floor will be set back a minimum of 11m from the established building line and it is considered that this substantial set back will mitigate against any potentially dominant or detrimental visual impact that an additional floor might have on the appearance of the streetscape. The

new terrace of duplex apartments on King Street will be two and a half storey in height which will comply with the policy requirement of two to three storeys. The proposed apartments on Southwell Road will be four storey in height. Similar to the proposed office building on Main Street, while the policy requirement is for between two to three storeys, the upper fourth floor is set back 1.5m from the main building line to help reduce its visual impact. It is also noted that the principle of four storey buildings along Southwell Road was considered to be acceptable under the previous application for the site.

- The proposed building heights along Queen’s Parade will be between four and five storeys. This will be slightly higher than the buildings approved under the previous application which were between three and four storeys. The majority of the existing buildings along Queen’s Parade are three storey, however the application proposes to demolish a number of these to make way for new development, leaving only some of the existing buildings at the eastern end of Queen’s Parade. The development therefore proposes an entirely new frontage to the majority of Queen’s Parade which provides an opportunity for the introduction of slightly taller buildings and a fresh design approach. The above criteria specifies that development on Queen’s Parade should be consistent with the height of existing buildings. The scheme has been designed so that the building immediately adjacent to the remaining buildings on Queen’s Parade will step up gradually in height to ensure there is an appropriate transition between the existing and proposed buildings.



**Figure 22 – Proposed Queen’s Parade Elevation showing transition between existing and proposed buildings**

The proposals initially submitted with the application included an additional storey on the proposed block at the western side of ‘The Market Place’. This height was considered to be unacceptable and overly dominant within the existing townscape setting and following discussions with the applicant and agent, was removed from the scheme. It is considered that the four to five storey height of the proposed buildings on Queen’s Parade will not cause any unacceptable harm to the character or appearance of the town centre. Queen’s Parade is one of the key frontages of the town centre due to its orientation facing the coast and its high level of visibility from many viewpoints within the town centre and around the bay. Being located at such a key position within the town centre, it is considered that taller, landmark buildings are appropriate. In



terms of urban design, it is a well-established principle that it is desirable to frame large open spaces with buildings of appropriate height and scale to help enclose the space and to provide an appropriate sense of scale relative to the size of the space. In this instance, it is considered that the four to five storey height of the buildings will sit comfortably within the new context of the proposed expansive public realm area. The building heights will also complement and create a sense of balance with the existing traditional five storey buildings on Quay Street across the bay (see Figure 23 below). The top floors of the proposed buildings on Queen’s Parade have also been designed so that they are set back from the main building line, thereby reducing the impact of the height from the street.



**Figure 23 – Existing five storey buildings on Quay Street (former Royal Hotel and the Marine Court Hotel)**

- The final urban design criterion under Designation BR48 requires that the external façade of development sites shall reflect the fine pattern and traditional character of the town centre. As part of the design process, the developer’s design team carried out an analysis of existing built form within the area and the findings of this are summarised in the submitted Design and Access statement. To inform the design of the proposed residential block fronting Queen’s Parade, the existing buildings on the site and the existing residential terraces further along Queen’s Parade were examined in terms of their façade elements, bay proportions and solid to void ratios. The analysis identified that the bay proportions on the existing buildings are the key element in the overall façade design and the design of the proposed buildings have drawn heavily on this.



**Figure 24 – Existing residential terraces on Queen’s Parade**



**Figure 25 – Extract from submitted photomontages showing proposed residential block fronting Queen’s Parade**

Figure 25 above shows how the proposed development creates a modern interpretation of the more traditional buildings, drawing upon the bay features and vertical emphasis prevalent in the existing buildings. A pitched roof in a darker colour has also been incorporated in the front façade to reflect the existing buildings.



**Figure 26 – Extract from submitted photomontages showing proposed hotel fronting Queen’s Parade**

The proposed hotel is a large contemporary building and while it does not obviously attempt to reflect the fine pattern and traditional character of the town centre, it is nevertheless considered that its design, scale and palette of materials will sit comfortably within its context and will still complement the more traditional buildings. The elevational treatment has been kept light with simple glazing divided by fine reconstituted stone cladding. The upper floor of the building will also be set back and finished in a darker coloured material which will help to break up the overall massing of the building.

#### 9.57 **Designation BR49 Bangor Central Area of Townscape Character**

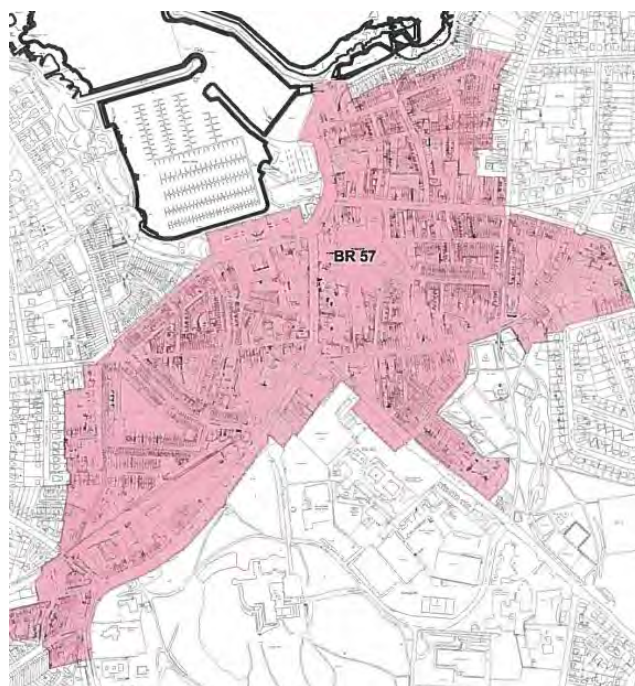
The draft plan identifies an extensive list of key features found within the proposed ATC. Those key features most relevant to the development site include the following:

- Late Victorian properties on Main Street together with a number of listed Georgian, Victorian and Inter War buildings
- Views over the Bay from High Street and Main Street.
- The Methodist church and a number of original three storey Victorian terraces on Queen’s Parade

The Draft Plan also requires that proposals will be assessed against key design criteria 4a and 5b contained in Policy UE3 of the Plan:

*4(a) ‘new or replacement buildings shall replicate existing forms, layout, materials and detailing of the buildings in the area’*

*5(b) ‘new works shall not disrupt the existing silhouette of a roof’*



**Figure 27 - Bangor Central ATC (MAP 3h)**

- 9.58 The Planning Appeals Commission considered a general objection to all proposed ATC designations within the then North Down district in its report on the BMAP public inquiry. The Commission recommended no change to the plan. It is therefore likely, if, and when BMAP is lawfully adopted, a Bangor Central ATC designation will be included. The proposed ATC designation is therefore a material consideration. The Commission also considered objections to the general policy for the control of development in ATCs which is contained in draft BMAP. The Commission recommended that Policy UE3 be deleted and that detailed character analysis be undertaken, with a design guide produced for each ATC. It would therefore be wrong to make any assumptions as to whether these recommendations will be reflected in any lawfully adopted BMAP or as to whether the text detailing the key features of the Bangor Central ATC will be repeated.
- 9.59 As it stands, it is unclear how the area will be characterised in any lawfully adopted BMAP. However, regardless of the lack of a policy context, the impact of the development on the overall appearance of the proposed ATC remains a material consideration and can still be objectively assessed. The detailed assessment of the potential impact of the development on the proposed Bangor Central ATC is set out below under Policy ATC2 of PPS6: Addendum Areas of Townscape Character.
- 9.60 **Policy TRAN5 Publicly Owned Off-Street Surface Car Parks within City and Town Centres**  
Draft BMAP requires that proposals to develop publicly owned off-street car parks will only be permitted if the existing spaces are provided for elsewhere, either on site or in the locality. The PAC endorsed this policy which was included in the unlawfully adopted BMAP as Policy TRAN2.

- 9.61 An integral part of the development will result in the redevelopment of the Marine Gardens car park as a public realm area. The area of the King Street car park will form part of the new Market Square and cinema building. The surveys and analysis undertaken by Atkins on behalf of the developer, demonstrate that the parking demand associated with these two car parks can be accommodated within the existing public car parks within the vicinity of the development site. Even during the busiest times with Marine Gardens and King Street parking demand included, there is sufficient capacity within the town centre car parks to absorb the Marine Gardens and King Street parking. The impact of the development on existing parking will be considered in further detail under PPS3 below.

## 10. Consideration of Proposal against Planning Policy

### Strategic Planning Policy Statement for Northern Ireland (SPPS)

- 10.0 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.
- 10.1 Paragraph 1.12 of the SPPS outlines that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. However, where the SPPS is silent or less prescriptive on a particular policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy.

The core planning principles of the SPPS are set out as follows:

- Improving health and well being
  - Creating and enhancing shared space
  - Supporting sustainable economic growth
  - Supporting good design and positive place making
  - Preserving and improving the built and natural environment.
- 10.2 The proposed mixed-use development will comply with all the above core planning principles. The scheme will incorporate extensive areas of public open space with varied functionality. Smaller, more intimate squares and courtyards are proposed within the southern portion of the site while a large public realm area of open space accessible to all, will be provided at Marine Gardens. The mixed-use nature of the development along with the generous provision of shared spaces, meets the aims and objectives of the SPPS core principles. It will contribute to the creation of an environment that is accessible to all, will enhance opportunities for shared communities, will provide a high standard of connectivity and promote shared use of public realm.

- 10.3 The SPPS requires planning authorities to adopt a positive approach to appropriate economic development proposals advising that large scale investment proposals with job creation potential should be given particular priority. The proposals for Queen's Parade would fall within this category of large scale investment proposals, with the potential for the regeneration of the site to create many new jobs and long term economic benefits for the town and Borough as a whole by attracting a wide range of tourists, locals and employees back into the town centre.
- 10.4 Good design and positive place making is at the heart of the SPPS core principles as they shape how all elements of the built and natural environment relate to each other through the construction of new buildings, redevelopment of historic buildings, creation of public spaces and environmental improvements. In paragraph 4.24, the SPPS advises that design is not limited to the appearance of buildings or a particular place but encompasses how buildings and places function in use over the lifetime of the development. It also states that good design should identify and make positive use of the assets of the site and surroundings to determine the most appropriate form of development. The proposed development for Queen's Parade has very much been assessed with these principles in mind given its strategic location on the coast, its town centre location, and the variety of uses proposed for the site. Central to the proposal is the desire to reconnect the town centre with the sea. This is to be achieved through the provision of the extensive public realm area in place of the current public car park at Marine Gardens. This area of open space, which will be accessible to all, will connect directly with the coast and marina along with the provision of new linkages from Main Street through the site and onto Queen's Parade.
- 10.5 Paragraph 4.29 of the SPPS states that planning authorities should not attempt to impose a particular architectural taste or style arbitrarily, however it is also important to promote or reinforce local distinctiveness. The applicant's design team has engaged with the Planning Department from the early stages of the design process for this site, taking account of all of the above elements and their inter-relationship. As a consequence, the scheme has evolved to provide the end result of a development that is considered to embrace contemporary design of its time, but which will also complement its historic setting and provide a quality environment with shared spaces which adhere to the principles of good place making.
- 10.6 The various subject policies contained within the SPPS will be considered below alongside the retained policies relevant to this proposal. The SPPS retail policies have already been considered above alongside the Development Plan and Town Centre Plan retail policies and designations.

## **Planning Policy Statement 2: Natural Heritage**

### **Policy NH1 – European and Ramsar Sites – International & Policy NH3 – Sites of Nature Conservation Importance – National**

- 10.7 The application site is in close proximity to the following national, European and international designated sites:
- North Channel SAC, and the Maidens SAC, which are designated under the EC Habitats Directive (92/43/EEC on the conservation of natural habitats and of wild fauna and flora);
  - Belfast Lough SPA, Belfast Lough Open Water SPA, East Coast SPA, which are designated under the EC Birds Directive (79/409/EEC on the conservation of wild birds),
  - Belfast Lough Ramsar site, which is designated under the Ramsar Convention,
  - Belfast Lough MCZ which is designated under the Marine Act (Northern Ireland) 2013, and
  - Outer/Inner Belfast Lough ASSI, which is declared under the Environment Order (Northern Ireland) 2002
- 10.8 The application site is hydrologically linked to Outer Ards Area of Special Scientific Interest (ASSI), Special Protection Area (SPA) and Ramsar site. Natural Environment Division (NED) has assessed the Ecological Impact Assessment (EclA) submitted and notes that it concludes it is not considered that the proposals have potential to give rise to a significant adverse effect upon these or any other designated sites, following the implementation of a range of standard mitigation and best practice measures, as outlined in the accompanying outline Construction Environmental Management Plan (CEMP). NED agrees with the recommendations in the EclA that any significant impacts on Outer Ards designated sites can be mitigated through the implementation of a CEMP.
- 10.9 Marine and Fisheries Division has considered the impacts of the proposal and on the basis of the information provided is content. Given the location of the site within an already heavily developed area and existing marina, the proposed works are unlikely to have a significant impact on the adjacent Marine Protected Areas.
- 10.10 The planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Ards and North Down Borough Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.
- 10.11 Having considered the nature, scale, timing, duration and location of the project the appropriate assessment has concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site:

1. A final Construction Environmental Management Plan must be submitted by the appointed contractor to the planning authority prior to work commencing. This shall reflect all the mitigation and avoidance measures detailed in the outline CEMP and the Ecological Impact Assessment. The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the planning authority.
2. All Conditions (1-5) outlined by NIEA Land and Groundwater Team in its response dated 03/06/2020 must be applied to identify and remediate any potential pollutant pathways to the marine environment via ground and surface water.

### **Policy NH 2 – Species Protected by Law & Policy NH5 – Habitats, Species or Features of Natural Heritage Importance**

- 10.12 According to the submitted EclA the site was recorded as supporting a range of bird species, a number of which are considered likely to utilise the habitats supported within the site for the purposes of breeding. The buildings on site were also considered to offer opportunities for low numbers of nesting bird species such as swallow and swift, which have been recorded within the site. The Bat Survey report also outlines that nesting activity of swifts and swallows was observed in a building within the site. House sparrows were also recorded on site and are likely to be using existing buildings for nesting. Swifts and house sparrows are Northern Ireland priority species and amber listed species of conservation concern in Ireland.
- 10.13 As demolition of buildings and vegetation clearance will be required as part of the proposed development, NED advised in its initial consultation response that this could be likely to result in the loss of a significant number of nesting sites for breeding birds, including swift, swallow and house sparrow and considered that an inadequate assessment of the likely impact of the proposal on breeding birds, particularly swifts, had been carried out. NED also recommended that appropriate compensation is provided for the loss of nesting sites for swifts, swallows and house sparrows in the form of nest boxes or bricks.
- 10.14 The agent responded to these comments suggesting that an appropriately worded condition could be incorporated in any approval to include a requirement for a breeding bird survey, at the appropriate time of year, (between April and June inclusive) to assess the supported number of nesting swifts, swallows and house sparrows within the site. This survey should take place in breeding bird season prior to the proposed demolition works. The findings of such a survey will ensure that appropriate mitigation, such as nest boxes for the relevant species, is provided within the completed development, as requested by NED. The agent also submitted an Ecological Survey for Birds. Following a review of this additional information, NED has advised that it agrees with the recommendation in the report that a further breeding bird survey to confirm the findings of the survey is required prior to any works commencing on site and to ensure appropriate mitigation and compensation measures are



implemented based on the findings of the updated survey. NED is content that provided an updated breeding bird survey, including swift survey, of the site is carried out and appropriate mitigation and compensation measures are implemented for the loss of existing nesting sites, the proposal is unlikely to have a significant impact on nesting birds. It is recommended that any planning permission is subject to an appropriately worded condition to secure this.

- 10.15 NED also recommends that sufficient compensatory planting with native species is carried out to minimise the impact of the proposal on the biodiversity of the site. While landscaped areas have been indicated on the submitted plans, no detailed landscaping schedule listing species, size, numbers etc. has been submitted with the application. However, approval of the proposal could be subject to a planning condition requiring the submission and approval of these details prior to the commencement of development.
- 10.16 NED has assessed the submitted Bat Survey and notes that it concludes no bats were observed or recorded within or close to the survey area and that no bat licence, mitigation or compensation is required. NED is content with the findings of the bat survey and considers that the proposal is unlikely to have a significant impact on the local bat population.
- 10.17 NED has noted that the EclA refers to the presence of Japanese knotweed on the site. Japanese knotweed is an invasive species listed under Schedule 9 of the Wildlife (Northern Ireland) Order 1985 (as amended) and measures must be taken to prevent its spread. NED notes from the Japanese knotweed Excavation Verification Report submitted that the four stands of Japanese knotweed identified within the site have already been removed. NED is content that appropriate measures have been taken to remove Japanese knotweed and contaminated soils from the site. NED has recommended that prior to any works commencing on site an inspection is undertaken to review the site conditions and the potential for any recurrence of Japanese knotweed and any necessary action should be taken prior to works commencing on site. NED recommends that details of these inspections are included in the Construction Environmental Management Plan (CEMP).

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

#### **Policy AMP1 Creating an Accessible Environment**

- 10.18 The policy's aim is to create a more accessible environment for everyone. Accordingly, developers should take account of the specific needs of people with disabilities and others whose mobility is impaired in the design of new development. Where appropriate, the external layout of development will be required to incorporate all or some of the following:
- facilities to aid accessibility e.g. provision of dropped kerbs and tactile paving etc., together with the removal of any unnecessary obstructions;

- convenient movement along pathways and an unhindered approach to buildings;
- pedestrian priority to facilitate pedestrian movement within and between land uses; and
- ease of access to reserved car parking, public transport facilities and taxi ranks.

The development of a new building open to the public, or to be used for employment or education purposes, will only be permitted where it is designed to provide suitable access for all, whether as customers, visitors or employees. In such cases there will be a presumption in favour of a level approach from the boundary of the site to the building entrance and the use of steps, ramps or mechanical aids will only be permitted where it is demonstrated that these are necessary.

- 10.19 The development has been designed to incorporate level access wherever possible; however, given the sloping topography of the site it has been necessary to also incorporate ramps and lifts to facilitate access from Market Place down to Queen's Parade. Disabled parking spaces are placed at convenient locations in the under-croft car park and lifts from the car park to the various buildings are also provided. Five disabled parking spaces are also shown on Queen's Parade itself along with a further three spaces within Marine Gardens. The whole scheme has been designed with pedestrian priority at the forefront with excellent pedestrian linkages incorporated from King Street and Main Street into the site, and the proposed raised table on Queen's Parade which will provide access to the new public realm at Marine Gardens will also facilitate pedestrian priority.

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

- 10.20 Policy AMP2 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.
- 10.21 The development will be served by three vehicular accesses which will include a new two-way access off Southwell Road to serve the proposed under-croft car park, a new entrance only access off King Street to serve the parking for the residential element which will exit onto the Vennel, and the existing Vennel right of way entrance itself. A further pedestrian and service vehicle access will be created off Main Street referred to as Trinity Way as well as a narrower pedestrian access from Main Street into the proposed Trinity Square.

Pedestrian access will be provided from the site onto Queen's Parade via the wide steps and ramp system centrally located within the site.

- 10.22 A Transport Assessment (TA) prepared by Atkins was submitted with the application and followed by a further addendum submitted on 29 July 2020 as requested by DFI Roads and to address the amendments to the scheme which included a reduction from 138 residential units to 137 residential units and a reduction from a 67 bed hotel to a 66 bed hotel. The scope of the TA was agreed with DFI Roads in June 2019 prior to the submission of the application. The TA reviews the potential transport impacts of the proposed development with proposals to mitigate any adverse consequences.
- 10.23 As part of the previous planning approval on the site, traffic impact assessments were undertaken in 2014 for the following junctions:
- Queen's Parade/Main Street
  - Queen's Parade/Grays Hill/Southwell Rd
  - Quay Street/High Street
  - King Street/Main Street
  - Main Street/Castle Street
  - Bryansburn Rd/Grays Hill/Dufferin Ave

It is demonstrated in the TA that the current development proposals will actually generate less new vehicle trips onto the local highway network compared to the development previously approved. It is also demonstrated in the TA that background traffic volumes within the Bangor area have not increased since the 2014 assessment, therefore it is considered that the 2014 approved TA junction assessment findings that the existing highway network will be able to accommodate the proposed development without the need for any improvements remain valid.

- 10.24 DFI Roads has agreed that finalised Private Streets Determination drawings can be submitted and agreed prior to a final decision being issued.

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

- 10.25 Policy AMP7 requires development proposals to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. In assessing car parking provision, the policy requires that a proportion of the spaces to be provided are reserved for people with disabilities in accordance with best practice. Where a reduced level of car parking provision is applied or accepted, this will not normally apply to the number of reserved spaces to be provided.

10.26 As the site is located within an area of parking restraint as identified in draft BMAP, the parking standards set out in the draft plan, along with any amendment proposed to the policy by the PAC and accepted by the Department in its adoption statement shall be considered in the assessment of parking provision for the proposed development.

#### 10.27 Existing Parking Provision

In the first instance, it is important to consider the existing parking provision on the site and how much of this will be lost as a result of the proposed development, and also existing parking provision available within a reasonable walking distance of the site. Table 28 below sets out the extent of existing parking on the site. The temporary car park on the site at Queen's Parade is not counted in the overall loss of parking provision as this car park was never intended to provide permanent parking for the site or town as it was only granted planning approval on a temporary basis pending the redevelopment of the site. Table 29 sets out the existing parking provision within 800m of the site. This does not include the parking provision within the Flagship Centre which is subject to a private tariff and is currently closed. Figure 30 indicates the location of the existing car parks surveyed by Atkins. The green circle on the diagram indicates the 800m isochrone around the site and the purple circle indicates 400m.

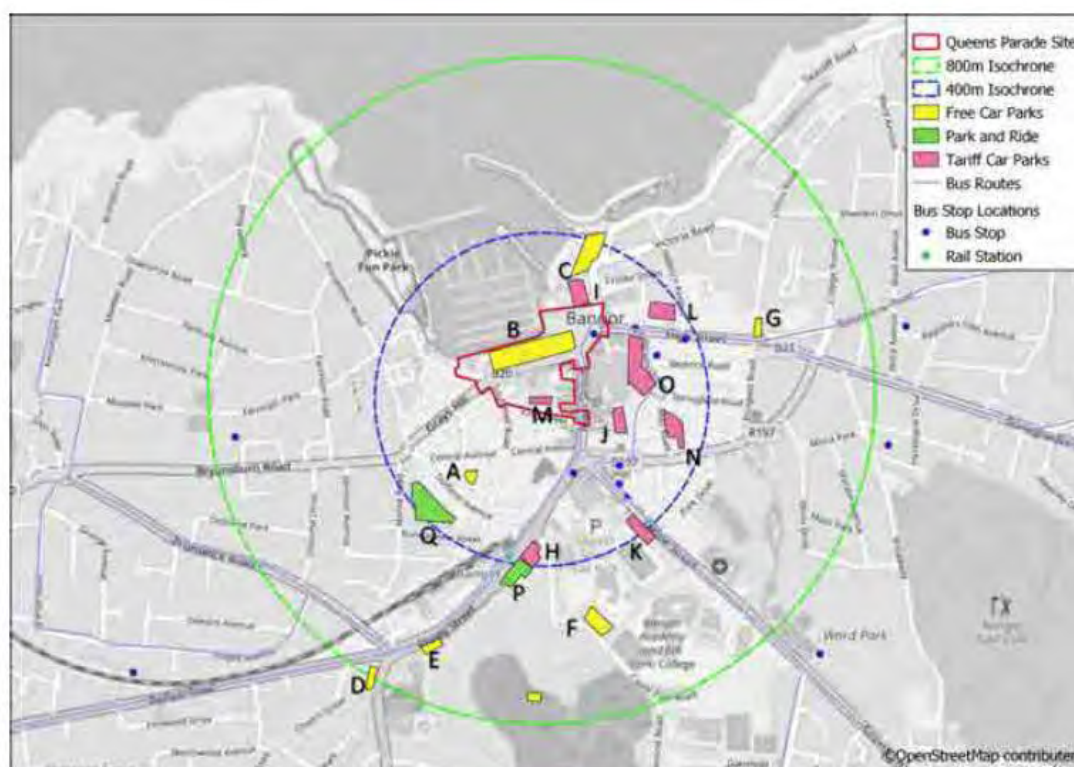
Marine Gardens	201
King Street	37
<b>Total</b>	<b>238</b>

Table 28 – Existing parking provision on site

<b>Free Car Parking</b>	
Central Avenue	29
Newtownards Road/Church Street	32
Seacliff Road	130
Abbey Street West	38
Castle Park	55
Clifton Road	30
<b>Tariff Based Public Car parking</b>	
Abbey Street East	70
Bangor Marina	54
Bingham Lane	59
Castle Street	82
Holborn Avenue	68

Mills Road	76
<b>Park and Ride</b>	
Abbey Street	123
Dufferin Ave	234
<b>Total</b>	<b>1080</b>

**Table 29 – Existing parking provision within 800m of site (excluding parking within application site and Flagship Centre)**



**Figure 30 – Extent of Car Parks Surveyed by Atkins**

10.28 Surveys of the existing car parking provision were carried out by Atkins to establish the current situation regarding parking supply and demand within the town centre. These were carried out hourly on Thursday 6<sup>th</sup> June 2019 8am-6pm and Saturday 8<sup>th</sup> June 2019 10am-4pm. Based on these surveys, it would appear that, overall, there would be sufficient spare capacity available in existing car parks within 800m of the site to accommodate the 238 spaces lost as a result of the development, with between 226 and 566 spaces available during the weekday surveyed and between 501 and 625 spaces available during the weekend survey as outlined in Table 31 below.

	<b>Thursday 6<sup>th</sup> June 2019</b>	<b>Saturday 8<sup>th</sup> June 2019</b>
Max total No. of spaces free during day	566 (5pm-6pm)	625 (3pm-4pm)
Min total No. of spaces free during day	226 (11am-12 noon)	501 (1pm-2pm)

**Table 31 – Results of parking surveys – available capacity**

10.29 Atkins also carried out surveys of the use of the car parks at Marine Gardens and King Street to help understand the level of car parking demand associated with these two car parks and the impact of their removal. Tables 32 and 33 below set out the results of the surveys conducted on a weekday and a Saturday for the two car parks. The figures demonstrate that the car park at Marine Gardens in particular, is almost at full capacity between the hours of 11am and 4pm on a weekday. The surveys carried out also recorded the duration of stay for cars parked at the Marine Gardens car park. Vehicle number plates were recorded upon entering and exiting and a duration of stay derived for each vehicle, the details of which are set out in Table 34 below. The figures demonstrate that the most popular duration is 1-2 hours, therefore the car park is primarily used for short stay which is reflective of the town centre location rather than being used by commuters or those working within the town centre.

<b>Marine Gardens</b>	Weekday No. of parked cars	Saturday No. of parked cars
8am	24	-
9am	145	-
10am	175	101
11am	186	153
12noon	193	165
1pm	196	152
2pm	184	164
3pm	184	182
4pm	181	-
5pm	124	-
<b>Average</b>	159	153

**Table 32 – Total number of parked vehicles recorded at 201 available spaces at Marine Gardens**

<b>King Street</b>	Weekday No. of parked cars	Saturday No. of parked cars
8am	1	-
9am	3	-
10am	8	19
11am	12	16
12noon	18	27
1pm	24	29
2pm	31	31
3pm	33	24
4pm	21	-
5pm	13	-
<b>Average</b>	16	24

**Table 33 – Total number of parked vehicles recorded at 37 available spaces at King Street**

Duration of stay (Hours:Mins)	Weekday No. of parked cars	Saturday No. of parked cars
00:00-00:05	40	43
00:05-00:30	80	63
00:30-01:00	89	76
01:00-02:00	116	134
02:00-03:00	46	49
03:00-04:00	21	25
Over 04:00	18	8

**Table 34 – Duration of stay for parked cars at Marine Gardens**

### 10.30 Required Parking for Site

The required level of parking for the site has been considered against the standards set out in policy TRAN1 of the unlawfully adopted quashed BMAP (Table 35 below). Material weight is afforded to the findings of the PAC following the Public Inquiry which the Department accepted at the time. The main difference is that draft BMAP sets a standard of 1.5 spaces per residential unit and the unlawfully adopted BMAP sets a standard of 1 space per residential unit. In paragraph 5.6.12 of the PAC's report on the public inquiry, the Commission consider an objection to the parking standard of 1.5 spaces per residential unit for Lisburn City Centre, Bangor town centre and Carrickfergus town centre. The Commission concluded that the same residential standard of 1 space per unit should be applied throughout all Areas of Parking Restraint.

Policy TRAN 1			
Parking Standards within Areas of Parking Restraint			
Within designated Areas of Parking Restraint the following parking standards will be applied:-			
AREA	Car Parking Standards		
	RESIDENTIAL  No. of spaces per dwelling	NON RESIDENTIAL  No. of non-operational spaces per m <sup>2</sup> of floorspace	NON RESIDENTIAL  No. of operational spaces per m <sup>2</sup> of floorspace
Belfast City Centre Core	1.0	1 / 300	1 / 930
Belfast City Centre Fringe	1.0	1 / 100	
Lisburn City Centre, Bangor and Carrickfergus Town Centres	1.0	1 / 50	
Commercial Nodes on Arterial Routes [outside Belfast City Centre Areas of Parking Restraint (Core and Fringe)]	1.0	1 / 100	
Reductions in the above standards will be considered in appropriate circumstances where evidence of alternative transport arrangements can be clearly demonstrated, or other material considerations exist that justify an exception to the policy. Proposals involving car parking in excess of the standards will only be permitted in exceptional circumstances.			

**Table 35 – Extract from BMAP (quashed) (Policy TRAN1)**

10.31 A total of 37 spaces on King Street and 95 informal spaces on Queen’s Parade will be lost upon redevelopment. It is argued that the 37 spaces to be lost on King Street can be accommodated within spare capacity in other existing car parks within 800m of site as demonstrated above. As also outlined above, it is considered that the loss of 95 spaces on Queen’s Parade is not material as this is informal, temporary parking only, pending redevelopment of the site. The required parking for each of the different uses proposed within the scheme is set out in figure 36 below in line with the Policy TRAN1 parking requirements. For non-residential development, Policy TRAN1 (Area of Parking Restraint) requires 1 non-operational space per 50sqm and 1 operational space per 930sqm in Bangor Town Centre. In the assessment, *operational parking spaces* refers the spaces required for vehicles regularly and necessarily involved in the operation of the business of the particular buildings including commercial vehicles servicing the buildings. *Non-operational parking spaces* mean the spaces required for vehicles that do not need to park or wait precisely at the premises.



Proposed Use	Development	Spaces Required
Residential	137 units	137
Hotel	66 bed 5,627 m <sup>2</sup> (gross external floorspace)	113 (non-operational) 6 (operational)
Cinema/Leisure Use & Kids' Zone	1,503 m <sup>2</sup> Cinema/Leisure (gross internal floorspace) 1,440 m <sup>2</sup> Kids' Zone (gross internal floorspace)	59 (non-operational)  3 (operational)
A1 Retail	1,323 m <sup>2</sup> (gross internal floorspace)	26 (non-operational) 1 (operational)
Food Retail	430 m <sup>2</sup> (gross internal floorspace)	9 (non-operational) 0 (operational)
Offices	6,599 m <sup>2</sup> (gross internal floorspace)	132 (non-operational) 7 (operational)

**Table 36 - No. of parking spaces required for each proposed use**

### 10.32 Comparison of Proposed Parking and Required Parking for Site

The overall parking provision for the development will include 217 spaces provided within the under-croft car park, 24 spaces at King Street and 14 spaces within the residential courtyard providing an overall total of 255 spaces. The shortfall in parking provision for the proposed development is set out in Table 37 below. When assessed against the standards set out in Policy TRAN1 of the unlawfully adopted BMAP there will be an overall shortfall of 238 spaces.

Proposed Use	Development	Required Parking Spaces	Proposed Parking Spaces	Shortfall
Residential Units	137 units	137	113	24
Hotel	66 bed	119	25	94
Cinema/Leisure Use & Kids' Zone	1,503 m <sup>2</sup> & 1,440 m <sup>2</sup>	62	29	33
A1 Retail	1,323 m <sup>2</sup>	27	0	27
Retail Food	430 m <sup>2</sup>	9	0	9
Offices	6,599 m <sup>2</sup>	139	88	51
<b>Total</b>		<b>493</b>	<b>255</b>	<b>238</b>

**Table 37 – Proposed parking considered against required parking for site**

### 10.33 Parking Provision for Previous Approval W/2014/0456/F

Whilst the previous planning approval on site is a material consideration, a direct comparison of the parking provision proposed within it as compared to this application is not considered to be material or of benefit. It should be noted that it was submitted in a different context than the present application. The then Department for Social Development (DSD) defined a brief and appointed

a consultancy team led by Turley to prepare a full planning application for the site. That brief stated a number of objectives for the proposal as follows:

- Be financially viable and economically sustainable in the long-term
- Meet the challenges of long-term market challenges and create flexible reusable building structures to mitigate the need for wholesale redevelopment in the future;
- Be capable of being delivered by the private sector in the current market conditions; and
- Be acceptable to the community and political representatives in Bangor and elsewhere.

10.34 The proposals formulated focused on creating a new place which would be a hub for culture, leisure, arts and a theatre in Bangor town centre. Shops, restaurants and two hotels would complement this hub and bring animation to the high-quality spaces. A critical element of the new development was the inclusion of residential development within the heart of the proposal, a mix of apartments and houses to make this space an enduring place and put people back at the heart of Bangor.

10.35 That proposal secured permission in July 2015; however, no one came forward to avail of the site with this approval. An application for a Premier Inn was submitted and approved at Castle Park Avenue (now constructed and operating) and it was considered that the theatre would not be viable in light of the theatre at SERC (SPACE) and the proximity to Belfast. DSD vested and assembled the necessary lands to deliver the proposal, and DfC then marketed the site, inviting expressions of interest from developers to deliver the project. Bangor Marine was selected as the preferred developer to take forward the project, and it is Bangor Marine's proposal that is under consideration now, not that contained within the previous application, which was formulated in the absence of a developer.

10.36 It is also notable that the previous proposals were approved prior to publication of the SPPS, which highlights the Regional Development Strategy and DRD's 'Ensuring a Sustainable Transport Future: A New Approach to Regional Transportation' document in considering that better integration between transport and land use is fundamental to progressing the implementation of regional guidelines to garner greater use of sustainable transport. Reducing green house gas emissions from transport is listed as one of the mitigating measures towards achieving the Executive's target of reduction in greenhouse gas emissions of at least 35% by 2025 (based on 1990 levels) and reduced private car use is considered necessary in moving towards this goal. It is in this overall context, and the town centre location and proximity to public transport that the application has been assessed as providing appropriate parking, as further detailed below.

10.37 **Consideration of Shortfall in Parking Provision For Current Proposal**  
Chapter 8 of the Atkins Transport Assessment (TA) sets out the parking assessment and approach for the proposal. In addition, at the request of the

Council, the applicant's agent prepared and submitted a statement in October 2020 setting out the planning considerations relevant to the proposal which included the issue of parking provision.

#### 10.38 Residential

In formulating the parking provision for the residential component of the development, greater weight was attached to the provisions of the unlawfully adopted BMAP. The rationale for this approach is based on the following:

- The provisions set out in the unlawful version of BMAP have been assessed through a Public Inquiry process and the recommendation of the PAC was accepted by the Department.
- The standards align with the policy context used to determine the previous planning application which is a material consideration.
- The reduced level of car parking is supported by the policy direction set out in the RDS 2035, Policy SF4 – *'Managing the movement of people and goods within the BMUA by improving usage of public transport and promoting an integrated approach to land use planning and transportation'*.
- The Council's Preferred Option within its Preferred Options Paper for key issue 38 (promotion of sustainable transport and active travel) seeks to encourage a modal shift and place the onus on developers to demonstrate how they have positioned sustainable transport and active travel at the heart of new developments (as advocated within the SPPS).

10.39 The break-down of car parking spaces for the proposed residential element of the development is as follows:

- 24 spaces to the rear of King Street assigned to the proposed residential units on King Street.
- All one bedroom apartments, of which there are 24 will have no assigned car parking space. Residents will be eligible to apply for a Travel card for a period of one year.
- All remaining two and three bedroom apartments will have one assigned space per unit

10.40 With regard to the shortfall of 24 parking spaces, the agent argues that Policy TRAN1 allows for reductions in standards in appropriate circumstances where evidence of alternative transport arrangements can be clearly demonstrated, or other material considerations exist that justify an exception to the policy. It is argued that the site is in a highly accessible location and that public transport is a suitable alternative given that it is proposed to provide each unit with a subsidised travel card.

#### 10.41 Hotel

25 on-site spaces are proposed for the hotel. Policy TRAN1 requires 1 space per 50sqm of non-operational floor space which would equate to a requirement of 119 spaces for the proposed hotel resulting in a shortfall of 94 spaces. Rather than applying this standard, the developer has taken the approach of reviewing similar types of sites within the TRICS Database. The developer states that the

review demonstrated that similar sites and hotels provide approximately 0.37 spaces per bedroom which would equate to a requirement for 25 spaces for the proposed 66 bed hotel. It is also argued that this is in keeping with the Marine Court Hotel which provides 20 spaces for its 51 beds equating to around 0.39 spaces per bedroom. (The data, site selection and calculation from the TRICS analysis are contained within Appendix E of the TA).

#### 10.42 Leisure/Cinema and Kids Zone

29 spaces are proposed for these uses. The Policy TRAN 1 standard of 1 space per 50sqm of non-operational floorspace would require 59 spaces resulting in a shortfall of 30 spaces. In this case the developer has applied the lower standard of Policy TRAN1 of 1 space per 100sqm (applicable to Belfast City Centre). The justification for adopting this ratio is that the leisure peak (mainly afternoons) will occur outside of the busiest times for the hotel which are typically in the evenings. It is argued that the leisure component can draw on car parking spaces allocated to the hotel during its off-peak period. In addition, during the weekend, which would be another peak period for the leisure components, the office element of the development will be empty and car parking spaces allocated during the week to this will be available for leisure use. The reservation and distribution of the car parking spaces at various times throughout the day and week will need to be very carefully controlled and managed by the developer's management company to ensure all of the different uses have adequate available parking when needed. There are existing examples where this method has been employed in other similar developments where parking is reserved and controlled through the use of barriers and signage. It is therefore recommended that any planning permission is subject to a condition requiring detailed proposals for the management of the car park to be submitted to and approved by the Council prior to the commencement of development/commencement of use.

#### 10.43 A1 Retail and Food Retail

No spaces are proposed for these uses. Policy TRAN1 standards would require a total of 35 spaces. It is argued by the developer that these retail and food retail uses would not generate trips in their own right and that instead, these trips will be as part of a shared trip with other elements being offered as part of the development proposals and as a wider complimentary offer to existing town users. It is therefore argued that no parking is required on site for these uses.

#### 10.44 Offices

88 on site spaces are proposed for the office use. According to policy TRAN1 132 spaces would be required.

The developer accepts that parking provision for the offices should be in line with the requirements for Bangor i.e. 1 space per 50sqm of non-operational floorspace.

The TA sets out that the proposed offices will be delivered in two phases:

- Phase 1 – 3,218sqm (ground floor and first floor)
- Phase 2 – 3,381sqm (upper two floors)

Based on the TRAN1 standards, Phase 1 will require 64 on site spaces. Given that 88 will be provided, there will be a surplus of 24 spaces from Phase 1. Phase 2 will require 68 on site spaces and will be assigned the 24 surplus spaces from Phase 1 resulting in a remaining requirement for 44 spaces. It is proposed to offset these parking spaces through sustainable measures such as Travel Cards and off-site parking. The planning agent has suggested the execution of a legal agreement to specify that the second phase of the office accommodation cannot be occupied until an appropriate review of the parking provision and uptake of the remainder of the scheme has been undertaken and monitored to establish at what point Phase 2 can be occupied. A Corporate Commuter Initiative to encourage office workers to use public transport is also proposed by the developer, the details of which would be finalised in the Section 76 Planning Agreement.

- 10.45 When assessing the parking provision for the scheme as a whole, the existing parking provision for existing uses on the site must also be considered as a baseline for the proposed development. In this respect, it is argued by the developer that the standard of 1 space per 100sqm would be more in keeping with the existing standard of parking provision for the existing uses on the site. The total floorspace of existing and demolished retail and office uses on the site is 11,720sqm. In line with TRAN1 requirements of 1 space per 50sqm, 235 spaces would be required for this amount of floorspace. The actual existing parking provision within the site for the existing floorspace is 132 spaces (37 spaces in King Street, 95 informal spaces on Queen's Parade). This would equate to a ratio of approximately 1 space per 89 sqm which it is argued is more comparable to the Belfast City Centre standard of 1 space per 100sqm. If the temporary car park on Queen's Parade is discounted, then the only actual permanent parking provision on site available to the existing uses is the King Street car park. This would equate to a ratio of approximately 1 space per 317sqm. On the basis of these existing parking arrangements, it is considered that the application of the 1 space per 100sqm standard is a more reasonable and realistic standard to apply, and was in fact discussed with the design team and transport advisers during pre-application discussions.

10.46 Disabled Parking

Given that the car is often the only form of transport available to many people with disabilities, developers will be required to reserve an appropriate proportion of parking spaces to meet the needs of people with disabilities. Such designated parking spaces should be conveniently located to facilitate ease of access to the buildings they serve in order to take account of the limited mobility range of many disabled people. There are currently no published standards for providing guidance as to the required number, layout and location of disabled parking spaces for proposed developments. However, within the under-croft car park of the development, ten disabled spaces are proposed which equates to approximately 4-5% of the overall provision in the under-croft parking area. There are also another six disabled spaces provided along Queens Parade and four disabled spaces, as well as five parent & toddler spaces, within the Marine Gardens area off the Queens Parade/ Southwell Road roundabout.

#### 10.47 Operation and Management of Car Parking

The developer proposes to carefully operate and manage the proposed parking to ensure that the appropriate number of spaces are assigned to and used by each use within the development. The under-croft car park with its 217 spaces will be barrier controlled near its access off Southwell Road and parking spaces will be designated internally for the different uses. In addition, given that the office spaces will generally only be in use between 9am – 5pm these will be free for other visitors to use outside of these hours. It is proposed that number plate recognition cameras will be set up at the entrance barriers to record vehicle number plates on the way in. A ticketless system will be employed and visitors would pay for parking by inputting their number plate or the use of mobile phone apps would also be an option. The car parking spaces themselves can be colour coded physically on the ground or smart technology could be installed such as intelligent bay parking. Each bay would have a sensor and light and would go red if reserved or change colour depending on use. The control of the parking would be achieved by management and penalties for parking in wrong zones. With the use of smart technology, early warning signs can be flagged electronically to the management company instantly. There would also be the facility for visitors to reserve spaces online, which would be particularly useful for guests staying at the hotel. To further assist the system, VMS (Variable Message Signage) could be set up on the periphery of the site. This would inform commuters before they get to the car park whether the car park has free spaces. The final details of how exactly the parking will operate and be managed in the long term will have to be submitted and agreed with the Council prior to the commencement of development by means of a planning condition or Section 76 Planning Agreement.

#### 10.48 Conclusion

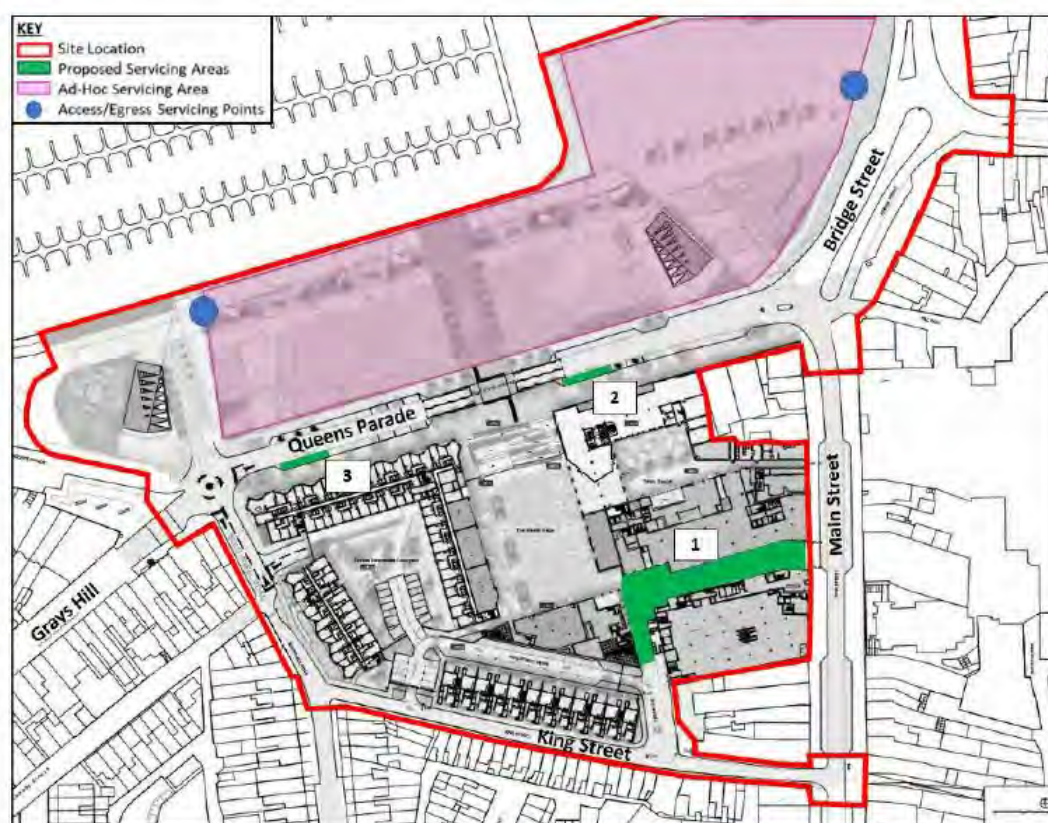
It is acknowledged that when assessed against the relevant parking standards, there would be a shortfall of parking for the proposed development as outlined above; however, given the town centre location, determining weight is being attributed to the promotion of more sustainable modes of transport and it is considered that the developer has put forward appropriate compensatory measures. These will include Travel Cards for residential properties and office workers for a fixed period, a Corporate Commuter Initiative Plan for office workers to encourage commuting via public transport, careful management and operation of the under-croft car park and also the provision of 44 off-site parking spaces for office workers, prior to the occupation of phase 2 of the offices. The final details of these compensatory measures will be secured through a Section 76 Planning Agreement between the Council and the developer. With regard to the loss of existing parking provision at Marine Gardens and King Street it is considered that the submitted surveys satisfactorily demonstrate that there is sufficient available capacity for parking within other existing car parks within walking distance of the site. It is also relevant to re-evaluate travel in light of the current national pandemic and the practice of homeworking which has been necessitated across a vast number of businesses in the past year. It has been demonstrated that many workers can operate successfully from home on either a permanent or part-time basis, and as such, previous practice of long-term parking and travelling out of the Borough for work may not continue at the

previous rate when the pandemic has subsided, and businesses/employees may re-evaluate their work/travel options in this regard, thus reducing reliance on the private car. In conclusion, when the loss of the existing parking and shortfalls in proposed parking provision are weighed in the planning balance against the significant overall regeneration benefits and environmental improvements of this scheme along with the compensatory measures proposed, and the regional drive for modal shift, the proposed parking arrangements are considered to be acceptable.

#### 10.49 **Proposed Servicing Arrangements**

With regard to servicing arrangements, the policy advises that they are also important and can exert a major influence on the quality of the urban environment and its attractiveness to shoppers and other visitors. In city and town centre locations, developers will normally be expected to include proposals for the provision of rear servicing facilities where practicable. It is recognised, however, that historic settlement patterns may be a constraint upon the provision of rear servicing.

- 10.50 A Service Management Plan was prepared by Atkins and submitted with the application. Atkins engaged with DRI Roads in June 2019 to discuss proposals for servicing the development prior to the submission of the application. The site as existing benefits from three service locations; two on Queen's Parade and one at King Street car park. Some of the commercial properties on Main Street are serviced from the rear via the existing King Street car park access with vehicles accessing the site via the Main Street/King Street junction and existing via King Street and Southwell Road. The development site will continue to be serviced off King Street and Queen's Parade. However, the redevelopment proposals will provide formalised and improved service areas. A new through route from King Street to Main Street is proposed. This is expected to operate as the main servicing area for both the properties on Main Street and the new central areas of the development. This area has been designed to accommodate large articulated vehicles. On Queen's Parade, a number of existing on street parking spaces will be removed and replaced with two loading/unloading bays. These will service the hotel, residential and retail units that front onto Queen's Parade. Smaller vehicles will be able to service the kiosks located within the public realm area via the eastern access point. All access and egress for servicing vehicles to this area will be restricted via the use of bollards.



**Figure 38 – Proposed Servicing Locations**

10.51 In terms of refuse disposal, in the submitted Service Management Plan, the applicant proposed that for the residential development, it is expected that it would operate in a similar fashion to other developments of this type with weekly waste collections from the Council for the residential elements. However, given the number of apartments proposed, the Council raised concerns about the number of individual domestic bins that would clutter the pavement on bin collection days. In response to this the applicant now proposes that all residential refuse will be dealt with by private collections with larger Euro bins. In relation to the refuse collection for the residential apartments, the operations manager will be responsible for moving bins between the storage locations and collection points on collection days. It is recommended that the final details of these arrangements are subject to a planning condition requiring submission and approval prior to commencement of development. Refuse collection for the commercial elements will be contracted to private refuse collection companies.

10.52 In terms of daily service vehicle movements, it is anticipated that for the scale and type of development proposed, this will range from two axle rigid vehicles to four axle articulated vehicles. However, the type of vehicle will largely depend on the nature of the businesses that will occupy the development. No details have been provided in relation to potential delivery times to commercial units (hotel/cinema/retail). As early morning/late night deliveries by commercial vehicles can cause disturbance to nearby residents, Environmental Health has requested that a condition should be attached to any approval stipulating that



deliveries by commercial vehicles shall not take place outside the hours of 7.00-23.00 Monday to Saturday and not at all on Sundays or public holidays.

#### 10.53 **Traffic Management during Construction**

There will be a wide range of temporary traffic management measures required to facilitate the construction of the development. The design of the traffic management will be the responsibility of the building contractor. The contractor will be required to liaise and seek agreement with DFI Roads Traffic Section, Translink and the PSNI which will require a temporary Traffic Regulation for road works. The contractor will prepare a method statement and risk assessment for all operations which include the installation or removal of traffic measures such as road closures, road diversions and restrictions on waiting and parking. The traffic management proposals may require traffic regulation under the Road Traffic Regulation Act 1988 which covers measures such as the introduction of one-way streets, banned turns, temporary speed limits and loss of parking areas. An authorised route for construction traffic will be agreed in advance with DFI Roads and movements will be timed to occur outside the peak hour periods i.e. 9.30–16.30.

#### 10.54 **Summary**

In summary, the development proposal addresses the policy requirements set out in PPS3. The development provides an accessible environment to all. Access to the development is based on the principles established under the previous planning permission W/2014/0456/F and does not prejudice road safety or significantly impact on the flow of traffic. DFI Roads is content with the location of the various accesses to serve the development. The application is supported by a Transport Assessment prepared by ATKINS. The assessment demonstrates that there is sufficient capacity within the existing town centre car parks to accommodate the loss of Marine Gardens and King Street and the proposed parking provision is satisfactory for the reasons outlined above.

### **AMP 8 Cycle Provision**

10.55 Policy AMP8 states that permission will only be granted for development providing jobs, shopping, leisure and services, including educational and community uses where the needs of cyclists are taken into account. Where appropriate provision of the following may be required:

- a) safe and convenient cycle access;
- b) safe, convenient and secure cycle parking having regard to the Department's published standards; and
- c) safe and convenient cycle links to existing or programmed cycle networks where they adjoin the development site.

In addition, major employment generating development will be required to make appropriate provision for shower and changing facilities.

10.56 The development proposal incorporates appropriate provision of cycle parking for a development of this size. Approximately 100 secured, covered and lit cycle parking spaces will be provided for residents and visitors to the residential units.

These spaces will be provided in blocks one, two and three. Additional cycle parking spaces will be provided on site to cater for the remaining proposed uses and around 78 parking spaces will be provided within the new public realm area at Marine Gardens. Shower and changing facilities are to be provided within the proposed office block. The proposed development also benefits from its close proximity to an extensive cycling network. The National Cycle Network (NCN) Route 93 runs within close vicinity to the site along the coastal path. This route runs from Londonderry to Bangor via Belfast city centre. See condition attached to York Street UU or car park approval

### **AMP9 Design of Car Parking**

10.57 Policy requires a high standard of design, layout and landscaping to accompany all proposals for car parking. The proposal has been assessed against this policy and I am content that the car parking provision has been well designed, respects the local character and the wider setting. Provision for safe and convenient access/egress and direct and safe internal movement for cyclists and pedestrians, including people with disabilities and others whose mobility is impaired is satisfied.

### **AMP10 Provision of Public and Private Car Parks**

10.58 This policy considers that public parking provision in future should focus on meeting the demand generated by centres for short-stay spaces. However, the overall transportation objective will nevertheless be to restrain the use of the car and encourage shoppers and commuters to use public transport and Park and Ride initiatives. DFI Roads has assessed the proposal and is content.

## **Planning Policy Statement 4: Planning and Economic Development**

### **PED 1 Economic Development in Settlements**

10.59 Policy PED1 states that a development proposal for a Class B1 business use will be permitted in a city or town centre (having regard to any specified provisions of a development plan). The principle of the proposed offices at this location within the town centre is acceptable. While the offices will be located within the Primary Retail Core and will occupy the ground floor of part of the Primary Retail frontage as proposed in Draft BMAP, it is not considered that the business use will cause any unacceptable harm to the retail function of the town centre as outlined in the detailed consideration within the development plan section above. It should be noted that Class A2 of the Planning (Use Classes) Order (Northern Ireland) 2015 deals with financial, professional and other services, whilst Class B1 business use is use as an office other than a use within Class A2, or use as a call centre, or use for R&D which can be carried out without detriment to amenity.

## PED 9 General Criteria for Economic Development

10.60 A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:

**(a) it is compatible with surrounding land uses;**

The proposed offices will be compatible with the surrounding land uses. Existing uses immediately adjacent to the site of the proposed offices include Café Nero to the south and Halifax and Reeds Rain to the north. Other proposed development adjacent to the offices will include the kids' zone, food and beverage and the hotel to the north/north west. None of these adjacent uses will cause any conflict with the proposed offices.

**(b) it does not harm the amenities of nearby residents;**

Given the town centre location and existing mix of uses, the potential for impact on residents is minimal. The nearest residents will be those occupying the new apartments within the scheme which will front onto Market Place. These will be located at least 35m away from the offices.

**(c) it does not adversely affect features of the natural or built heritage;**

The impact of the development as a whole on features of natural and built heritage has been assessed in detail above against the policies contained in PPS2 and PPS6.

**(d) it is not located in an area at flood risk and will not cause or exacerbate flooding;**

Flood risk and drainage issues relevant to the site and proposed development are considered in detail below under PPS15.

**(e) it does not create a noise nuisance;**

Offices by their nature do not create significant noise levels, particularly when located within inner urban areas where background noise levels are generally higher. Environmental Health has not raised any concerns in relation to potential noise levels emanating from the office use.

**(f) it is capable of dealing satisfactorily with any emission or effluent;**

As the proposal is for office use there will be no significant emissions or effluent.

**(g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;**

The impact of the development as a whole on the existing road network is considered in detail above under PPS3.

**(h) adequate access arrangements, parking and manoeuvring areas are provided;**

Access and parking for the development as a whole is considered in detail above under PPS3.

- (i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respect existing public rights of way and provides adequate and convenient access to public transport;**

The offices will be within walking distance of both Bangor Bus Station and Train Station. Shared cycle parking is provided within the under-croft car park for the offices and other commercial uses within the development. A number of disabled parking spaces are also provided in the under-croft car park within close proximity to the entrance to the offices and lifts are provided at two locations within the building. The existing right of way at The Vennel is retained and incorporated into the new development.

- (j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;**

The overall layout, design and landscaping of the development as a whole is considered to be of a high quality. The design of the office building itself will enhance Main Street which is characterised predominantly by very unremarkable buildings which make no material contribution at all to the appearance of the area. The existing buildings shown in Figure 39 below containing B&M, Oxfam and the Hospice shop will be demolished to make way for the new office building which will have a similar height to the Café Nero building up to the parapet wall with an upper floor set back 11m. While this top floor of the building will sit higher than the existing buildings on Main Street, given its considerable set back from the building line of Main Street it is not considered that it will have any adverse visual impact on the streetscape. The building will have a brick finish at ground floor and a self-coloured render finish above with vertical emphasis to the windows. Glazing and a main entrance is proposed at ground floor on Main Street to ensure the frontage will have an element of activity. A series of large window openings will present onto the new Trinity Way pedestrian link to ensure that there will be an element of active frontage onto this aspect also.



Figure 39 – Existing buildings on Main Street to be demolished

- (k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;**

N/A – the building is positioned immediately adjacent to other buildings within the development.

- (l) is designed to deter crime and promote personal safety; and**

Large windows will overlook the new pedestrian link at Trinity Way and if approved the application will be subject to a planning condition requiring submission of details of all lighting for approval prior to the commencement of development. Access to the building will be safe from the under-croft car park and from Main Street.

- (m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.**

N/A

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

#### **Policy BH 2 The Protection of Archaeological Remains of Local Importance and their Settings, Policy BH 3 Archaeological Assessment and Evaluation and Policy BH 4 Archaeological Mitigation**

10.61 The proposed development site is located in an area which is known to contain both upstanding and below ground archaeological remains of the historic settlement and includes the 17<sup>th</sup> century core of the town. There is potential for below ground archaeological remains and upstanding historic fabric to survive within the proposed development area. Large sites such as this are rarely

archaeologically sterile and there is potential for below ground archaeological remains to be uncovered during ground works.

- 10.62 HED (Historic Monuments) has reviewed the submitted Archaeological Impact Assessment (AIA) and is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6.

### **Policy BH 11 Development affecting the Setting of a Listed Building**

- 10.63 The application is in close proximity to, and potentially impacts upon the following listed buildings:

- HB23 05 010 McKee Clock Grade B2 within site
- HB23 07 021 A-B 61-62 Queens Parade Grade B2
- HB23 07 013 A-B 59-60 Queens Parade Grade B2
- HB23 07 012 A-B 57-58 Queens Parade Grade B2 terraces NW of site
- HB23 07 011 A-J 47-56 Queens Parade Grade B2
- HB23 14 002 A-D 7-10 Mount Pleasant Grade B2
- HB23 07 006 1<sup>st</sup> Presbyterian 100 Main St Grade B+ south of site
- HB23 07 007A St Comgall's Parish Church Grade B+

These buildings are of special architectural and historic importance and are protected by Section 80 of the Planning Act (NI) 2011.

- 10.64 In its response of 20<sup>th</sup> March 2020 based on the initial proposals submitted with the application, HED (Historic Buildings) advised that while it was content with the principle of development on the site, it had several issues with the development as proposed, as it was deemed to have an adverse impact on the setting of Listed Buildings in the vicinity.

- 10.65 The initial concerns raised by HED included the following:

1. The silhouette of the church spires is an important aspect of the setting character and will be compromised in the view from frontage walkway, as demonstrated by the illustrations in the submission, by the Block 1-2 (6 storeys).
2. The setting of the spires is compromised by the monolithic design of the leisure block (Block 10) as the elevation/form lacks texture/appropriate articulation and scale of massing is dominant in front of church spire to 1<sup>st</sup> Bangor Presbyterian as demonstrated by illustrations in the submission.
3. The modelling of the street elevation is compromised by the dominant roofscape 'pavilions' (Block 6) above the Queen's Parade skyline (Red Berry and neighbours), interrupting the scale of the wider setting.
4. Landscaping at McKee clock does not fully address it as a feature; HED would expect that the listed building would be a considered focal point in

the proposals and that the terracing design would encompass it in some manner.

5. No details of the B1 pavilions have been provided.

10.66 Following this initial response, discussions took place between HED, the Planning Department and the developer's team to establish how the scheme could be amended to address the above concerns in relation the listed buildings, but also to address various other design concerns raised by the Planning Department in terms of the impact of the development on the wider setting of the proposed ATC (see details set out below under PPS6 Addendum). Amended proposals along with an updated Design and Access Statement and updated photomontages were submitted to the Council for consideration on 29 July 2020.

10.67 The main amendments to the scheme were as follows:

- The height of block 2 (apartment block), was reduced from five to four storeys to reduce the overly dominant impact and obstruction of views of the church spire.
- An additional set back upper floor was added to the apartment building fronting Queen's Parade to provide balance to the internal courtyard massing.
- The design of the corner detail at the transition from Block 1 to Block 2 was amended and simplified.
- Re-design of the roofscape of Block 6 (office block) to omit the projected element housing roof access stairs and removal of heave banding along the office roofscape
- Re-design of the uppermost element of the hotel (Block 5) to reduce its massing and improve its relationship with the adjacent Fountain Centre and Methodist Church
- Re-design of the blank elevation fronting Southwell Road at the junction with Queen's Parade to include fenestration.

10.68 In its response of 8<sup>th</sup> September 2020 on the amended scheme, HED advised that it considered the resubmission had addressed several issues which were previously raised. HED also confirmed that it was cognisant of the previous permission on the site (W/2014/0456/F) which remains a material consideration and included consent for demolition of buildings on the site.

10.69 However, HED remained concerned regarding the impact of the following aspects of the development on the setting of the nearby listed buildings:

1. The proposed 'cinema' building would have a negative impact on the setting of 1<sup>st</sup> Bangor Presbyterian Church, when long views are considered.
2. While the upper floor of Block 6 (office block) has been revised to remove the heavy horizontal roof plane which is a betterment, plant is still shown additionally above this at a maximum height of 1m. Concerns were raised that this will be inadequate to house the required plant and that any larger housing will have an even greater adverse impact, failing to comply with the requirements of policy 6.12 of the SPPS and policy BH11 of PPS6. The

drawings in the submission are so faint as to appear to make this plant 'disappear' but, in reality, HED considers this will be highly visible, both on the hotel and on the Main Street block. The Main Street plant has a height noted of up to 2.2m. HED advise Council that this should be explored thoroughly in terms of townscape prior to determination, if it is minded to approve.

- 10.70 When considering the impact of the development on the setting of the listed buildings and, in particular, any potential negative impacts on the setting of 1<sup>st</sup> Bangor Presbyterian Church, it is important to consider what the historical view of the church would have been prior to the original buildings on the site being demolished. In this case, the original buildings on Queen's Parade would have been quite substantial three to four storey buildings. The historical photographs below show the original frontage onto Queen's Parade from two of the main viewpoints within the town centre. Both show a substantial built up frontage with the church spires visible to the rear. The CGI images of the proposed scheme below show that the spires will also still be visible above the proposed development and it is not considered that the views of the listed church spire will be adversely impacted upon to such a degree that would harm the setting of the building and warrant a refusal of planning permission.



**Figure 40 – Photograph from Bangor Town Centre Masterplan 2011 (Bangor in 1898)**





Figure 41 – Extract from Design and Access Statement – CGI Image (view across Marina)



Figure 42 – View of Queen’s Parade (Postcard from 1955)



Figure 43 – Extract from Design and Access Statement– CGI Image (view from Mount Pleasant)

10.71 The previous approval for a similar mixed-use development on the site (W/2014/0456/F), is also an important material consideration. While this permission expired in July 2020, there has been no significant change in the planning policy context since then. The image below shows the proposed Queen's Parade elevation approved under the previous application. The large 'destination' building as it was referred to, is visible behind the frontage in the image and is shown in a similar position to the currently proposed cinema/leisure building. The top of the previously approved 'destination' building was proposed to sit 20.7m above the ground level on Queen's Parade while the highest part of the current cinema/leisure building proposed reaches only 18.4m above the Queen's Parade ground level. It is noted that HED raised no objections to this previous approval which remains a material consideration.

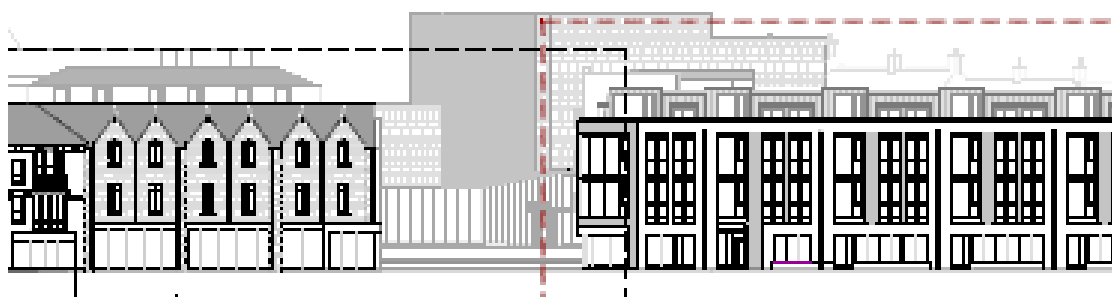


Figure 44 – Queen's Parade elevation approved under W/2014/0456/F

10.72 In its consultation response, HED also remained concerned about the proposed roof plant on the buildings within the development which was considered to be contrary to policy. HED raised concerns that the proposed heights shown on the submitted drawings would be inadequate to house plant and as the current plant arrangement is considered to have an adverse impact on the setting, anything of a greater height would be even more obtrusive and would fail to comply with the relevant policies. HED considered the plant to be highly visible, both on the hotel and on the Main Street block and advised Council that this should be explored thoroughly in terms of townscape prior to determination, if it is minded to approve. HED referred these matters to Council to determine in the context of the wider townscape setting.

10.73 The Council shared these concerns raised by HED given the substantial size of the proposed plant rooms and screens, particularly on the roof of the hotel and cinema, and discussions were held with the design team to investigate possible design solutions to reduce the impact of the various plant rooms. Following these discussions, amended plans were submitted on 18 December 2020 incorporating a number of design changes to the roof plant as follows:

- Hotel – The plant screening has been reduced by 500mm and the parapet roof raised by 300mm. This results in the plant screening being only 400mm higher than the parapet. Given the set back of the plant from the main elevations of the hotel, only a thin strip would now be visible above the parapet from long distance views. A taller boiler room will remain sitting

approximately 1.4m above the parapet wall however this is small scale at 18sqm and is set back 23m from the Queen's Parade elevation and 12m from the Market Place elevation and there it is not considered that it would result in any unacceptable visual impact.

- Cinema – The higher portion of the plant screening at the front of the building has been dropped in line with the ridge level of the auditorium volume so that the plant screen now blends with the roof of the building and will also be finished in the same metal rain screen cladding as the rest of the roof, thereby reducing its visual impact.
- Office Building – The architect has assured the Council that the plant room for the office building will be barely visible. One of the main views of the building is shown in the CGI image below in Figure 45. It was agreed that given the significant set back and comparatively smaller size of this plant room, no amendments would be required. The plant will only be seen from very long-distance views.

10.74 Approval would be subject to conditions stipulating that the height of the plant rooms and screens must not exceed that shown on the submitted plans and that no plant shall be installed until the final specification of materials and finishes for the plant rooms and screens have been agreed in writing with the Council.



**Figure 45 – CGI image showing new office building to rear of The Red Berry Café**



Figure 46 – Original proposed Queen’s Parade elevation showing roof plant on hotel and cinema buildings prior to amendments



Figure 47 – Amended Queen’s Parade elevation showing reduction in height of roof plant

**Addendum to Planning Policy Statement 6: Areas of Townscape Character**

**ATC1 Demolition Control in an Area of Townscape Character**

10.75 Policy ATC1 states that there will be a presumption in favour of retaining any building which makes a positive contribution to the character of an Area of Townscape Character. Consent will normally only be permitted for the demolition of an unlisted building in an Area of Townscape Character where the building makes no material contribution to the distinctive character of the area. Where permission for demolition is granted this will normally be conditional on prior agreement for the redevelopment of the site.

10.76 When considering the impact of the demolition of a building within an ATC or Conservation Area, it is always useful to refer to the material factors for the demolition of unlisted buildings as identified in the Athletic Stores case. The Athletic Stores judgment ([2014] NIQB 21) outlines the range of considerations that should be taken into account in applying the policy. It is important that all material considerations which should be weighed against the presumption to retain buildings are properly considered in the planning judgement. The material factors to be considered are as follows:

- (i) The importance of the buildings
- (ii) The particular features of the buildings
- (iii) The setting of the buildings and the contribution they make to the area
- (iv) The extent to which the proposed works would bring substantial benefits to the community, in particular by contributing to the economic regeneration of the area or the enhancement of its environment which would decisively outweigh the loss from demolition
- (v) The merits of the alternative proposal
- (vi) The development preserves or enhances the character and appearance of the area

10.77 All of the buildings proposed for demolition were granted consent under the previous planning permission W/2014/0456/F with the exception of Nos. 5-8 Queen's Parade which the current applicant is seeking to demolish. It is noted that out of the buildings currently proposed for demolition, the only ones referred to in draft BMAP as key features within the proposed ATC are the remaining three storey Victorian terraces on Queen's Parade which would include Nos. 5-12 and 35-41 proposed for demolition.

10.78 In the assessment of the previous planning application, it was considered that the existing retail units on Main Street and the terrace of dwellings on King Street made no material contribution to the area. The dwellings on Southwell Road were considered to be reflective of many other buildings elsewhere along Southwell Road and within the wider area and were also not considered to make any particular material contribution to the distinctive character of the area. I would agree with the assessment in relation to these buildings. The buildings on Main Street are modern commercial buildings and make no positive contribution to the appearance of the area. The terraces on King Street are of very simple design with no architectural detailing of any significance and some are in a very poor state of repair.



**Figure 48 – Existing buildings to be demolished on Main Street**



**Figure 49 – Terraced Dwellings on King Street**

10.79 The dwellings to be demolished at the corner of Southwell Road and King Street, while not unattractive buildings, are not considered to make any material contribution to the appearance of the area which would warrant refusal of consent to demolish. The buildings have no particular architectural features of any significance and as outlined in the previous application, are of a relatively standard design similar to many others in the area. Consequently, it is considered that the demolition of these buildings would not harm the overall appearance of the proposed ATC.



**Figure 50 – Dwellings at corner of Southwell Road and King Street**

10.80 Further along Southwell Road at the corner with Queen’s Parade, is a more significant two and a half storey building. In the assessment of the previous application, unlike the buildings referred to above, this building was considered to make a material positive contribution to the character of the ATC. The building is very much a feature of the corner with a curved canted bay at first and second floor finished with a conical slate roof. This attractive corner

feature is mimicked to a lesser degree on the building opposite which also marks the corner with a curved canted window at first floor. Read together, the buildings make an attractive feature at the entrance to Southwell Road. The curved corner features also seem to be a particular feature of this part of the town centre at the 'seaside' with other examples at the 'Red Berry Café' building at the bottom of Main Street and the two buildings at the bottom of High Street. The building also has ornate detailing around the window openings and projecting feature windows at first and second floor level.



**Figure 51 – Building at corner of Southwell Rd and Queen’s Parade**



**Figure 52 – Two buildings with attractive corner features at Junction of Southwell Rd/Queen’s Parade**

10.81 While this building was considered to make a material contribution to the ATC, other considerations had to be weighed against this in the assessment of the previous planning application. It was accepted that the demolition of the building was essential to facilitate the viable redevelopment and regeneration of the site. In particular, demolition of this building was required

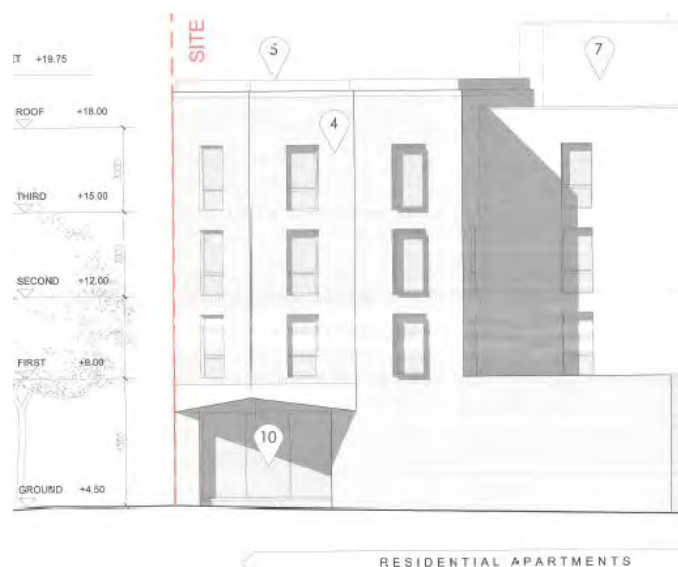
to make way for the proposed multi storey car park which was to deliver parking for both the new development and replacement of the existing parking lost on the site and at Marine Gardens. Due to the sloping ground levels of the site and access requirements set out in the development plan, the car park had to be located on this particular part of the site. Therefore, without the demolition of the building to accommodate the provision of car parking for the scheme and the town, the redevelopment and creation of the public realm at Marine Gardens would not have been feasible. The proposed replacement building also incorporated a rounded corner feature to reflect the characteristics of the original building and mitigate against the impact of its loss, retaining the bookend feature at this end of Queen's Parade. While it is still considered that this building makes a material contribution to the appearance of the proposed ATC, as was the case with the previous application, this has to be weighed against all of the other material considerations of relevance to the current development proposal.

- 10.82 In order to enable a full assessment of the demolition of this building in the context of the current application, the Council asked the agent to submit a Demolition Report outlining the justification for demolition. The report was received on 29 July 2020. In the report, it is argued that the question of demolishing buildings within the site was considered by the Planning Appeals Commission (PAC) at the inquiry into the development scheme and intention to vest notice issued by DSD. The PAC concluded that whilst the development proposals for W/2014/0456/F would result in the loss of a number of unlisted buildings within the ATC, the objectives of the regeneration proposal could not be realised if the buildings were to be retained. With regard to the building at the corner of Queen's Parade and Southwell Road, the agent contends that if this building were to be retained, it would not be possible to create the scale of residential development proposed at this location and successfully tie the building into Blocks 1 and 2 to create a quality residential environment with the associated courtyard gardens. If the building were to be retained in its entirety it would also not be possible to provide the required access at this location. The architect has incorporated a corner bay feature into the design of the new building in an attempt to reflect the corner feature of the existing building and to mark the corner and provide a 'bookend'.





**Figure 53 – Extract from site layout plan showing position of proposed access and proposed corner feature of building at Southwell Road/Queen’s Parade.**



**Figure 54 – Proposed corner feature at Southwell Road/Queen’s Parade**

10.83 The remaining buildings proposed for demolition on Queen’s Parade (Nos. 5-12 and 35-41) are also highlighted as key features of the proposed ATC within draft BMAP. Under the previous permission, consent was granted for the demolition of Nos. 35-41 and 9-12 Queen’s Parade. It was considered that these buildings made no particular contribution to the character of the ATC. I would agree with this assessment. Nos. 9-12 and 35-41 are shown in the images below. While it is acknowledged that these buildings contribute to the overall historic fabric of the town centre given their vintage, they are simple in form and typical of many of the older buildings prevalent within the

wider Bangor area rather than just being specific to the ATC. In addition, the buildings do not display any particular architectural features of any significance or which would be considered to be a special characteristic specific to the ATC. I also consider that unfortunately the setting of the buildings and any potential they may have had to contribute to the appearance of the ATC, has already been significantly compromised by the demolition of a substantial portion of the Queen’s Parade frontage which has left a large gap in this important frontage for a considerable time now.



**Figure 55 – Existing Buildings at 35-41 Queen’s Parade Proposed for Demolition**



**Figure 56 – Existing Buildings at 9-12 Queen’s Parade**

- 10.84 Nos. 5-8 Queen's Parade are also now proposed for demolition as part of the current application. These buildings are shown in the image below and are considered to make more of a contribution to the appearance of the ATC than the other buildings along Queen's Parade, due to their feature bay windows, the ornate detailing around the fenestration and the presence of the large chimneys defining the roofscape. In addition, when read together with the Methodist church and the Red Berry Café building, Nos. 5-8 contribute to an attractive group of buildings at this end of Queen's Parade which represent a significant part of the historic fabric of the town centre.



**Figure 57 – Existing Buildings at 5-8 Queen's Parade Proposed for Demolition**

- 10.85 During the PAD meeting held with the developer's team in February 2018, the Planning Department advised that the above buildings were considered to be of historic interest and that they did make a material contribution to the appearance of the proposed ATC. The agent does not dispute the visual contribution that these buildings make, however, they have advised that it is not possible for the developer to retain and incorporate the buildings into the scheme. It is argued that if the properties along Queen's Parade were to be retained, it would not be possible to create the scale of development proposed. It is argued that in retaining the buildings at 5-8 Queen's Parade, the previous scheme did not consider the backlands to the buildings which sit at a different level to Queen's Parade. In order to secure the maximum regeneration potential, it is not possible to retain the existing buildings. The agent has explained that if the buildings were retained it would not have been possible to achieve the necessary floor to ceiling heights for the hotel, nor would it have been possible to create Trinity Way and Trinity Square. The demolition of the buildings allows the hotel to be tied into the existing site levels providing a direct access to Main Street with no need for steps along Trinity Way. If the buildings were retained, the backland area would remain as an under-utilised brownfield area rather than being transformed and being part of a series of vibrant, active public spaces. Taking all of these considerations into account, it is considered that the loss of the buildings at 5-8 Queen's Parade would be outweighed by

the benefits of providing maximum regeneration potential for the site, along with the provision of good permeability from Main Street to Queens Parade and high-quality public spaces. While the existing building exhibits some attractive features on its front façade, the high-quality design and materials proposed for the new hotel building will result in the creation of a new attractive feature building along Queen's Parade which is of its time and therefore will not result in any harm to the overall appearance of the proposed ATC. It is also material to the assessment that none of the buildings in question have met any of the criteria for listing.

- 10.86 The agent highlights that Queen's Parade has already been the subject of significant demolition works which have left large gaps in the street frontage and have had a blighting effect on the character of the urban waterfront. I would agree with this observation and also consider that the large gap in the frontage has lessened the potential contribution of the remaining buildings to the proposed ATC as their position and setting within a group or terrace of buildings has been damaged. The agent has also highlighted that the buildings proposed for demolition represent only 0.03% of the building stock within the proposed Bangor Central ATC. This small percentage is of relevance when considering the caselaw of the South Lakeland case which established that the impact of a development must be considered in the context of the designation as a whole, rather than just a particular part of a Conservation Area or ATC.
- 10.87 As established in the Athletic Stores case, it is also important to consider the extent to which the proposed works would bring substantial benefits to the community, in particular by contributing to the economic regeneration of the area or the enhancement of its environment which would decisively outweigh the loss from demolition. Queen's Parade is recognised within draft BMAP as a Development Opportunity Site. Over the last 20 years, the lands have been identified by DSD, now DfC, and the site has been assembled at a cost of c£9m, as a priority site for intervention which has been pursued by way of the development scheme and vesting notice. Significant public funds have been expended in acquiring the land necessary to bring forward a development scheme which is now the basis of this current planning application. The proposal being pursued by the applicant is a £50m regeneration project which, it is estimated will sustain 100 full time construction jobs per annum over the 4.5 year build out period and 700 jobs once operational. Notwithstanding the economic benefits of the proposal, the overall quality of the urban environment will be significantly improved through the redevelopment scheme which will result in the removal of a blight and years of dereliction.
- 10.88 The proposals also evolved through extensive engagement with the local community and key stakeholders as outlined under the consideration of the pre application consultation process. The feedback received from the public demonstrated support for the project vision and its objectives along with a general appreciation that existing buildings within the site needed to be demolished if the development potential for the entire site was to be realised.
- 10.89 The consideration of the merits of alternative proposals is another material factor to be considered. The development scheme previously approved in 2015

was generated on the basis of feedback received from the public and key stakeholders over a six month period by testing a series of five options. The options set out the impacts of different levels of demolition and explained the consequences this would have delivering the regeneration objectives for the site.

- 10.90 In weighing up all of the material considerations, it is important to highlight that draft BMAP makes reference to the role of DSD, now DfC, in the delivery of regeneration objectives for Bangor Town Centre with the purpose of maximising the opportunity for physical, economic and social development – the same principles enshrined within the SPPS in terms of sustainability. Within the meaning of these broad objectives the draft Plan further states:

*‘ ... ... DSD is committed to promoting a vital and viable town centre for Bangor by helping it to adapt to changing circumstances and helping to maximise the contribution it makes to the prosperity of Northern Ireland.’*

To facilitate this:

*‘... ... DSD will promote administrative arrangements that help to achieve better management and strategic planning for Bangor Town Centre; the development of a vision for the future; and a partnership approach involving all those in government, local authorities and the private sector who have an interest in the success of Bangor Town Centre.’*

- 10.91 The draft Plan notes that Development Schemes prepared by DSD are a material consideration to be taken into consideration at the planning application stage. It is in this context, alongside all of the other material considerations assessed above, that I consider that the demolition of all of the identified buildings is required to meet the greater public interest and to achieve the status of the town envisaged within the Regional Development Strategy. The key features of the buildings to be demolished have been carefully scrutinised and the proposal’s design has taken cues from these features and reflected them within the design put forward.

## **ATC2 New Development in an Area of Townscape Character**

- 10.92 Policy ATC2 states that development proposals in an Area of Townscape Character will only be permitted where the development maintains or enhances its overall character and respects the built form of the area. Any trees, archaeological or other landscape features which contribute to the distinctive character of the area will be required to be protected and integrated in a suitable manner into the design and layout of the development.
- 10.93 Policy ATC2 of APPS6 applies only to designated ATCs and not to proposed ATCs. As it is not known how any lawfully adopted BMAP will describe the overall character of the area to be designated, it is not possible to assess the impact of the development on that character. However, regardless of the lack of a policy context, the impact of the development on the overall character of

the proposed ATC remains a material consideration and can still be objectively assessed.

- 10.94 Whilst draft BMAP included Key Design Criteria for Areas of Townscape Character, the Planning Appeals Commission in its report into objections to the draft Plan considered it difficult to see how a list of 24 criteria could possibly capture the diversity of character found within the areas designated through the Belfast Metropolitan Area. It also referenced concern that the restrictive nature of the criteria in some areas could inhibit regeneration, could make schemes unviable or would fail to make more efficient use of urban land. Whilst the Regional Development Strategy makes it clear that increased densities should not be interpreted as a broad mandate for overdeveloped or unsympathetic schemes. The PAC concluded that this rigid set of criteria could represent a barrier to acceptable redevelopment or regeneration schemes coming forward. In its final recommendations, the PAC specified a detailed character analysis be undertaken and a design guide produced for each Area of Townscape Character as supplementary guidance to the Plan. In the absence of such character appraisals the Council can only objectively assess the impact of the proposed development on the general appearance of the area, rather than the impact on any distinctive character of the area.
- 10.95 Whilst the precise character of the ATC cannot be defined at this point given the lack of a specific detailed character analysis, the design of the scheme can still be assessed against the context of the surrounding built form. The proposed ATC covers a large area extending from the Belfast Road to Victoria Road in the north and Broadway in the east. Within this large ATC there is a wide variety of different built forms and architectural styles from various eras ranging from the more historical Victorian buildings, inter war buildings, late 20<sup>th</sup> century buildings and contemporary buildings. For Conservation Areas, case law (South Lakeland District Council v Secretary of State for the Environment (1992)) has established that it is the effect on the character and appearance of the Conservation Area as a whole to which attention must be directed and that preserving the character or appearance of a Conservation Area can be achieved by a development which leaves this unharmed, i.e. the 'no harm' test. It is established planning practice to apply this interpretation of policy in the assessment of proposed developments within ATCs, considering the effect on the area as a whole rather than just the effect on a particular part of the ATC. In the absence of any guidance for Bangor Central ATC, the impact of the development on the appearance of the proposed ATC as a whole must therefore be considered.
- 10.96 There are some fine examples of Victorian, Edwardian and Inter War architecture within the immediate vicinity of the site including the residential terrace on Queen's Parade to the north west of the site, the Red Berry Café building at the corner of Main Street/Queen's Parade and the Royal Hotel building as shown in Figure 58 below. Draft BMAP also provides a list of key features within the Main Street/High Street/Queen's Parade/Quay Street area. Equally however, there are also many examples of more modern buildings both within the immediate vicinity of the site and within the proposed ATC as a whole. Figure 60 below shows several examples of these on Main

Street. While these buildings are very different to and may not be as attractive as the historical buildings, they nevertheless form part of the established built form and appearance of the area and it is this varied context in which the proposal must be assessed as to whether or not it would cause harm to the overall appearance of the area.



Figure 58 – Examples of fine historical architecture in vicinity of site

- Main Street / High Street (including Queen's Parade, Bridge Street and Quay Street)**
- Late Victorian properties on Main Street together with a number of listed Georgian, Victorian and inter-war buildings, set back from the building line, adding further interest to the streetscape;
  - Views over the Bay from High Street and Main Street;
  - Late Victorian buildings on High Street, including several three storey, highly decorative buildings, closing the junction of High Street and Bridge Street;
  - Two distinctively curved corner buildings, dating from the 1860's on each side of High Street;
- The square rubble stone tower of the seventeenth century Customs House at the north end of Quay Street, reputedly the oldest intact building in Bangor;
  - Victorian, Edwardian and inter-war buildings in Quay Street, including the former Belfast Bank (1860); Windsor Bar (1900); the Royal Hotel (1934); and
  - The Methodist Church (1890) and a number of original three storey Victorian terraces on Queen's Parade.

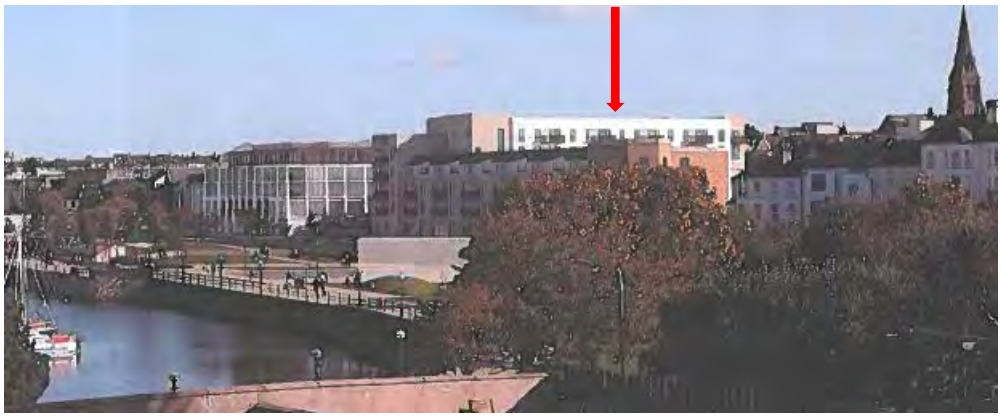
Figure 59 – Key features listed in Draft BMAP for area of proposed ATC relating to site



Figure 60 – Examples of modern architecture on Main Street



10.97 As explained in the above consideration under PPS6, the Council raised a number of concerns in relation to the design of the original submission and its potential adverse impact on the townscape setting and appearance of the area. The primary concern was the additional floor on the section of the apartment block facing Market Square (as indicated by red arrow in Figure 61 below). The overall height and massing of this block was considered to be excessively dominant and was considered to give an imbalanced appearance when viewed in the context of the lower height of the hotel on the opposite side of Market Place. In response to the Council’s concerns, the additional floor facing Market Place was removed, as shown on the revised CGI image in Figure 62 below. However, as a result of this, only one residential unit was lost as an additional set back floor was added to the block facing Queen’s Parade to compensate for the units lost (also shown in Figure 62 below). This addition was considered to be acceptable within the townscape setting as given its set back of 8m from the Queen’s Parade elevation, it would not appear dominant and the additional height also provides a better sense of balance with the height of the hotel.



**Figure 61 – CGI image of original submission showing additional floor on apartment block facing Market Place.**



**Figure 62 – CGI image showing amended scheme with top floor facing Market Place removed and replaced with additional floor fronting Queen's Parade**

10.98 Another concern raised by the Council was the massing and height of the office block and its resulting dominance which will be visible protruding above the Red Berry Café building. The Council emphasised that the buildings on Queen’s Parade should remain predominant and that any new buildings to the rear should appear subordinate or at least follow the established built form which rises up gradually along Main Street. The agent advised that it would not be possible to reduce the height of the office building as the developer requires a certain amount of office floor space. Instead, the architects amended the design to provide a simplified more lightweight glazed approach with finer parapet detailing to reduce the bulky appearance. Two elements on the roofs of the office building and the hotel as indicated by the red arrows in figure 63 below were also removed again to reduce the bulk on the roof and to provide a more streamlined appearance.



**Figure 63 – CGI image of original submission showing hotel and office building to the rear**



**Figure 64 – CGI image showing amended roof treatment to office block and hotel**

10.99 The CGI images submitted were taken from identified critical viewpoints from within the proposed ATC. The main critical views of the development will be from Queen’s Parade itself and from Bridge Street and Quay Street. The images in figure 65 below show the existing and proposed

views of the site from Bridge Street. From this view, the height of the buildings does not appear overly prominent or out of keeping within the site's context. While the scale and massing of the buildings are larger than the majority of nearby buildings, the colours proposed for the finishes are light and subtle in keeping with the existing buildings and the rhythm and vertical emphasis of the fenestration also reflects the strong vertical emphasis displayed on the more traditional buildings, all of which will enable the new buildings to satisfactorily integrate with the existing built form. It is considered that the proposed design will reflect a fresh contemporary image much needed for this unique and special site and this is much more preferable to an alternative pastiche design which would run the risk of appearing very bland and uninteresting. The outline of one of the two proposed 'Pavilion' buildings to be located within the Marine Gardens area is also visible in the proposed CGI image. The developer is unable to provide any detailed design specifications for these 'Pavilion' buildings at the current time. However, it is confirmed that their end use will be for food and beverage and any planning approval forthcoming would be carefully conditioned to stipulate that the height and floorspace of the buildings shall not exceed that shown on the submitted plans and that construction of the buildings shall not commence until details of the design and finishes have been submitted to and approved by the Council. A particular concern with the final design of these buildings will be the screening of plant and storage as given their location within the public realm area they will be very open and visible from all sides. This will need to be very carefully considered in the final design.



Figure 65 – Existing and proposed views of site from Bridge Street

10.100 The new office building on Main Street will replace existing flat roof modern buildings and its built form and design will therefore not be out of keeping in the street with similar flat roofed buildings also adjacent. The existing buildings to be replaced are not terribly attractive and it is therefore considered that the new building will not harm the appearance of this part of Main Street. Whilst the new building will be a floor taller than the other buildings on Main Street, and this additional height was raised as a concern with the agent, the developer is unable to remove this as it is argued that a certain amount of office space is required in order to make the scheme viable. However as outlined previously, it is anticipated that any dominant impact of this additional height should be offset by the set back of the top floor from Main Street.



Figure 66 – Proposed Main Street elevation

10.101 The new apartment building on Southwell Road will display some characteristics similar to many of the more traditional buildings within the proposed ATC including vertical bay features and gables on the upper floor. The building will be taller than the existing buildings on the street however it is considered that this is acceptable given the location at the end of Southwell Road at the corner with Queen’s Parade. The finishes of the building will include facing brickwork and self-coloured render. The exact colour and specification of the brick will be conditioned to be agreed prior to commencement of development.



Figure 67 – Proposed Southwell Road elevation



**Figure 68 – Proposed cinema/destination building  
(reduced roof plant height not shown in this image)**

- 10.102 The proposed cinema building which will occupy a central position within the development will sit at an elevated position above Queen's Parade fronting onto the raised Market Square. However, the building will not appear overly dominant within its setting as its ridge height will actually sit below those of the adjacent apartment building and hotel building. Given its central position within the site, the building will be largely concealed from wider views from within the proposed ATC, with the exception of the main view from the area immediately to the front of the building in Market Place and Marine Gardens on the other side of Queen's Parade. The materials proposed for the building comprise, reconstituted stone cladding, fibre cement rainscreen cladding and metal rain screen cladding. Similar to the brick for the development, the final specification and colour of these materials will be conditioned to be agreed with the Council prior to the commencement of development. The contemporary design approach for this building is also similar to that of the destination building approved under the previous application.
- 10.103 In summary, taking account of all of the above factors, it is considered that on balance, the development will not harm the appearance of the proposed ATC as a whole. The site is at a key location within the town centre and has unfortunately been left undeveloped now for many years with extensive demolition having already taken place and the remaining buildings being in poor condition, taking away from the most attractive features of the ATC. The overall quality of the public realm to be created will enhance the setting of this whole section of the ATC. Instead of fronting onto an extensive hard surfaced car park, historic buildings will have a greatly enhanced aspect and setting of a well laid out and landscaped area of open space.

## **Planning Policy Statement 7: Quality Residential Environments**

### **Policy QD 1: Quality in New Residential Development**

- 10.104 Policy QD1 states that all proposals for residential development will be expected to conform to all of the criteria outlined below.
- 10.105 **(a) 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.**

The Impact of the development as a whole on the surrounding context within the proposed ATC, including the residential elements of the scheme, has been considered in detail above under Policy ATC2. Policy QD1 also requires that in Conservation Areas and Areas of Townscape Character, housing proposals will be required to maintain or enhance their distinctive character and appearance. To maintain the character or appearance means that the development should cause no harm. The residential elements of the mixed-use scheme are in two locations within the site. 12 duplex residential units containing two apartments in each unit are proposed on King Street and will replace the existing dilapidated terrace on the site. The scale and proportions of the block replicate the existing terraced pattern of development that strongly characterises King Street. The new terrace at two and a half storeys, will be slightly taller than the existing terrace but not so tall as to appear overly dominant in the streetscape as it will mirror the two and a half storey dwellings on the opposite side of the street. The roof line will step down with the sloping gradient of King Street towards Southwell Road. The vertical emphasis of the first floor windows also reflect the existing terraces and will continue the strong architectural rhythm these create along the street. Finishes including facing brick and fibre cement slates will respect the context. The brick specification and colour can be conditioned to be approved prior to the commencement of development.



**Figure 69 – Proposed terrace of duplex apartments on King Street**

The second residential element of the scheme comprises a complex of two blocks of apartments. The smaller of the two blocks will front onto Southwell Rd and will be four storey (fourth storey set back) containing 32 apartments. The second larger block will be 'L' shaped, fronting Queen's Parade and then turning to front the new Market Place within the development. The ground floor

of this block fronting Queen's Parade and the new Market Place will be occupied by retail and food and beverage units and will also contain public toilets and the lift for access from Queen's Parade to Market Place. This larger block will contain 81 apartments and will be 5 storey fronting onto Queen's Parade (fifth storey set back with the exception of the corner feature) and four storey fronting onto the raised Market Place.

As already explained in the above consideration, this residential block has very much been designed to reflect the bay elements of the more traditional Victorian terraces which are very characteristic of Bangor. It is considered that higher density apartments are the most appropriate form of residential development for this town centre location. The four to five storey height of the buildings is also considered to be acceptable given the prominent position of the Queen's Parade frontage within the town centre and the proposed aspect onto an expansive area of open space which is a setting that has the capacity to absorb taller buildings. The 'L' shaped block will address the corners of both Queen's Parade/Southwell Road and Queen's Parade/Market Place with bay corner features which will act as bookends at both ends of the block. A pitched roof to be finished in fibre cement slate is proposed to the fourth floor of the elevation facing Queen's Parade which will provide variety to the roofscape of the development and will reflect the roofscape of the more traditional buildings within the area. The set back fifth floor will be finished in a grey tone of fibre cement rain screen cladding to also reflect the darker colour of the roofs of the traditional buildings and to help it blend in as part of the overall roof structure. The elevation will also feature inset balconies enclosed by fine painted metal balustrades. The balconies are considered to be particularly acceptable here as residents will be able to take advantage of the views across the bay.



**Figure 70 – Photomontage showing roof design and proposed finishes of residential block fronting Queen's Parade**

The palette of materials for the residential blocks will include facing brick, reconstituted stone cladding and self-coloured render. The final specification

and colour of the facing brick can be conditioned to be approved prior to the commencement of development however it is anticipated that it will be light coloured brick with warm hues to blend sympathetically with the lighter colours of the traditional buildings lining the bay.

The proposed block fronting Southwell Road has also been designed to reflect the features of the more traditional buildings. The bay features have been continued on the front elevation of the building along with front facing gable features to the roof similar to those found on numerous other buildings within the ATC as shown in Figures 71 and 72 below. The building will have a maximum height of 17.5m. While this is higher than the buildings approved along Southwell road under the previous application, which had a maximum height of 14.8m, the upper floor of the proposed building will be set back 1.5m which will help to reduce any dominant impact of this additional height on the street. The main elevation of the building fronting the road will be 11.1m in height which is comparable to the height of other existing buildings on the street. The corner of the building at King Street has been designed to incorporate a small bay feature with windows similar to the adjacent building on the opposite side of King Street to address the corner.



**Figure 71 – Site of proposed apartment block on Southwell Road**





**Figure 72 – Proposed apartment building on Swallow Road shown in context of existing buildings**



**Figure 73 – Example of existing buildings with gable roof projections**

- 10.106 **(b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;**

The potential impact of the redevelopment scheme as a whole on features of archaeological importance has been considered above under policies BH2, 3 and 4 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage and found to comply with all policy requirements subject to conditions. The impact of the development as a whole on features of built heritage importance has also been considered in conjunction with HED and the assessment set out above under policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage. With regard to landscape

features, the existing trees along the southern side of Queen's Parade will be retained as these are an attractive feature along this stretch of the street. The majority of the existing trees within the Marine Gardens car park will be removed and replaced by a new comprehensive landscaping scheme appropriate to the proposed public realm area.

**10.107 (c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;**

Policy OS2 of Planning policy Statement 8: Open Space, Sport and Outdoor Recreation, deals specifically with public open space in new residential development which will be assessed in the consideration below. With regard to private open space, the policy advises that this can be in the form of gardens, patios, balconies or terraces depending on the characteristics of the development and the surrounding context. For apartment developments, the policy advises that private open space may also be provided in the form of communal gardens where appropriate management arrangements are agreed.

The proposed development will provide a variety of private open space for the apartments. The ground floor duplex units on King Street will each have a private yard area to the rear of around 9sqm and a separate enclosed bin store. The upper floor duplex units will each have a small roof terrace of around 17sqm also with a separate enclosed bin store at ground floor. This amount of private amenity space is considered to be acceptable for these small one and two bed units within the town centre location. Creating Places recommends a minimum of 10sqm per unit so the proposal would be in line with this when the separate bin stores are included.



**Figure 74 – Private communal open space proposed for apartments**

The 113 apartments within the two larger blocks will benefit from a private communal area of open space which will be landscaped and include space for a small play area. This communal area will equate to just over 10sqm per unit. In addition to this, each apartment will have a private balcony. Given the town centre location and the generous public open space provision proposed, the amount of private amenity space to be provided is considered to be appropriate. It is proposed that the residential courtyard will be managed and maintained by the developer. As no detailed proposals for the management and maintenance of the area in perpetuity have been submitted with the application, any approval will be subject to a condition requiring these details to be submitted to and approved by the Council prior to the commencement of development.

**10.108 (d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;**

The site is located in the town centre therefore there are adequate existing facilities.

**10.109 (e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;**

Given the site's town centre location local shops and services will be within walking distance. As outlined above under PPS3, the site is located adjacent to the National Cycle Network (NCN) Route 93 and parking for bicycles will be provided within the development. Level access to the apartments is provided with lifts in each block. Both Bangor bus station and train station are within walking distance of the site and traffic calming measures are proposed on Queen's Parade.

**10.110 (f) adequate and appropriate provision is made for parking;**

Parking provision for the redevelopment scheme as a whole is considered in detail above under PPS3.

**10.111 (g) the design of the development draws upon the best local traditions of form, materials and detailing;**

The design of the development has been assessed in detail in the above consideration against the policies contained within the Development Plan the SPPS, PPS6 Planning, Archaeology and Built Heritage and PPS6 Addendum Areas of Townscape Character.

**10.112 (h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;**

The mix of uses proposed for the site will complement the existing adjacent uses and given the town centre location, a wide variety of uses are already

characteristic of the area. The scheme has been carefully thought out and designed to ensure that none of the proposed uses will conflict with any of the uses immediately adjacent to the site.

Residential development is proposed on both King Street and Southwell Road to ensure that the primarily residential character of these streets is respected. As the proposed terrace on King Street will replace an existing row of terraced dwellings, there will be no unacceptable increase in the level of overlooking as a result of the development. While there will be kitchen windows at first floor level which will have the potential to increase the level of overlooking towards the existing dwellings on the opposite side of the road, this is not considered to be an unacceptable relationship in a town centre setting where apartments and flats with upper floor living rooms and kitchens looking out onto a public road are a common feature.

On Southwell Road, the proposed block of apartments will be positioned immediately opposite six existing dwellings at Nos. 4-12 Southwell Road. Nos. 4, 4a, 6a and 6 Southwell Road are two storey dwellings while Nos. 10-12 are larger two and a half storey dwellings. It is acknowledged that the overall height, scale and massing of the new block will be significantly greater than the existing buildings on the site and that as apartments are proposed, there will be living room windows on the upper floors of the buildings which may have the potential to increase the level of overlooking towards the existing dwellings on the opposite side of the street. However, it is considered that the separation distance of 14-18m between the opposing front elevations of the existing and proposed buildings will provide adequate mitigation against any unacceptable adverse impact with regard to overlooking or loss of privacy, particularly given the inner urban town centre location where more compact, higher density forms of development are to be expected and encouraged. Due to the location of the proposed apartment building to the north east of the existing dwellings on Southwell Road, there will be no unacceptable degree of overshadowing as the existing dwellings will still benefit from direct sunlight for the most part of the day. The previous planning permission for the site is also a material consideration as it already established the principle of a similar scale of apartments at this location. It could also be argued that the current proposal represents a betterment in terms of amenity as the main access to the development has been repositioned closer to the junction with Queen's Parade meaning that it will no longer sit immediately opposite the dwellings at 4-6 Southwell Road thereby reducing the impact of noise and general disturbance of vehicles entering and exiting the development. Furthermore, the new development will greatly enhance the overall appearance of the street as well as helping to deter crime and anti-social behaviour on what is currently a derelict site which in turn will improve the overall amenity of existing residents.

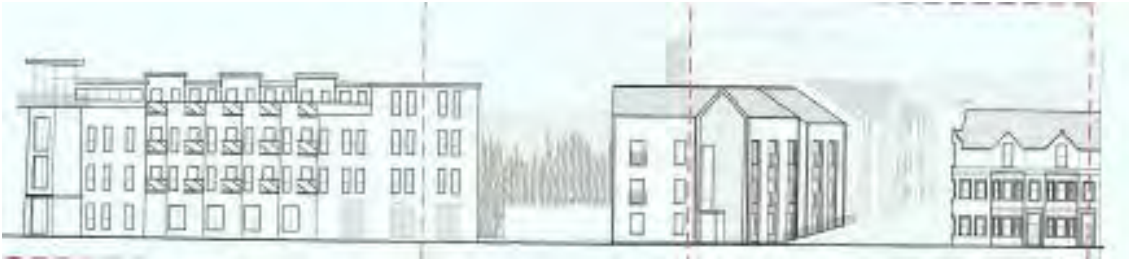


Figure 75 – Apartment development at Southwell Road approved under W/2014/0456/F



Figure 76 – Proposed Southwell Road elevation for current application



Figure 77 – Access position on Southwell Road approved under W/2014/0456/F and access position proposed under current application

There will be no significantly greater impact on the remaining existing properties at the junction of Southwell Road/Queen’s Parade. While there appears to be some residential accommodation on the upper floors of the building opposite the site, there is already a degree of overlooking between the upper floor windows of the two buildings and the previous permission also established the principle of a four story building at this location.



**Figure 78 – Relationship between existing buildings on Sowell Road with opposing upper floor windows**

Within the development itself, there will be a good degree of separation between the proposed apartment blocks which will all have an aspect out onto a private courtyard area. The apartments on King Street and a number of the apartments fronting onto Market Place will be in close proximity to the proposed cinema/leisure building; however, Environmental Health have carefully assessed the potential impact of noise and disturbance from this building and are satisfied that there will be no unacceptable adverse impact on the dwellings by way of noise or disturbance, subject to conditions. The apartments on King Street will also have the physical buffer of the access road and parking between them and the cinema/leisure building to help mitigate against any unacceptable noise levels. As servicing for the existing properties on Main Street is already facilitated via the Vennel off King Street, it is not anticipated that the continued use of this access for servicing will result in any significantly greater impact by way of noise or general disturbance to either existing or proposed residential properties. The majority of properties immediately adjacent to Vennel are also already in commercial use so the potential for an adverse impact on existing residential properties is low.

In summary, the overall layout and design of the scheme has been well considered and will not result in an adverse effect on the amenity of existing dwellings.

**10.113 (i) the development is designed to deter crime and promote personal safety**

I am satisfied that the development has been designed to deter crime and promote personal safety. All areas of open space will be well overlooked by the buildings within the scheme and the residential courtyard for the apartments will be gated and secure.

## **Planning Policy Statement 8: Open Space, Outdoor Sport and Recreation**

### **Policy OS1 Protection of Open Space**

10.114 The existing areas of public open space adjacent to the Marine Gardens car park will be retained as open space and incorporated into the overall layout for the new public realm area.

### **Policy OS2 Public Open Space in New Residential Development**

10.115 The policy requires that for residential developments of 25 units or more, public open space must be provided as an integral part of the development. In total, 1.62 hectares of public open space will be created as part of the overall redevelopment scheme. This includes the large public realm area at Marine Gardens and the Market Place square within the heart of the redevelopment scheme on the southern side of Queen's Parade. The 1.62 hectares will be well in excess of the normal expectation of a provision of around 10% of the total site area. The policy also requires that an equipped play area is provided for developments with more than 100 units. A play area is proposed at the western end of Marine Gardens and there is also ample room for the provision of a smaller play area within the private communal open space for the apartments.

10.116 The policy advises that planning permission will not be granted until the developer has satisfied the Department that suitable arrangements will be put in place for the future management and maintenance in perpetuity of areas of public open space required under this policy. Acceptable arrangements include:

- a. a legal agreement transferring ownership of and responsibility for the open space to the local district council; or
- b. a legal agreement transferring ownership of and responsibility for the open space to a charitable trust registered by the Charity Commission or a management company supported by such a trust; or
- c. a legal agreement transferring ownership of and responsibility for the open space to a properly constituted residents' association with associated management arrangements.

A plan indicating how the various areas of open space which will be managed and maintained has been submitted. This proposes that The Vennel, Trinity Way, Market Place and Trinity Square will all be maintained by the developer and will remain open for public access 24 hours seven days a week. The new public realm area at Marine Gardens is to be maintained and managed by the Council. The implementation of the public realm works by the developer would be secured through the developer agreement therefore it is not considered necessary to impose a planning condition in this respect. Finally, the residential courtyard and associated residential parking areas are to remain private and will be managed and maintained by the developer. A detailed management and maintenance plan for all areas of open space will

be conditioned to be submitted to and approved by the Council prior to the commencement of development as no details have been submitted with the application.

10.117 The proposed public open space will conform to all the criteria set out in the policy. It is designed in a comprehensive and linked way as an integral part of the development and is of demonstrable recreational and amenity value. It has been designed to be multi-functional with the capability of carrying out many different types of activities and hosting events. The communal open space for the apartments provides easy and safe access for the residents that it is designed to serve. The design, location and appearance take into account the amenity of nearby residents and the needs of people with disabilities; and it retains important landscape and heritage features such as the McKee Clock.

10.118 The steps leading from Queen's Parade up to Market Place have been designed to be a key feature of the development in that they will not only provide access but an opportunity for informal recreation as a place to stop and take in the sea views. It is proposed that the use of a lighting strategy will reduce the need for formal handrails and barriers. The Market Place is a central square in the heart of the development, similar in size to St Anne's Square in Belfast. This space will be used to accommodate markets, fetes and other outdoor community activities. Marine Gardens will include:

- a waterfront plaza offering views across the water
- terrace lawns and gardens which can be used as informal recreational spaces or to host formal public events.
- An enhanced promenade with canopies and landscaping incorporated to allow for year-round weather protection
- The introduction of kiosks and canopies to provide space for pop up events, exhibits and experiences

## **Planning Policy Statement 15 (revised): Planning and Flood Risk**

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

10.119 The site is bound at the west by a culverted watercourse, which is designated under the terms of the Drainage (Northern Ireland) Order 1973 and known as 'Clandeboye Stream'. The site is also traversed at the north east by a culverted watercourse, which is designated under the terms of the Drainage (Northern Ireland) Order 1973 and known as 'Ward Park Stream'.

10.120 The policy states that the development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy. The Planning Department is content that the proposed development meets the exceptions test of policy FLD1.

10.121 While the majority of the existing Marine Gardens car park falls within the 1 in 200 year coastal flood plain, given that the land is already developed (predominantly hard surfaced) and that the proposed use is for outdoor



recreational space (the majority of which is to be grassed), it is considered that the proposal would constitute a betterment to this area and that it would qualify as an exception under criterion F of policy FLD1 - *'The use of land for sport and outdoor recreation, amenity open space or for nature conservation purposes, including ancillary buildings. This exception does not include playgrounds for children.'*

- 10.122 The similar development approved under the previous application W/2014/0456/F which expired only recently on 19 July 2020, was also considered to be an exception under FLD1. This also proposed an outdoor recreation/amenity open space area within the existing car park including ancillary structures and small kiosks. The main difference with the current scheme is the addition of the two pavilion buildings within the area, one of which would sit outside of the flood plain. DFI Rivers has reviewed the submitted Flood Risk Assessment prepared by RPS and is content.

### **Policy FLD 2 Protection of Flood Defence and Drainage Infrastructure**

- 10.123 It is essential that an adjacent working strip is retained along the watercourses on the site to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times.

### **Policy FLD 3 Development and Surface Water Flood Risk Outside Flood Plains**

- 10.124 NI Water has advised that there is no public storm sewer available which can serve the proposal. As such the developer was required to liaise with Rivers Agency to ascertain if discharge would be possible to any local watercourses. If this option was not deemed viable, the alternative is to requisition NI Water to provide a suitable storm outfall sewer. In the initial Drainage Assessment submitted with the application, the developer presented two potential solutions for a new surface water drainage network to drain surface water from the proposed development; discharging to the local DFI Rivers culvert infrastructure in accordance with the Schedule 6 Consent to discharge or alternatively discharging via a new storm outfall to Bangor Marina (subject to agreement with NIEA). The applicant's preference would be to pursue a new outfall to the Marina, as it is believed this would present considerable betterment to the local DFI Rivers and NI Water sewer infrastructure; however, such a proposal would require considerable detailed design and agreement with the relevant stakeholders including DFI Rivers, NI Water and NIEA, all of which would take a considerable time. Therefore, the developer has adopted the more conservative approach and has obtained a Schedule 6 agreement based on the perceived worst-case option, whereby the proposed surface water drainage solution would see a controlled discharge (with an associated attenuation system) from the proposed development to the existing DFI Rivers culvert infrastructure. The Schedule 6 Consent was issued by Rivers Agency on 16 September 2019 and consented discharge at a greenfield runoff rate to Ward Park Stream and Clandeboye Stream.

Following the submission of detailed drainage design calculations and a layout, DFI Rivers Agency has confirmed that while not being responsible for the preparation of the Drainage Assessment, it accepts its logic and has no reason to disagree with its conclusions subject to the following condition:

*'Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Planning Authority for its consideration and approval.'*

### **Policy FLD 5 Development in Proximity to Reservoirs**

10.125 This policy specifies that new development will only be permitted within potential flood inundation areas of a controlled reservoir if:

- The applicant can demonstrate that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety, so as to enable the development to proceed;
- The application is accompanied by a Flood Risk Assessment (FRA) which demonstrates:
  1. An assessment of the downstream flood risk in the event of a controlled release of water, an uncontrolled release of water due to reservoir failure, a change in flow paths as a result of the proposed development; and
  2. There are suitable measures to manage and mitigate the identified flood risk, including details of emergency evacuation procedures.

10.126 For all development Policy FLD 5 concludes that there will be a presumption against development within the potential flood inundation area for any development located in areas where the FRA indicates potential for an unacceptable combination of depth and velocity.

10.127 DFI Rivers reservoir inundation maps indicate that the site is in an area of inundation emanating from Clondeboy Lake, Ballysallagh Upper Reservoir and Ballysallagh Lower Reservoir. DFI Rivers is in possession of information confirming that Ballysallagh Upper & Ballysallagh Lower impoundments have 'Responsible Reservoir Manager Status'. Consequently, DFI Rivers has no reason to object to the proposal from a reservoir flood risk perspective in relation to these two reservoirs. It has not, however, been demonstrated to DFI Rivers that the condition, management and maintenance regime of Clondeboy Lake is appropriate to provide sufficient assurance regarding reservoir safety so as to enable the development to proceed, as required under Policy FLD 5.

10.128 DFI Rivers has also carried out an assessment of flood risk to people at this site (*based on the Defra / Environment Agency's "Hazard to People Classification using Hazard Rating"*) for an uncontrolled release of water emanating from Clondeboy Lake should it occur. As a result of this analysis,

the overall hazard rating at this site is considered high. This is therefore considered by DfI Rivers to be an **unacceptable** combination of depth and velocity for this particular development proposal.

- 10.129 In Technical Guidance Note 25, produced by the Department for Infrastructure and entitled “The Practical Application of Strategic Planning Policy for ‘Development in Proximity to Reservoirs’”, dated June 2020, it is noted that the advice which DfI Rivers provides to planning authorities is a material consideration and the relevance and weight to be applied to it is a matter for the planning authority as decision maker.
- 10.130 Policy FLD 5 of PPS 15 was introduced in the review of PPS 15 as revised in September 2014. The Reservoirs Act (Northern Ireland) 2015, when fully commenced, will provide a proportionate regulatory framework for the maintenance and management of controlled reservoirs in order to protect people, economic activity, the environment and cultural heritage from flooding caused by an uncontrolled release of water due to reservoir failure. The introduction of this regulatory framework is dependent upon the commencement of relevant sections of the Reservoirs Act and the making of subordinate legislation.
- 10.131 DfI Rivers has recently updated Councils in respect of the background to and update on the Transfer of Functions Order which is currently with the Executive Office. It is intended that the Order will be taken through the requisite Assembly processes by mid-December 2020. This will have the outcome of transferring responsibility for reservoirs from DAERA to DfI. Once DfI has the authority to do so it will seek to take forward the various legislative process steps in order to implement the Reservoirs Act and the safety regime envisaged by it. It is envisaged that it will entail a longer period of time to introduce the regime to impose the onus on owners of reservoirs to comply with their obligations as set out within the Act. DfI will have oversight and enforcement responsibilities and capabilities.
- 10.132 The definition of a controlled reservoir is provided by section 1 to 5 of the Reservoirs Act. These sections have commenced and provide that a controlled reservoir is any structure or area that is capable of holding 10,000m<sup>3</sup> of water, or more, above the natural level of any part of the surrounding land.
- 10.133 The SPSS alongside the provisions of Policy FLD 5 of Revised PPS 15 provides that new development will only be permitted within the potential flood inundation area of a controlled reservoir if the applicant can demonstrate that the condition, management and maintenance regime of the reservoir is appropriate to provide sufficient assurance regarding reservoir safety, and the developer provides a flood risk assessment which includes, inter alia, an assessment of the downstream flood risk, including flood water depth, velocity and flow path issues.
- 10.134 Whilst there is no/insufficient evidence provided by the applicant regarding the condition etc., of Clandeboye Lake, an assessment of flood risk has been carried out and as stated Rivers Agency considers that the overall hazard

rating at this site is considered high. This is therefore considered by DfI Rivers to be an **unacceptable** combination of depth and velocity for this particular development proposal.

10.135 As stated above, a consultation response is one of many material considerations (including the previous approval which only expired in July 2020) to be balanced in the assessment of any planning proposal. In this case the reservoir of concern is located more than 2.6 km away from the site. The flood map has been modelled on a worst-case scenario of the collapse of Clandeboye Lake.

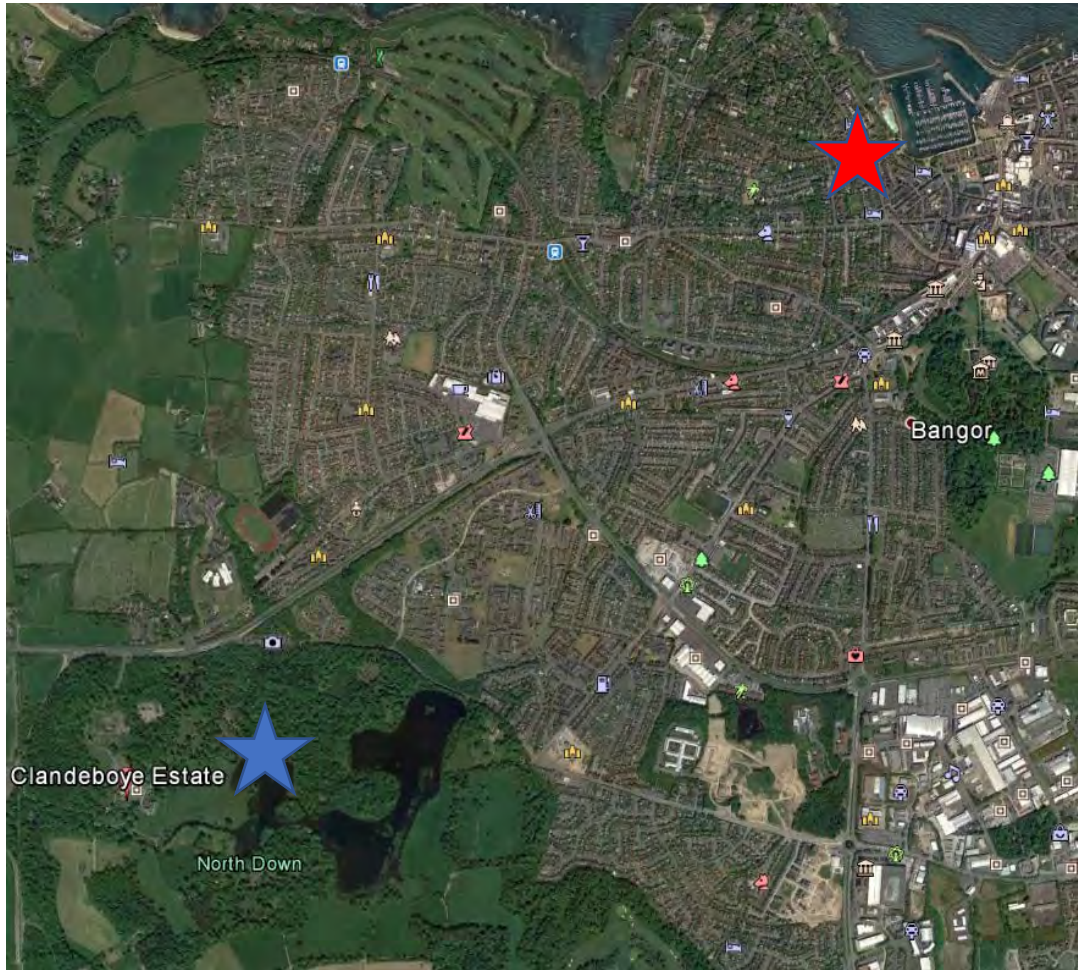
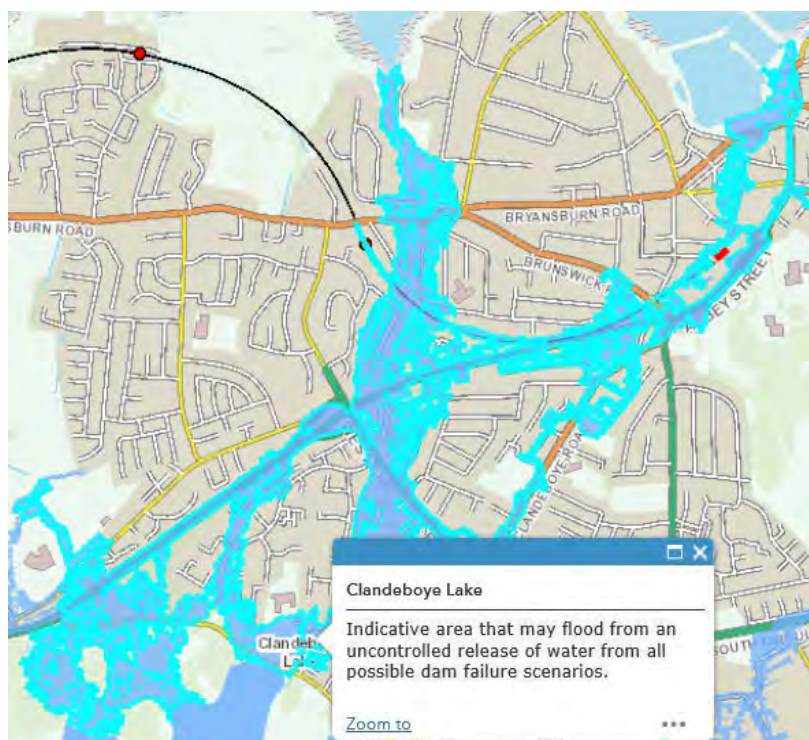


Figure 79 – Aerial image showing location of Clandeboye Lake (demoted by blue star) and Queen's Parade (demoted by red star)



**Figure 80 – Blue highlighted area denotes indicative area that may flood from an uncontrolled release of water from all possible dam failure scenarios (DFI Reservoir Flooding Map for Emergency Planning)**

- 10.136 The application site lies within an area where the submitted FRA has indicated certain areas having potential for an unacceptable combination of depth and velocity. The text at paragraph 6.61 of PPS 15 refers to a presumption against development rather than an outright ban or moratorium. As accepted by the Planning Appeals Commission in appeal decision 2018/A0098, the use of the word 'presumption' is not an absolute term and suggests that there could still be instances where a decision to approve a proposal might be acceptable. Also such an inundation is shown above to affect a large proportion of Bangor rather than just part of the application site.
- 10.137 This is a multimillion pound investment site that has been extremely long in the waiting for redevelopment. Over the past two decades several initiatives have been progressed between the former Department for Social Development and the Council and now the Department for Communities in conjunction with the Council, and some £9m of public money has been spent assembling the site with clean title to encourage submission of an appropriate development brief to regenerate and reinvigorate this strategic location within the town centre. DfC has expended further monies in site maintenance and security and upkeep in addition to the assembly costs. It is considered that the site is a brownfield site and it should also be highlighted that many of the existing buildings could be refurbished and extended at any time. Additionally, given the phasing of the project and the time to complete, it is possible that the outstanding matters relating to the introduction of subordinate legislation can be resolved to require compliance by the reservoir owner, and thus provide the requisite condition assurance.

- 10.138 The Planning Appeals Commission in its report on objections to draft BMAP in the context of this site accepted that a comprehensive redevelopment of this part of Bangor Town Centre was desirable. Further, in its report on objections received in relation to the proposed Vesting Order related to DSD's proposed Development Scheme, it acknowledged that the redevelopment proposals are to regenerate not only the site, but act as a catalyst for the wider regeneration of Bangor Town Centre.
- 10.139 Therefore, whilst recognising the harm that Policy FLD 5 seeks to protect against, I consider that the public interest in bringing a comprehensive redevelopment scheme to this dilapidated area significantly outweighs this particular policy non-compliance.
- 10.140 Should the Council approve this proposal, The Planning (Notification of Applications) Direction 2017 directs that where the council proposes to grant planning permission for development which has been the subject of consultation with Rivers under Article 13 of the Planning (General Procedure) Order (NI) 2015 and Rivers has raised a significant objection against the granting of planning permission, the Council must notify the Department for Infrastructure and not grant planning permission before the expiry of a period of 28 days, beginning from the date of receipt by the Department. The Department must then assess the application and determine whether it intends to issue a direction under section 29(1) of the Planning Act (NI) 2011 for the proposal to be dealt with by it. It is of note that were this application to be refused and appealed, and the Planning Appeals Commission approved it, there is no similar provision in place to caveat its decision in this manner.
- 10.141 It should be noted that should the transfer of powers in relation to the Reservoirs Act have transferred by that date from DAERA to DFI, then the DFI Minister would have responsibility for both Rivers and Planning, and require to address the tension in respect of significant regeneration and economic investment and potential danger to public health.

## **Planning Policy Statement 16: Tourism**

### **Policy TSM1 Tourism Developments in Settlements**

- 10.142 Policy TSM1 states that planning permission will be granted for a proposal for tourism development (including a tourist amenity or tourist accommodation) within a settlement, provided it is of a nature appropriate to the settlement, respects the site context in terms of scale, size and design and has regard to the specified provisions of the plan.
- 10.143 The elements of the redevelopment scheme that are related to tourism include the new hotel, the cinema/leisure facilities and the new public realm area, which will all draw tourists into the town centre. However, it is the endless opportunities that the redevelopment will present for events, fairs, markets, concerts, festivals etc. that will be the real tourism draw as a result of the

redevelopment and it is anticipated that it will act as a catalyst for further regeneration within the town centre.

- 10.144 The redevelopment will also become an integral part of the Council's plans to redevelop a 2.2 mile stretch of the seafront to help establish Bangor as a thriving town and prime visitor attraction in Northern Ireland, therefore it is important to consider how the proposed development will function within this wider context. The Bangor Waterfront Development, is a tourism-led regeneration scheme eligible to receive funding from the Belfast Region City Deal. Circa £40M is available for the development via this bespoke package of funding from Westminster, with the remaining investment coming from both the Council (approximately £20M) and the private sector (approximately £4M). An overall 'Development Framework' has been drawn up that outlines a long-term masterplan (15-20 years) for Bangor Waterfront. The Development Framework provides a sound basis for investment in the Waterfront area, supports wider strategic projects including the current proposals under consideration for Queen's Parade and the Council's Greenways proposals, and helps create the conditions for further private, public and community investment. It identifies the rationale for creating a necklace of developments as this will deliver more sustainable growth and regeneration throughout the town and the current proposals for Queen's Parade will form a key part of this 'necklace'.



Figure 81 – Map of proposed 'Bangor Waterfront Development'

- 10.145 Considering the proposed development within this wider context of plans for the regeneration of Bangor's waterfront as a whole, I am satisfied that the nature of the development is entirely appropriate for the town and will support the main aims and objectives of the development plan.

## Policy TSM 7 Criteria for Tourism Development

10.146 Policy TSM7 requires that a proposal for tourism use will be subject to the following criteria:

- (a) **a movement pattern is provided that insofar as possible supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport.**

As already outlined above, given the town centre location of the development it is well served by public transport and is within walking distance to both Bangor Bus Station and Bangor Train Station. The site is adjacent to a section of the existing cycling network and ample cycle parking is provided for on site. The development will promote walking within the town centre through the improvement of permeability from Main Street to Queen, Parade and the promenade with the provision of new pedestrian links and pedestrian priority crossing on Queen's Parade through the provision of a raised table. For those with impaired mobility, level access is proposed throughout the majority of the site and a lift will be provided adjacent to the steps down to Queen's Parade as well as a specially design ramp system which will also be suitable for prams and wheelchair users.

- (b) **the site layout, building design, associated infrastructure and landscaping arrangements (including floodlighting) are of high quality in accordance with published guidance and assist the promotion of sustainability and biodiversity.**

The scheme as a whole has been designed to a high quality. The detailed proposals for the landscaping will be conditioned to be agreed prior to the commencement of development. No floodlighting is proposed. The final details for lighting throughout the development will be conditioned to be submitted to and approved by the Council prior to commencement of development. The contemporary design of the hotel building will create a new landmark feature building for the town centre. The hotel has been carefully laid out to provide active frontages on all sides, onto Queen's Parade, Market Place and Trinity Square where a small spill out seating area is proposed.

- (c) **appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are screened from public view.**

Given the hotel's location on Queen's Parade, there is no requirement for screening or enclosure. The hotel has been purposely designed to have an active frontage both to the front and rear therefore there are no proposals for outdoor storage. The 'back of house' area to deal with linen, deliveries and bin storage will be located well out of public view at the rear of the building at basement level and accessed via the undercroft car park.



- (d) utilisation of sustainable drainage systems where feasible and practicable to ensure that surface water run-off is managed in a sustainable way.**

Surface water run off for the development as a whole is assessed in detail above under PPS15.

- (e) is designed to deter crime and promote personal safety**

The scheme has been carefully designed to deter crime and promote personal safety. All of the new public open spaces will have a high level of surveillance from the proposed buildings on the site. The new Market Place will be well overlooked by the apartments and the hotel which will front directly onto it and provide a 24/7 presence. Likewise, the smaller Trinity Square will also be overlooked by the hotel. Both the Vennel and Trinity Way provide wide direct accesses through to the central Market Place. The access from Main Street to Trinity Square is narrower however this access is only over a short distance and widens as it approaches the square. Approval of planning permission would be subject to a condition requiring details of all lighting to be submitted for approval prior to the commencement of development.

- (f) development involving public art, where it is linked to a tourism development, needs to be of high quality, to complement the design of associated buildings and to respect the surrounding site context.**

No public art is proposed as part of the current proposal; however, given the extent of public realm proposed within the redevelopment scheme, there will be ample opportunities for the inclusion of public art at a later date. Several locations have however been earmarked on the submitted landscaping plans for the 'Voyager', a piece of public art commissioned by the Council.

- (g) it is compatible with surrounding land uses and neither the use or built form will detract from the landscape quality and character of the surrounding area.**

The proposed mixed-use development is compatible with surrounding land uses which already include a mix of commercial, recreational and residential uses. The impact of the development upon the character of the surrounding area is considered in detail above under the development plan policies and PPS6 Addendum Areas of Townscape Character.

- (h) it does not harm the amenities of nearby residents**

The proposed development will not cause any unacceptable harm to the amenities of nearby residents. The development proposes to retain residential use on both King Street and Southwell Road which are already primarily residential. The impact on the existing residential properties is considered in detail above under PPS7 Quality Residential Environments.

- (i) **it does not adversely affect features of the natural or built heritage**  
The proposed development will not adversely affect features of natural or built heritage. See detailed consideration above under PPS2 Natural Heritage and PPS6 Planning, Archaeology and the Built Heritage.
- (j) **it is capable of dealing with any emission or effluent in accordance with legislative requirements. The safeguarding of water quality through adequate means of sewage disposal is of particular importance and accordingly mains sewerage and water supply services must be utilised where available and practicable.**  
Proposals for sewage disposal in relation to the development as a whole have been considered in detail below under 'Other Material Considerations'. Both SES and NIEA have been consulted with regard to the potential impact on water quality and designated sites and are satisfied that subject to the recommended mitigation, there will be no significant effect.
- (k) **access arrangements must be in accordance with the Department's published guidance**  
DFI Roads has been consulted and is content that access arrangements are in accordance with the published guidance. See detailed consideration above under PPS3 Access, Movement and Parking.
- (l) **access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic**  
DFI Roads has been consulted and is content that the proposed accesses will not prejudice road safety or significantly inconvenience the flow of traffic. See detailed consideration above under PPS3 Access, Movement and Parking.
- (m) **the existing road network can safely handle any extra vehicular traffic the proposal will generate**  
A detailed Transport Assessment has been submitted with the application and considered by DFI Roads. See detailed consideration above under PPS3 Access, Movement and Parking.
- (n) **access onto a protected route for a tourism development in the countryside is in accordance with the amendments to Policy AMP3 of PPS3, as set out in Annex1 of PPS21.**  
Not applicable as this site is inside a settlement limit.
- (o) **it does not extinguish or significantly constrain an existing or planned public access to the coastline or a tourism asset, unless a suitable alternative is provided**  
The proposed redevelopment will greatly improve and enhance public access to the coastline.

## **Other Material Considerations**

### **NI Water Network Capacity**

- 10.147 NI Water has confirmed that the receiving Waste Water Treatment facility (North Down WWTW) has sufficient capacity to serve this proposal however it has advised that a Network Capacity Check (NCC) is required for the watermain. There is a 1200mm diameter public foul sewer located within Quay Street, however there is downstream incapacity, therefore a network capacity check for the foul sewer is also required.
- 10.148 NI Water has also advised that there is no public storm sewer available which can serve the proposal. As such the developer is required to liaise with Rivers Agency to ascertain if discharge would be possible to any local watercourses. If this option is not deemed viable, the applicant may wish to requisition NI Water to provide a suitable storm outfall sewer. In the initial Drainage Assessment submitted with the application, the developer presented two potential solutions for a new surface water drainage network to drain surface water from the proposed development; discharging to the local DFI Rivers culvert infrastructure in accordance with the Schedule 6 Consent to discharge or alternatively discharging via a new storm outfall to Bangor Marina (subject to agreement with NIEA). The applicant's preference would be to pursue a new outfall to the Marina, as it is believed this would present considerable betterment to the local DFI Rivers and NI Water sewer infrastructure however such a proposal would require considerable detailed design and agreement with the relevant stakeholders including DFI Rivers, NI Water and NIEA, all of which would take a considerable time. Therefore, the developer has adopted the more conservative approach and has obtained a Schedule 6 agreement based on the perceived worst case option, whereby the proposed surface water drainage solution would see a controlled discharge (with an associated attenuation system) from the proposed development to the existing DFI Rivers culvert infrastructure. The Schedule 6 Consent was issued by Rivers Agency on 16 September 2019 and consented discharge at a greenfield runoff rate to Ward Park Stream and Clandeboye Stream.
- 10.149 As NI Water has advised that it will take between 3-6 months for a watermain NCC and 6-18 months for a foul sewer NCC to be carried out, the Council is content that these checks can be completed prior to the commencement of development in line with the relevant legislation outside of the planning process. The previous planning permission for a similar scale of development on the site is a material consideration. While the current application proposes an additional 57 residential units and an additional 5000sqm of office floorspace, it also only has one hotel instead of two as originally proposed and approximately 3000sqm less of retail and leisure floor space. Therefore, the overall scale of the development currently proposed is not considered to be significantly greater than that which was previously approved. NI Water was consulted on the previous application and did not request any Network Capacity Checks. Since the previous planning permission was granted, there have been no other significant developments approved or constructed within

this area of the town centre therefore there has been no increase in a potential cumulative impact on the network in the intervening period.

- 10.150 In summary, the question of securing an acceptable connection for the water, foul and storm sewer lies with NI Water. The response received highlights that there is no issue with the WWTW as it has capacity. The issue is whether or not the existing watermain and foul sewer networks require upgrading as a result of the proposed development, and that is a matter for NI Water to consider and approve under separate legislation.

### **Contaminated Land**

- 10.151 A Contaminated Land Assessment prepared by Atkins has been submitted with the application. An initial Contaminated Land Assessment (dated October 2014) was carried out for the previous planning application on the site (W/2014/0456/F). The 2019 assessment submitted with the current application, reviews this initial assessment and does not note any fundamental changes to the Preliminary Risk assessment (PRA).
- 10.152 Since the 2014 assessment it is noted that there has been a reduction in the Generic Assessment Criteria (GAC) breaches for Benzo(a) pyrene and Nickel and these no longer exceed the current GAC. However, it is noted that brown and white asbestos are still above the acceptance level which will be a risk to construction workers and will need to be addressed with appropriate health and safety planning and working methods. Section 5.5.1 of the Contaminated Land Assessment outlines how the Asbestos should be managed.
- 10.153 Localised elevated levels of hydrocarbons were detected in the shallow groundwater which has been attributed to potential fuel spills and or materials in the made ground layer. This existing made ground will be removed during construction and methods have been detailed to deal with groundwater if it is encountered during construction. The gassing regime on the site has been classified as Characteristic Situation 1 and as such no gas protection measures are deemed necessary. Therefore, with regard to contamination, it is considered that there will be no adverse impacts on environmental or human receptors as a result of the proposed development subject to the various mitigation measures outlined in the submitted assessment and set out in the proposed planning conditions.

### **Noise Impact**

- 10.154 A Noise Impact Assessment, prepared by RPS has been submitted with the application and considered by the Council's Environmental Health Department. The submission carried out baseline monitoring of noise levels in order to confirm day and night-time levels at 4 locations around the site. The potential impact resulting from both the construction phase and the operational phase were assessed and mitigation measures outlined in the report.

- 10.155 It is acknowledged that during the construction phase of the proposal, noise levels in the vicinity will be increased for a temporary period, therefore, it is recommended that a number of conditions are attached to any planning permission in order to reduce the potential impact.
- 10.156 In relation to the residential properties, the dominant noise impact will be due to traffic noise. Subsequently, upgraded glazing and alternative ventilation has been recommended for all habitable rooms in order to meet internal criteria specified in BS 8233. Commercial/retail units are noted to be proposed on the ground floor of block A and the basement level of Block B with apartments above. As detailed design information is not available at this stage to confirm possible plant and equipment which may be associated with the commercial units, derived noise levels have been predicted and set based on background levels. Approval would be subject to a condition requiring submission of details of all plant for approval prior to commencement of development.
- 10.157 In relation to the proposed hotel, noise levels obtained were also used to set glazing/ventilation criteria for the hotel rooms and derived noise threshold limits used for any plant/ equipment to be associated with the hotel. No design details have been provided for the cinema. It is agreed that the operators of the cinema will not want external break in of noise as well as break out which has the potential to disturb the occupants of nearby residential accommodation. A series of conditions (see planning conditions section of report below) are recommended to ensure mitigation against noise impact throughout the operational phase of the development.

### **Air Quality**

- 10.158 An Air Quality Impact Assessment, prepared by RPS, has been submitted with the application. The assessment considers the impacts from both the construction phase and once the proposal is fully operational.
- 10.159 During the construction and demolition phase the issues relate to dust and emissions from construction related vehicles. A detailed construction dust assessment has been undertaken with reference to IAQM guidance on the assessment of dust from demolition and construction, with the site being designated medium/high risk. Consequently, the submission details mitigation measures which will control the emission of dust and reduce the impact on nearby receptors. Exhaust emissions from construction related vehicles and heavy goods vehicles are deemed unlikely to have a significant impact on local air quality and thresholds set within the IAQM guidance regarding the increase of heavy duty vehicle flow are not expected to be exceeded during the construction phase.
- 10.160 For the operational phase of the development, predicted arrivals and departures to/from the proposed development are deemed to have a negligible/moderate effect with respect to nitrogen dioxide and particulates. Overall, it has been confirmed that the impact on air quality is not considered to be significant when judged against current policy. Emissions from any

associated combustion plant has also been considered, it is accepted that detailed full design information is not available at this time and this will be provided once confirmed. A series of conditions (see planning conditions section of report below) are recommended to ensure mitigation against impact throughout the operational phase of the development.

## 11. Consideration of Representations

- 11.1 A total of nine representations in support of the application and four representations objecting to the application have been received. The main issues raised are summarised and considered below.

### Representations in Support

- 11.2
1. Joyce Jones, 4 Plantation Road, Bangor
  2. Emma Shannon, 42 Central Avenue, Bangor
  3. Natalie McOwat, 8 Abbey Park, Bangor
  4. Terri McKee, 14 Rathmore Avenue, Bangor
  5. George Browne, 41 Drumawhey Gardens, Bangor
  6. Graham McAteer, 2 Whitehill Drive, Bangor
  7. Craig Kane, 1 Marlborough Drive, Bangor
  8. Trevor Kennedy, 13 Bloomfield Court, Bangor
  9. Ian Nesbitt (no address provided)
- 11.3 Six of the above expressed general support and made no specific comments on the proposal.
- 11.4 Joyce Jones expressed a desire for enclosed market facilities which could be used in inclement weather conditions. Craig Kane welcomed any improvement to Bangor Seafront which would bring prosperity back to the town. The scheme will provide ample opportunities for market facilities. The public realm has been designed to be as flexible as possible to allow many different types of events to be accommodated including markets. While the current application includes no proposal for a permanent enclosed market, this is potentially something that could be accommodated in the future subject to appropriate assessment.
- 11.5 Mr Nesbitt who also wrote in support of the application, is of the opinion that developer and all their agents have demonstrated high levels of due diligence and governance controls in the execution of not only the processes but also in regards to their communications and responses with the statutory agencies. He considers that the development will boost the town centre's economy, and the morale of the local population, particularly in the current circumstances of the pandemic and requested a timely decision on the application.

## Representations of Objection

- 11.6
  1. Barry Patterson, 1 The Paddock, Elsinore Avenue, Bangor
  2. Gavan Reynolds, 15 Southwell Road, Bangor
  3. Geoff Sloan, 8A Gransha Road, Bangor
  4. John (Initials CJM – no surname provided)
  
- 11.7 **Barry Patterson RIBA** has raised concerns regarding the lack of parking provision for the public and visitors to the development and the loss of the existing parking at Marine Gardens without its replacement. Mr Patterson contends that if Bangor wishes to attract visitors, they will need somewhere to park. He has made the suggestion that the existing car park at Marine Gardens could be retained and an area of open space constructed over it at a raised level with an upper pedestrian walkway linking it to the development on Queen's Parade. Mr Patterson has also asked where and when a new Civic Centre will be provided for the Council and has suggested that the Flagship Centre could provide the Council with these facilities with a ready built car park of 600 spaces. Mr Patterson contends that the proposals currently submitted do not address Bangor's problems particularly in relation to the continued closure of shops in the town centre.
  
- 11.8 The loss of existing parking and the provision of new parking for the development has been assessed in detail in the above report. Studies carried out by the developer's Roads consultant have demonstrated adequate available capacity in other public car parks within a reasonable walking distance of the site to compensate for the loss of the existing car park at Marine Gardens. In line with the aims of the RDS and SPPS it is considered that the proposal will create a more pedestrian friendly town centre and reduce the reliance on private cars encouraging the use of alternative modes of transport. While Mr Patterson has suggested an alternative design solution for the Marine Gardens area, the Planning Department's duty is to objectively assess the current proposal before it which for the reasons detailed above, is considered to be an acceptable design solution which meets the aims and objectives of the Development Plan and Planning Policy. The issue raised regarding the location of a new Council civic centre is not a consideration within the remit of this current application
  
- 11.9 **Gavan Reynolds** has objected specifically to the proposals for the demolition of 11-17 Southwell Road (see Figure 82 below). Mr Reynolds contends that the four houses in question are physically peripheral to the development scheme, not required to meet the objectives of the scheme and not required for access to the scheme. He also raises concerns that the buildings are of a wholly different character to the overall scheme and that they make a material contribution to the character and appearance of the Area of Townscape Character.
  
- 11.10 DfC requested the Planning Appeals Commission to hold a public inquiry into its proposed Development Scheme and Vesting Order which specifically included this terrace, No. 15 being that which Mr Reynolds occupies in part. As

stated within the Commission's report, the property at 15 Southwell Road is an integral part of a terrace of 4 dwellings. The property is a traditional 3 storey bay fronted dwelling which has been converted and subdivided into 4 one bedroom apartments. The objector occupies one of the units and the remaining apartments are privately rented. The other 3 properties in the terrace are former dwellings which are currently vacant and boarded up. These properties have already been acquired by DfC.

- 11.11 In the consideration of the previous planning application on site, submitted by DSD, it was concluded that this terrace did not make a positive contribution as either a significant architectural element or historic feature in the townscape. These matters were also raised in objections to the planning application and were not found to carry determining weight. This is a comprehensive mixed-use development scheme, and demolition of these properties is deemed to be required in order to facilitate the proposal. The planning authority must assess the totality of the proposal before it, and in this case does not consider that any of these buildings make a positive contribution to the Area of Townscape Character.



Figure 82 – Existing buildings on Southwell Road

- 11.12 **Geoff Sloan RIBA** has objected to the development proposal on the grounds that it fails to adequately meet the requirements of the SPPS, Policy ATC2 of PPS6 Addendum: Areas of Townscape Character, PPS7: Quality Residential Environments and the Creating Places and Living Places Guidelines. Mr Sloan is concerned that the current proposals represent an 'overly commercial' response to the redevelopment of the area and fail to provide sensitive solutions to the needs of the town, the Area of Townscape Character, the public realm (including parking provision) and the town centre residential provision. Mr Sloan contends that the concerns he raised during the public consultation process have been ignored. These concerns are summarised and considered as follows:



- *The architecture of the scheme displays a lack of understanding of the history and architecture of Bangor's historic town centre and fails to create a 'sense of place' which would integrate it into the area.*

I agree that the architecture and design of the proposed development does not strongly reflect the more traditional Victoria architecture within the ATC; however, I do not agree that the proposal fails to create a sense of place. The wide variety of uses proposed along with the extensive areas of proposed public open space with endless opportunities for all sorts of event to be held, will provide a new focal point to the town centre focused around the much-improved connection with the sea and marina area. The SPPS and indeed Living Places both highlight that good design is not just about the architecture and appearance of buildings, rather it is about how the buildings and the spaces around them relate to each other. Living Places refers to the importance of creating vibrant and diverse urban centres which are formed by a concentration of different uses, services and facilities, thereby attracting different people over a sustained period of time. It is considered that the proposed development with its wide variety of uses will achieve this. With regard to the architecture and design of the proposed buildings themselves, the impact on the appearance of the proposed ATC has been considered in detail in the above report. It is acknowledged that the scheme proposes a contemporary approach to design. Given the extensive demolition that has already occurred, it is considered that the site offers an ideal opportunity to introduce a fresh contemporary approach which will complement and contrast with the historical buildings within the wider ATC rather than attempt to replicate them.

- *The grain and materiality of the proposed buildings fail to acknowledge and respond to the fine grained, largely Victorian Architecture of the ATC. The architecture of the proposed hotel is extremely out of character with the location, more closely resembling a city office building.*

I agree that the development as a whole does not replicate the finer grain of the Victoria architecture within the proposed ATC and that the proposed hotel building does not make any obvious attempt to reflect the character of the more traditional buildings; however, as explained above, it is considered preferable to adopt a design solution that will create high quality contemporary buildings on this site. It is considered that an attempt to replicate the grain and materiality of the existing historical buildings would actually undermine the attractive traditional characteristics of these buildings. The application site actually offers an ideal opportunity to introduce a fresh contemporary approach to architecture within the town centre as it could almost be said to sit on its own 'island' between Main Street and Southwell Road set apart to a large degree from the really good examples of residential Victorian architecture further along Queen's Parade beyond Gray's Hill and on the opposite side of the Bay at Quay Street with the Courthouse and the old Royal hotel buildings. It is considered that this contrast of architectural styles will provide interest and variety to the appearance of the town centre.

- *The use of grey brick for the proposed apartments and townhouses is inappropriate to the town and its setting.*

I agree that the proposed use of grey brick is not characteristic of the setting. This concern was raised with the agent on several occasions during pre-application discussions; however, the agent advised that painted render or self-coloured render would not be practical for the exposed coastal location. It is recommended that any planning approval is subject to a condition requiring the final colour and specification of the brick to be agreed with the Council prior to the commencement of development.

- *The massing of the various blocks is too heavy and out of character with the ATC*

I agree that the scale and massing of the buildings is significantly greater than existing buildings within the ATC; however, determining weight is being afforded to the overall regeneration benefits of the scheme in this case.

- *If the proposed development is to bring increased footfall to the area then adequate additional parking close to Queen's Parade is essential. The proposed car park on site only provides for the needs of the proposed development.*

The provision of additional parking beyond that required to serve the proposed development is beyond the remit of this planning application. A detailed analysis of the proposed parking provision for the development is set out in the above report.

- *The considerable level difference between Queen's Parade and the proposed central square creates a significant psychological and visual barrier between the two which is further reinforced by the extensive stair and ramp configuration.*

I agree that the significant difference in levels between Market Place and Queen's Parade is not ideal. The Planning Department also raised this concern with the agent during pre-application discussions; however, the developer's design team was unable to provide a solution that would not require this difference in levels given the existing levels across the site and the specific requirements of the proposed development. Some minor amendments were however made to include the introduction of ramps and a slight reduction in the steepness of the steps.

- *Active, small scale frontage should be an extremely important element of the scheme including along the main Trinity Way linkage through to Main Street. It is not clear if the large unit forming the northern side of this route is to be broken up into smaller units – it is very important that it is.*

I agree that it would be preferable to have a more active frontage along Trinity Way, incorporating a number of different smaller units to create interest and vibrancy along the new access. The Planning Department also raised this concern with the agent who advised that the proposal could not be amended to incorporate individual units at Trinity Way as the developer requires a specific quantum of office space to make the overall scheme feasible. Living Places advises that it is important to design buildings in a manner which maximises the activation of ground floor frontages. This is achieved by locating activity generating uses on the ground floor of buildings and further ground floor activation can be achieved through the provision of outdoor spill out space for stalls and seating. While it is unfortunate that a more active frontage could not have been provided along Trinity Way, I am satisfied that the development scheme when considered as a whole, complies with these objectives. There will be ample active frontages at ground floor within the new Market Place, Trinity Square and along Queen's Parade with a variety of retail, leisure and food and beverage uses. Many of the proposed food and beverage units also propose spill out areas for outdoor seating, including Café Nero which will have outdoor seating onto Trinity Way.

- *The south east corner of the secondary space off central square is an important visual marker. This corner is currently occupied by circulation and is largely dead as regards 'active frontage'.*
- 
- As outlined above, the development scheme as a whole will have ample active frontage at ground floor.
- *Consideration should be given to introducing planting into the Vennel route leading on to King Street.*

Planning approval would be subject to a condition requiring detailed landscaping proposals to be submitted for approval prior to the commencement of development.

- *All public space in private ownership should remain open 24/7 year-round. This should be a condition of planning permission.*

I would agree that in the interest of permeability and to encourage a robust night time economy to become established, the proposed areas of public open space should remain open 24/7 and any planning permission should be subject to a condition to secure this.

- *The proposed cycle parking and visitor information building would be better located in a prominent position at the bottom of Main Street.*

No cycle parking/visitor information building is proposed as part of this Application. The kiosks and pavilion buildings are described in the description as being for food and beverage; should it be considered in future that the pavilions would be better suits to an alternative use such as for a

visitor information centre or cycle hub, further applications can be submitted and assessed accordingly.

11.13 Whilst the pre-application community consultation is an important component of any major development application to encourage public engagement and invite opinions on the initial scheme, the Planning Department considers that the scheme has evolved significantly from the initial tender submission, through various iterations to the final assessed proposal. Whilst public opinion is crucial, it will never be possible to develop a scheme that will meet everyone's tastes or aspirations. The Planning department has carefully assessed the proposal before it and is content that the elements when taken as a whole are acceptable.

11.14 **John (initials CJM)** has raised the following concerns:

- *The sea should be brought closer to Queen's Parade as it was historically rather than an area of open space.*

Bangor Marina is now located immediately adjacent to the proposed area of open space therefore it would not be possible to reinstate the original beach.

- *It is disappointing that the proposals involve the removal of the old sea wall which currently forms the boundary between the Marine Gardens car park and Queen's Parade.*

The original stone sea wall will be retained for the most part. Only sections of it will be removed to allow the creation of new points of access into the public realm area.

- *The hotel building fronting Queen's Parade is too wide and the flat roof is not sympathetic to the traditional style of Bangor. The building is similar to a new building on Chichester Street in Belfast and not suited to Bangor.*

The design and impact of the proposed building has been assessed in detail in the main body of this report.

- *The existing traditional buildings on Queen's Parade are being demolished and replaced with modern buildings that are not sympathetic to Bangor.*

The planning authority is tasked with assessing the totality of the planning proposal before it, and as such the design of the proposal including its impact on the historic townscape has been assessed in detail earlier in this report. The design of the buildings is one of many planning considerations that have to be assessed against policy in the round and carefully balanced. The Planning Department has worked with the planning agents over a substantial period of time in an attempt to develop and achieve the best scheme possible for this site. In

doing so, many different considerations have had to be taken into account, not least the potential regeneration benefits of the development for Bangor town centre which are considered to outweigh the loss of the existing buildings.

## 12. The Planning Balance

- 12.1 The process of 'weighing up' the relevant factors, is often described as the 'planning balance'. The planning authority must exercise its judgement and consider many (sometimes) conflicting issues to decide whether planning permission should be granted. This balance is carried out pursuant to Section 6(4) of the 2011 Act which is detailed at the start of this report requiring that a decision under the Act must be made in accordance with the development plan unless material considerations indicate otherwise. This will mean examining the development plan and taking material considerations which apply to the proposal into account. These matters must be properly considered otherwise the decision of whether or not to grant permission will have excluded a consideration.
- 12.2 This proposal has been considered weighing, inter alia, the following matters:
- The site's location within the town centre of Bangor as designated within the extant local development plan (NDAAP);
  - The site's location within the town centre as designated within draft area plan (dBMAP) and the Bangor Town Centre Plan;
  - The site's designation as a Development Opportunity Site within dBMAP;
  - Community benefits from the proposed public realm scheme and creation of open space and event space;
  - Tourism potential in the context of both the proposed hotel and the visitor 'destination' and other associated draws;
  - Public support for the development of the site in the interests of visual improvement of the site and regeneration and revitalisation of Bangor Town Centre;
  - Public interest test and public intervention by DfC;
  - Consultee responses and third-party representations.
- 12.3 Weighing up all of the material considerations detailed in this report and those summarised above, I recommend on balance to the Committee that the planning application should be approved subject to conditions as detailed

below, and execution of a Planning Agreement prepared under Section 76 of The Planning Act (Northern Ireland) 2011.

### 13. Conclusion

For the reasons set out in this report, the Planning Department considers that:

- The proposal meets the policy provisions of the extant Local Development Plan, draft BMAP and the Bangor Town Centre Plan ;
- No material considerations have been put forward that outweigh the social and economic benefits that are presented within this development proposal;
- The concerns raised by Rivers Agency in relation to the reservoir inundation area, are considered to be outweighed by the positive benefits of this redevelopment scheme which will represent significant regeneration benefits to an area long neglected and awaiting positive intervention;
- This proposal represents an important opportunity to influence change in Bangor Town Centre, and promote regeneration of the site to act as a catalyst to further sustainable development in the town, in line with the regional objectives identified within the Regional Development Strategy.

### 14. Recommendation

Given the detail set out in this report, I do not consider that any material considerations have been presented that outweigh the presumption in favour of development of this site in accordance with the current proposal. It is my professional planning judgement that this proposal is in compliance with the development plan, the draft development plan and prevailing regional planning policy and guidance and as such should be granted planning permission.

### 15. Planning 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 development hereby approved shall be carried out in accordance with the approved phasing plans as indicated on drawing Nos. 58, 59 and 60 bearing the Council date stamp of 28 January 2020.

Reason: To ensure the orderly development of the site.

3. The proposed public realm areas of open space as indicated on the approved drawing No. 64 bearing the Council date stamp of 28 January 2020, shall be

laid out in accordance with the approved plans, drawing Nos. 64, 65, 66, 67 and 68 bearing the Council date stamp of 28 January 2020 and in accordance with the timing set out in the above approved phasing plans. These areas shall not thereafter be used for any purpose other than as open space with the exception of the approved kiosks and pavilion buildings as indicated on Drawing No. 64 bearing the date stamp 28 January 2020.

Reason: To ensure the provision, retention and maintenance of a high standard of public open space

4. The proposed public realm areas of open space as indicated hatched purple on the approved drawing No. 63 bearing the Council date stamp of 28 January 2020, shall remain open and accessible to the public, 24 hours a day and 7 days a week.

Reason: To ensure that an adequate level of public access through the site is maintained in perpetuity.

5. The proposed public realm areas of open space as indicated hatched purple and red on the approved drawing No. 63 bearing the date stamp of 28 January 2020 shall be managed and maintained in perpetuity by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, must be submitted to and agreed in writing with the Council prior to the occupation or operation of the development.

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

6. No development/site clearance works, lopping, topping or felling of trees, trucking machinery over tree roots, shall take place on the site until full details of both and hard and soft landscape works required in conjunction with the development have been submitted to and approved in writing by the Council and these works shall be carried out in accordance with the approved phasing plans as indicated on Drawing No. 58, 59 & 60 bearing the date stamp 28 January 2020. The works as approved shall be completed during the first available planting season following completion of ease phase.

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

7. The hard and soft landscape works to be submitted as required by condition 6 above shall include the following details:
  - (a) proposed finished levels and proposed contours;
  - (b) any means of enclosure, hard surface materials/minor artefacts and structures e.g. street furniture, play equipment, refuse storage, lighting, existing and proposed services above and below ground;

- (c) soft landscape works including planting plans; written planting specifications; schedules of plants and trees indicating site preparation, planting methods, planting medium and additives together with the species, appropriate numbers of native species trees and shrubs, the size at time of planting, the presentation, location, spacing and numbers and an implementation programme.
- (d) details of the protection of retained trees and hedgerows by appropriate fencing in accordance with British Standard 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*;

Reason: To ensure the provision of amenity afforded by appropriate landscape design, to compensate for the loss of existing vegetation on the site and to minimise the impact of the proposal on the biodiversity of the site.

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

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

- 9. A detailed landscape management and maintenance plan, including long term design objectives, performance indicators, management responsibilities and maintenance schedules for all areas of open space and public realm as indicated hatched red and purple on the approved drawing No. 63 bearing the date stamp 28 January 2020, shall be submitted to the Council for approval prior to the commencement of development. The landscape management and maintenance plan shall be carried out as approved.

Reason: To ensure the sustainability of the approved landscape design through its successful establishment and long-term maintenance.

- 10. No development shall commence until detailed drawings showing the proposed design and finishes for all of the structures, buildings and street furniture located within the public realm areas as indicated on drawing No. 64 bearing the date stamp 28 January 2020 have been submitted to and approved by the Council. The development shall be carried out in accordance with the approved details and in accordance with the approved phasing plans referred to in condition 2 above.

Reason: In the interest of visual amenity and to allow the Council to control the external appearance of the structures, buildings and street furniture.

- 11. The two pavilion buildings indicated as B1 and B2 on drawing No. 64 bearing the date stamp 28 January 2020, shall be single storey and shall have a



maximum ridge height of 6.5m in height when measured from finished floor level and a maximum internal floor space of 200sqm.

Reason: In the interest of visual amenity and to ensure that the buildings will not appear dominant in the coastal setting.

12. The proposed kiosks and shelters indicated as S1-S5 and K1-K4 on drawing No. 64 bearing the date stamp 28 January 2020 shall not exceed 4.25m in height when measured from finished floor level. The internal floor space of the kiosks shall not exceed 20sqm and the footprint of the shelters hereby approved shall not exceed 32sqm.

Reason: In the interest of visual amenity and to ensure that the buildings will not appear dominant in the coastal setting.

13. Prior to the commencement of development within each phase as referred to in condition 2 above, details of the specification and colour of the proposed brick to be used for the buildings within each phase shall be submitted to and approved in writing by the Council. The development shall be carried out in accordance with the details as subsequently approved.

Reason: To ensure that the materials and finishes of the built development will respect the character and appearance of the area.

14. The height and floorspace of the proposed plant rooms and housing on the roofs of blocks 5, 6 and 10 (otherwise known as the hotel, office and cinema buildings) shall not exceed that shown on drawing Nos. 41 and 42 bearing the date stamp 28 January 2020 and 43B and 44B bearing the date stamp 22 December 2020.

Reason: To ensure the that the plant will not appear as an adversely prominent feature within the existing townscape setting.

15. Prior to the installation of any rooftop plant as referred to in condition 14 above, details of the proposed materials and finishes for all plant rooms and enclosures shall be submitted to the Council for approval. The development shall be carried out in accordance with the details as subsequently approved.

Reason: To ensure that the materials and finishes of the built development will respect the character and appearance of the area.

16. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. This shall reflect all of the mitigation and avoidance measures detailed in the outline CEMP and the Ecological Impact Assessment. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Council. The CEMP shall include the following:

- a) Construction methodology and timings of works;
  - a. Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction materials, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site;
  - b) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
  - c) Water Quality Monitoring Plan;
  - d) Environmental Emergency Plan;
  - e) Details of appropriate mitigation measures to protect hedgehogs;
  - f) Details of updated Japanese knotweed surveys to be carried out and any necessary mitigation and/or management measures required;
  - g) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities.

Reason: To ensure that the appointed contractor undertaking the work is fully appraised of all the risks associated with the proposal and to provide effective mitigation ensuring there are no adverse impacts on the integrity of European sites or priority habitats and species.

17. 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 Ards and North Down Borough 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.

18. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 17 above.

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

19. 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 17 above. 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.

20. The development hereby permitted shall not commence until a detailed remediation strategy to address all unacceptable risks to environmental receptors identified in Atkins Ltd Contaminated Land Assessment. Queens Parade, Bangor August 2019. This strategy must be submitted in writing and agreed with the Council and should identify all unacceptable risks on the site, the remedial objectives/criteria and the measures which are proposed to mitigate them (including maps/plans showing the remediation design, implementation plan detailing timetable of works, remedial criteria, monitoring program, etc).

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

21. The development hereby permitted shall not be occupied until the remediation measures as described in the remediation strategy submitted under condition 20 have been implemented to the satisfaction of the Council. The Council must be given 2 weeks written notification prior to the commencement of remediation work.

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

22. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>, as applicable. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

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

use.

23. After completing the remediation works under conditions 21 to 23; and prior to occupation of the development, a verification report shall be submitted in writing and agreed with the Council. This report shall be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>, as applicable. The verification report shall present all the remediation, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and wastes in achieving the remedial objectives.

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

24. No piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Council. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention" available at <http://publications.environment-agency.gov.uk/PDF/SCHO0501BITT-E-E.pdf>.

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

25. All noise mitigation measures for the construction and demolition phase shall be incorporated into the development as detailed in section 4.3 of Noise Impact Assessment, Redevelopment at Queens Parade, Bangor, prepared by RPS, referenced NI2123 17th December 2019.

Reason: To ensure the occupiers of nearby premises are not adversely affected by construction noise.

26. Demolition or construction works shall not take place outside the following hours: - Mondays - Fridays -07:00 hrs 19:00hrs, Saturdays - 08:00hrs -13:00hrs and not at all on Sundays or Public/Bank Holidays.

Reason: To ensure the occupiers of nearby properties are not adversely affected by construction noise.

27. Noise from the construction site shall not exceed the Category A noise threshold limit of 65dB at nearest residential premises. Construction noise monitoring shall be carried out throughout the construction period to ensure compliance with the noise threshold limits set and records be kept for inspection by Ards and North Down Borough Council.

Reason: To ensure the occupiers of nearby premises are not adversely affected by construction noise.

28. A construction barrier shall be erected around the perimeter of the site which shall provide a least 10dB reduction in noise levels.

Reason: To ensure the occupiers of nearby premises are not adversely affected by construction noise.

29. Glazing, capable of providing a sound reduction index of at least 33dB Rw shall be installed within all habitable rooms within the residential development.

Reason: To ensure future occupants of the apartments are not adversely affected by noise.

30. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 33dB Rw when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all habitable rooms in the residential development.

Reason: To ensure future occupants of the apartments are not adversely affected by noise

31. Prior to the occupation of the residential/hotel development, the applicant shall submit, to Ards and North Down Borough Council, for approval, details of the location and specification all plant and equipment to be used in connection with the commercial/ retail units. All plant and equipment associated with the commercial/ retail units must be demonstrated to comply with the derived threshold limits at noise sensitive receptors as detailed in Table 5.5 of Noise Impact Assessment, Redevelopment at Queens Parade, Bangor, prepared by RPS, referenced NI2123 17th December 2019.

Reason: To ensure future occupants of the apartments and patrons of the hotel are not adversely affected by noise

32. Glazing, capable of providing a sound reduction index of at least 36dB Rw shall be installed within all hotel rooms on the first floor.

Reason: To ensure future patrons of the hotel are not adversely affected by noise

33. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 36dB Rw when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all hotel rooms on the first floor.

Reason: To ensure future patrons of the hotel are not adversely affected by noise

34. Glazing, capable of providing a sound reduction index of at least 33dB RW shall be installed within all hotel rooms on the second floor.

Reason: To ensure future patrons of the hotel are not adversely affected by noise

35. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 33dB Rw when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all hotel rooms on the first floor.

Reason: To ensure future patrons of the hotel are not adversely affected by noise

36. Prior to the occupation of the development, the applicant shall submit, to Ards and North Down Borough Council, for approval, details of the location and specification all plant and equipment to be used in connection with the hotel. All plant and equipment associated with the hotel must be demonstrated to comply with the derived threshold limits at noise sensitive receptors as detailed in Table 5.8 of Noise Impact Assessment, Redevelopment at Queens Parade, Bangor, prepared by RPS, referenced NI2123 17th December 2019.

Reason: To ensure future occupants of the apartments and patrons of the hotel are not adversely affected by noise

37. Prior to commencement of the construction of the cinema, the design and construction of the cinema shall be agreed in writing with Ards and North Down Borough Council to ensure no nearby residents are adversely affected by noise break out. The cinema will be constructed in accordance with the approved details.

Reason: To ensure future occupants of the apartments and patrons of the hotel are not adversely affected by noise

38. Prior to the commencement of development, the applicant shall develop and submit to the Council for approval, a dust management plan which shall outline the site-specific dust mitigation measures to be employed during demolition and construction phases to minimise the generation and movement of dust from the proposed development to surrounding areas.

Reason: To ensure the emission of dust is controlled during the demolition and construction phase of the development

39. The measures agreed in the dust management plan secured by condition 39 above shall be implemented, controlled and managed, with all records held on-site and made available to Ards and North Down Borough Council if required.

Reason: To ensure the emission of dust is controlled during the demolition and construction phase of the development

40. Prior to installation, full details and specifications of all combustion units to be installed are to be forwarded to Ards and North Down Borough Council Environmental Health Department for review and for approval in writing. All installations as approved are to be completed and commissioned prior to occupation. No changes to the approved heating system provision shall be made without the prior written approval of the Council.

Reason: To control impact on air quality through emissions from any associated combustion plant.

41. In the event that contamination not previously considered is encountered during the approved development of this site, the development shall cease and a written report detailing the nature of this contamination and its management must be submitted to Ards and North Down Borough Council for approval. This investigation and risk assessment must be undertaken in accordance with current best practice.

Reason: Protection of human health

42. Prior to commencement of any tenant fit out, for each unit or part thereof, full details and specifications of extract ventilation and odour control are to be forwarded to Ards and North Down Borough Council Environmental Health Department for review and approval in writing prior to installation. All installations are to be completed and commissioned in accordance with the approved details prior to occupation/commencement of use and are to be retained throughout the tenancy. No changes shall be made to the occupancy or ventilation provision without the prior written approval of the Council.

Reason: To ensure the occupants of nearby residential premises are not adversely affected by cooking odours from the proposed food businesses.

43. Deliveries by commercial vehicles shall not take place outside the following hours: - 07:00-23:00hrs Monday to Saturday and not at all on Sundays or Public Holidays.

Reason: To ensure nearby residents are not adversely affected by noise from delivery vehicles and associated activity.

44. Prior to the commencement of any development hereby approved, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Council for approval.

Reason: To safeguard against flood risk to the development and elsewhere.

45. Prior to the commencement of any works on site an inspection shall be undertaken to review the site conditions and the potential for any re-occurrence of Japanese knotweed. If Japanese knotweed or other invasive species are found, necessary action shall be taken prior to works commencing on site. Details of these inspections and any action required shall be included in the

final Construction Environmental Management Plan (CEMP) referred to in condition 16 above. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the presence of any invasive species is eradicated from the site.

46. No development activity, including ground preparation or vegetation clearance, shall take place until an updated breeding bird survey of the site has been undertaken by a suitably qualified and experienced ecologist between April and June and the findings of this survey and appropriate mitigation and compensation measures to be implemented are included in a Breeding Bird Survey and Mitigation Report which shall be submitted to and approved in writing by the Planning Authority. The approved Breeding Bird Survey and Mitigation Report shall be implemented in accordance with the approved details and all works on site shall conform to the approved Breeding Bird Survey and Mitigation Report, unless otherwise agreed in writing by the Planning Authority. The Breeding Bird Survey and Mitigation Report shall include the following:
- a) Details of the results of the updated breeding bird survey carried out at the appropriate time of year and using appropriate methodology;
  - b) Details of mitigation and compensation measures for birds, including the specifications and locations of the compensatory measures such as nest boxes/bricks;
  - c) Details of the appointment of an Ecological Clerk of Works (ECoW) to oversee the implementation of mitigation and compensation measures for birds and their roles and responsibilities.

Reason: To protect breeding birds.

47. No vegetation clearance or building demolition shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Council within 6 weeks of works commencing.

Reason: To protect breeding birds.

48. 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 [drawing number to be inserted] bearing the Council date stamp [date to be inserted].

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.

49. No development hereby permitted shall be occupied or become operational until the road works as indicated on Drawing No [drawing number to be inserted] bearing the date stamp [date to be inserted] have been fully completed in accordance with the approved plans.

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

50. No development hereby permitted shall be occupied or become operational as detailed in the phasing plan until hard surfaced areas associated with that phase have been constructed and permanently marked in accordance with the approved Drawing No [drawing number to be inserted] bearing the date stamp [date to be inserted] to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

51. No development hereby permitted shall be occupied or become operational until a Parking Management Plan has been submitted to and agreed in writing by the Council. The Plan as submitted shall be generally in accordance with that detailed on figure [number to be inserted] of the Transport Assessment bearing the date stamp [date to be inserted]. The development shall be carried out in accordance with the Parking Management Plan as agreed.

Reason: To ensure the safe and functional operation of the parking provided in accordance with its associated planned use.

52. The development hereby permitted shall not be occupied or become operational until a Travel Plan has been submitted to and agreed in writing by the Council. The Travel Plan as submitted shall be generally in accordance with the Travel Plan framework bearing the stamp [date to be inserted]. The development shall operate in accordance with the Travel Plan as agreed.

Reason: To facilitate access to the site by means other than the private car and in the interests of road safety and traffic progression to ensure the adequacy of the service facilities.

53. The development hereby permitted shall operate in accordance with the Service Management Plan bearing the date stamp [date to be inserted].

Reason: To facilitate access to the site by means other than the private car and in the interests of road safety and traffic progression to ensure the adequacy of the service facilities.

54. Refuse collection for the development hereby approved shall be carried out by a private company utilising Euro Bins. Details of the final management arrangements for refuse collection shall be submitted to and approved in writing by the Council prior to the occupation or operation of any part of the development hereby approved and the approved arrangements shall be carried out in perpetuity thereafter.

Reason: In the interests of road safety and traffic progression and to ensure the adequacy of the service facilities.

55. The vehicular access associated with each phase of the development, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No [drawing number to be inserted] bearing the date stamp [date to be inserted] prior to the commencement of any works within that phase. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

56. The access gradients to the development hereby permitted shall not exceed 4% (1 in 25) over the first 10 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

57. All statutory procedures in accordance with relevant traffic legislation shall be completed in respect of the introduction of two-way traffic on Southwell Road, loading bays and disabled parking bays as indicated on Drawing No [drawing number to be inserted] bearing date stamp [date to be inserted] prior to the commencement of phase two of the development as indicated on Drawing No [drawing number to be inserted] bearing the date stamp [date to be inserted].

Reason: To ensure the statutory provisions required are in place in the interests of road safety and the convenience of road users.

58. A Road Safety Audit in accordance with GG119 of the Design Manual for Roads and Bridges shall be carried out at appropriate stages within the construction and operation process.

Reason: In the interest of safety and convenience of road users.

59. The development hereby permitted shall not be commenced until a Construction Event Management Plan and Construction Site Traffic Management Plan have both been submitted to and approved in writing by the

Council. All development shall be carried out in accordance with the Construction Event Management Plan and Construction Site Traffic Management Plan as approved.

Reason: To ensure the development is adequately serviced in the interests of road safety and traffic progression.

# Application Plans

## Site Location Plan



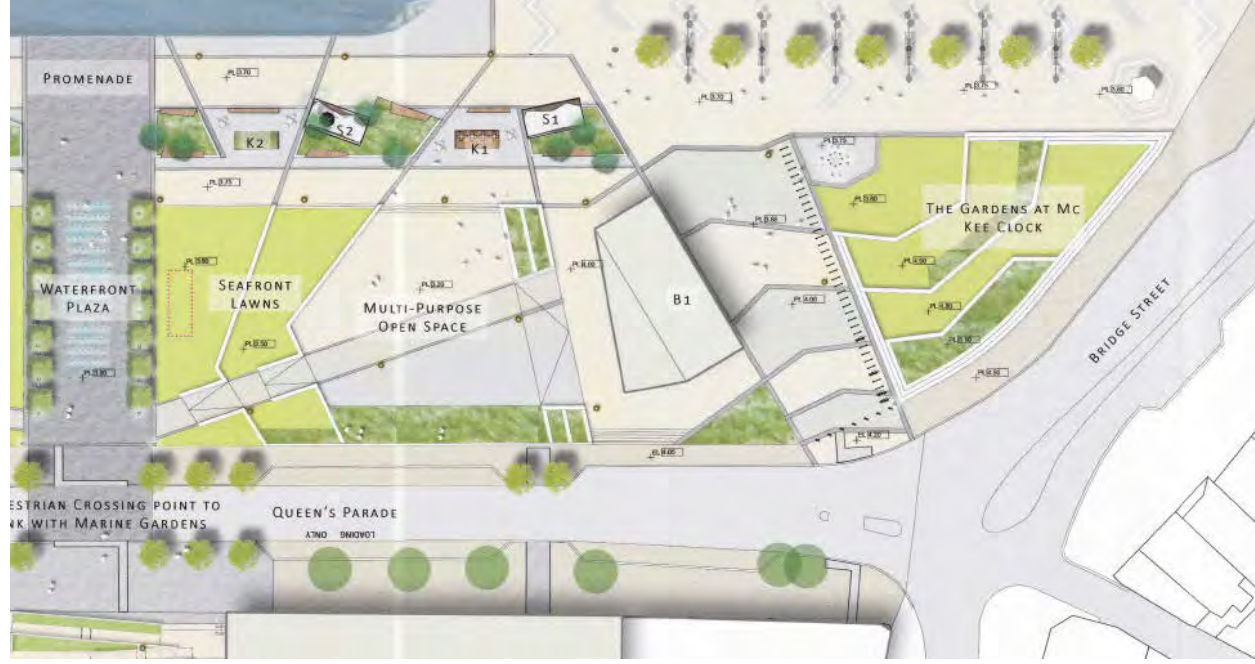
## Proposed Site Layout (Level 1)



### Proposed Public Realm at Marine Gardens



### Proposed Public Realm at Marine Gardens



### Proposed Main Street Elevation



### Proposed Queen's Parade Elevation (Part 1)



### Proposed Queen's Parade Elevation (Part 2)



### Proposed King Street Elevation



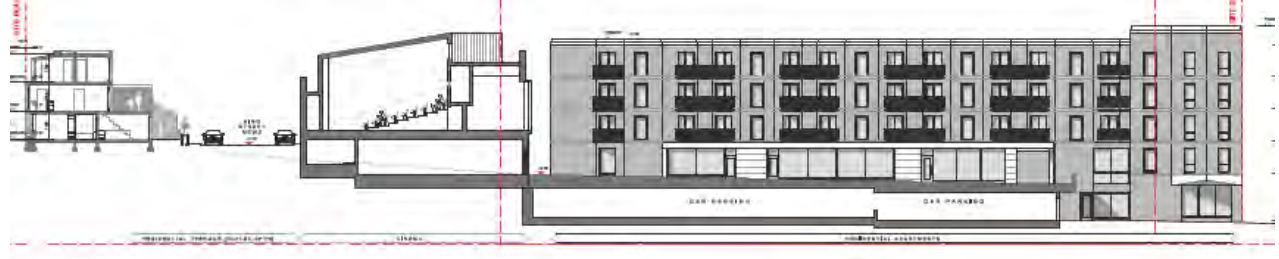
### Proposed Sowell Road Elevation



### Proposed Section through Market Place showing Proposed Hotel, Offices and Trinity Way Access



### Proposed Section through Market Place showing Proposed Apartment Building, Cinema and King Street Terrace



**Photographs of Site and Surrounding Area**



**Queen's Parade**



**Queen's Parade**





**Project 24 & The Hub**



**Project 24 & The Hub**



**The Vennel**



**Existing Car Park on Site**



**Existing Car Park on Site**



**Victorian terraces viewed from Marine Gardens Car Park**



Junction of Main Street/King Street



Main Street site frontage



**Flagship Centre opposite site**



**Southwell Road looking towards King Street junction**



**Southwell Road looking towards Queen's Parade**



**King Street looking towards Main Street**


## List of Figures/Tables in Report

Figure /Table No.	Detail	Page
Figure 1	Aerial View of Site	4
Figure 2	Project 24 and The Hub, Queen's Parade	5
Figure 3	Marine Gardens Car Park	5
Figure 4	King Street (Looking towards Southwell Road)	6
Figure 5	The Vennel at King Street showing the rear of TK Maxx	7
Figure 6	Southwell Road (at junction with King Street)	7
Figure 7	Queen's Parade viewed from junction with Southwell Road	7
Figure 8	Junction of Queen's Parade/Main Street	8
Figure 9	Main Street (Looking towards Marina)	9
Figure 10	Site location plan showing existing right of ways in green	9
Table 11	Comparison of current proposal with previous approval	11
Figure 12	Bangor Town Centre (Draft BMAP Map 3l)	28
Figure 13	Designation BR31 Wilson's Point LLPA (Draft BMAP Map 3b*)	29
Figure 14	Aerial view of section of LLPA within the application site	30
Figure 15	Proposed landscaping plan	30
Figure 16	McKee Clock Circa 1918 (postcard of Bangor)	30
Figure 17	Bangor Urban Waterfront (Draft BMAP Map 3m)	31
Table 18	Extract from DfC's Town Centre Database showing vacancy rates for Bangor town centre	35
Figure 19	Vacant Property at the top of Main Street	35
Figure 20	Vacant properties adjacent to the application site on Main Street	35
Figure 21	Vacant properties opposite the site on Main Street	35
Figure 22	Proposed Queen's Parade Elevation showing transition between existing and proposed buildings	40
Figure 23	Existing five storey buildings on Quay Street (former Royal Hotel and the Marine Court Hotel)	41
Figure 24	Existing residential terraces on Queen's Parade	42
Figure 25	Extract from submitted photomontages showing proposed residential block fronting Queen's Parade	42
Figure 26	Extract from submitted photomontages showing proposed hotel fronting Queen's Parade	43
Figure 27	Bangor Central ATC (MAP 3h)	44
Table 28	Existing parking provision on site	52
Table 29	Existing parking provision within 800m of site (excluding parking within application site and Flagship Centre)	52
Figure 30	Extent of Car Parks Surveyed by Atkins	53
Table 31	Results of parking surveys – available capacity	54
Table 32	Total number of parked vehicles recorded at 201 available spaces at Marine Gardens	54
Table 33	Total number of parked vehicles recorded at 37 available spaces at King Street	55
Table 34	Duration of stay for parked cars at Marine Gardens	55
Table 35	Extract from BMAP (quashed) (Policy TRAN1)	56
Table 36	No. of parking spaces required for each proposed use	57
Table 37	Proposed parking considered against required parking for site	57
Figure 38	Proposed Servicing Locations	64
Figure 39	Existing buildings on Main Street to be demolished	69

Figure 40	Photograph from Bangor Town Centre Masterplan 2011 (Bangor in 1898)	72
Figure 41	Extract from Design and Access Statement – CGI Image (view across Marina)	73
Figure 42	View of Queen's Parade (Postcard from 1955)	73
Figure 43	Extract from Design and Access Statement– CGI Image (view from Mount Pleasant)	73
Figure 44	Queen's Parade elevation approved under W/2014/0456/F	74
Figure 45	CGI image showing new office building to rear of The Red Berry Café	75
Figure 46	Original proposed Queen's Parade elevation showing roof plant on hotel and cinema buildings prior to amendments	76
Figure 47	Amended Queen's Parade elevation showing reduction in height of roof plant	76
Figure 48	Existing buildings to be demolished on Main Street	77
Figure 49	Terraced Dwellings on King Street	78
Figure 50	Dwellings at corner of Southwell Road and King Street	78
Figure 51	Building at corner of Southwell Rd and Queen's Parade	79
Figure 52	Two buildings with attractive corner features at Junction of Southwell Rd/Queen's Parade	79
Figure 53	Extract from site layout plan showing position of proposed access and proposed corner feature of building at Southwell Road/Queen's Parade	81
Figure 54	Proposed corner feature at Southwell Road/Queen's Parade	81
Figure 55	Existing Buildings at 35-41 Queen's Parade Proposed for Demolition	82
Figure 56	Existing Buildings at 9-12 Queen's Parade	82
Figure 57	Existing Buildings at 5-8 Queen's Parade Proposed for Demolition	83
Figure 58	Examples of fine historical architecture in vicinity of site	87
Figure 59	Key features listed in Draft BMAP for area of proposed ATC relating to site	88
Figure 60	Examples of modern architecture on Main Street	88
Figure 61	CGI image of original submission showing additional floor on apartment block facing Market Place	89
Figure 62	CGI image showing amended scheme with top floor facing Market Place removed and replaced with additional floor fronting Queen's Parade	89
Figure 63	CGI image of original submission showing hotel and office building to the rear	90
Figure 64	CGI image showing amended roof treatment to office block and hotel	90
Figure 65	Existing and proposed views of site from Bridge Street	91
Figure 66	Proposed Main Street elevation	92
Figure 67	Proposed Southwell Road elevation	92
Figure 68	Proposed cinema/destination building (reduced roof plant height not shown in this image)	93
Figure 69	Proposed terrace of duplex apartments on King Street	94
Figure 70	Photomontage showing roof design and proposed finishes of residential block fronting Queen's Parade	95
Figure 71	Site of proposed apartment block on Southwell Road	96
Figure 72	Proposed apartment building on Southwell Road shown in context of existing buildings	97
Figure 73	Example of existing buildings with gable roof projections	97
Figure 74	Private communal open space proposed for apartments	98



Figure 75	Apartment development at Southwell Road approved under W/2014/0456/F	101
Figure 76	Proposed Southwell Road elevation for current application	101
Figure 77	Access position on Southwell Road approved under W/2014/0456/F and access position proposed under current application	101
Figure 78	Relationship between existing buildings on Southwell Road with opposing upper floor windows	102
Figure 79	Aerial image showing location of Clandeboye Lake (demoted by blue star) and Queen's Parade (demoted by red star)	108
Figure 80	Map - Blue highlighted area denotes indicative area that may flood from an uncontrolled release of water from all possible dam failure scenarios (DFI Reservoir Flooding Map for Emergency Planning)	109
Figure 81	Map of proposed 'Bangor Waterfront Development'	111
Figure 82	Existing buildings on Southwell Road	120

<p><b>Development Management Case Officer Report</b></p>		
<b>Reference:</b>	LA06/2023/1500/F	<b>DEA:</b> Bangor Central
<b>Proposal:</b>	<p>Demolition of existing buildings at 5-12 and 35-41 Queen's Parade, 22-30 Main Street (formerly B &amp; M Bargains), 34-36 Main Street (Oxfam and Hospice shops), 6-34 King Street and 5-17 Southwell Road; minor extension and elevational changes to 40-42 Main Street (Caffe Nero); creation of new means of escape and installation of rooflights to 20 Main Street (Halifax); creation of new bin storage and basement access together with minor facade works to 48 Main Street (TK Maxx); erection of a mixed use development comprising culture and leisure facilities (class D), a 66 bedroom hotel, retail units, food and beverage outlets, offices (class B1- (a)), 137 residential units comprising 113 apartments in 3 blocks and 12 duplex apartments along King Street, creation of a new vehicular access onto Southwell Road to serve undercroft car park comprising 217 spaces together with 14 courtyard spaces and 24 on street, creation of new vehicular access onto King Street to serve residential parking, minor modifications to the Main Street and King Street junction and creation of a two-way street along Southwell Road from the junction with Primrose Street, creation of a new service vehicle access onto Main Street, creation of new public squares and courtyards including new pedestrian access points; and the redevelopment of Marine Gardens Car Park including partial demolition of sea-wall to create a public realm space comprising gardens and lawns, play areas, events spaces, covered shelters, 4 kiosks and 2 pavilions (housing food and beverage operators), and water feature together with other ancillary development:</p> <p>VARIATION OF CONDITION NO. 2 of LA06/2020/0097/F FROM:</p> <p>'The development hereby approved shall be carried out in accordance with the sequential (numeric) phasing plans as indicated on Drawing Nos. 58C, 59C, 60C and 61C bearing the date stamp 30th June 2022. The development hereby approved shall commence with Phase 1 and be built out sequentially thereafter. No subsequent phase of development shall be commenced unless the preceding phase has been completed and written approval issued by the Council confirming completion.'</p> <p>TO:</p> <p>'The development hereby approved shall be carried out in the following sequence and restrictions thereon, with each phase as referred to being as delineated on approved plans 58C, 59C, 60C and 61C bearing the date stamp 30th June 2022:</p>	

1. The developer may commence concurrently, phases 1, 2 and 3 of the development hereby approved.
2. The developer may not occupy or operate phases 1, 2 or 3 of the development until the areas of open space within phases 1 and 2 of the development as delineated on drawing No. 64 date stamped received 28th January 2022, hereby approved have been completed in full and written confirmation of such satisfaction provided by the Council.
3. The developer may not occupy or operate phase 3 of the development until the areas of open space within phase 3 of the development hereby approved comprising the Market Place, Trinity Square and the pedestrian linkage between Market Place and Marine Gardens, as delineated on drawing No. 60C date stamped 30th June 2022, have been completed in full and written confirmation of such satisfaction provided by the Council.
4. Prior to the commencement of construction of any building within phase 4 of the development, the construction of phases 1 and 2 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion of construction provided in writing by the Council.
5. Prior to the occupation of, or operation from, any building within phase 4, the construction of phases 1, 2 and 3 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion of construction provided in writing by the Council.

VARIATION OF CONDITION NO. 3 of LA06/2020/0097/F FROM:

'The proposed public realm areas of open space as indicated on drawing No. 64 bearing the date stamp 28 January 2020 shall be laid out in accordance with drawing Nos. 64, 65, 66, 67 and 68 bearing the date stamp 28 January 2020 and in accordance with the timing as set out in the above phasing plans. The public realm areas of open space within phases 1 and 2 shall be completed prior to the occupation of any residential unit in phase 2. These areas shall not thereafter be used for any purpose other than as open space (with the exception of the approved kiosks and pavilion buildings) as indicated on drawing No. 64 bearing the date stamp 28 January 2020.'

TO:

'The proposed public realm areas of open space as indicated on the approved drawing No. 64 bearing the Council date stamp 28 January 2020, shall be laid out in accordance with drawing Nos. 64, 65, 66, 67 and 68 bearing the Council date stamp 28 January 2020 and in accordance with the timing and requirements set out in condition 2 above. These areas shall not thereafter be used for any purpose other than open space with the exception of the approved kiosks and pavilion buildings as indicated on drawing No. 64 bearing the date stamp 28 January 2020.'

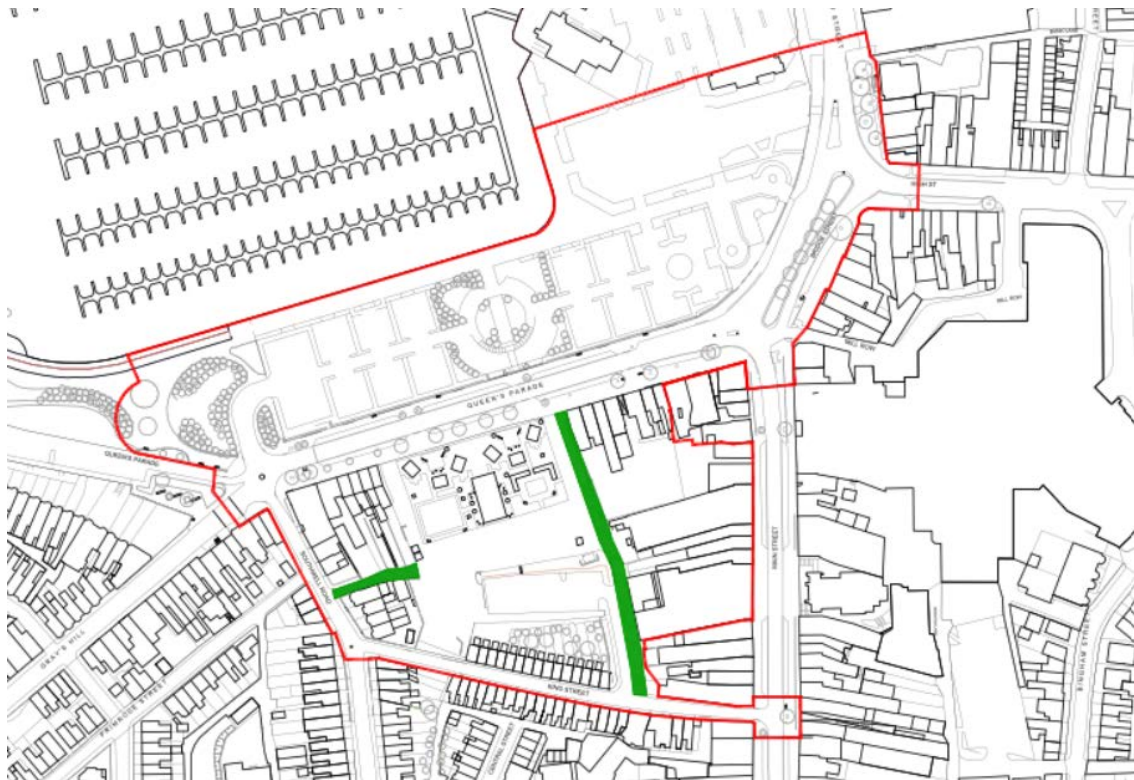
<b>Location:</b>	Lands at and to the rear of 18 – 52 Main Street (Reeds Rain to TK Maxx), 2 – 34 King Street, 5 -17 Southwell Road, 5 – 41 Queen’s Parade, Marine Gardens car park, the Esplande Gardens, and area around McKee Clock, Queen's Parade, Bangor.		
<b>Applicant:</b>	Bangor Marine Ltd.		
<b>Date valid:</b>	02/03/2023	<b>EIA Screening Required:</b>	Yes
<b>Date last advertised:</b>	10/08/2023	<b>Date last neighbour notified:</b>	02/08/2023
<b>Letters of Support: 1</b>	<b>Letters of Objection: 0</b>	<b>Petitions: 0</b>	
<b>Consultations – synopsis of responses:</b>			
DFI Roads		No objection	
<b>Summary of main issues considered:</b>			
<ul style="list-style-type: none"> <li>• Impact of proposed amendments to phasing of development</li> </ul>			
<b>Recommendation: Grant Planning Permission</b>			
<b>Report Agreed by Authorised Officer</b>			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal <a href="http://Northern Ireland Public Register (planningsystemni.gov.uk)">Northern Ireland Public Register (planningsystemni.gov.uk)</a>			
<b>1. Site and Surrounding Area</b>			
<p>The application site is located at Queen’s Parade within Bangor city centre and covers an area of land just over 5 hectares. The immediate area within which the site lies is predominantly commercial in nature given the city centre location, with a variety of retail and service uses along Main Street. However, there are also existing residential areas to the immediate south and west of the site on King Street and Southwell Road as well as the leisure and recreation uses associated with the various areas of public open space and Pickie Fun Park to the north of the site adjacent to Bangor Marina. The site itself encompasses the existing Marine Gardens car park adjacent to Bangor Marina, along with areas of existing open space to the north and west of this, and an area of land on the southern side of Queen’s Parade which is framed by Main Street, King Street and Southwell Road.</p> <p>The area of the site on the southern side of Queen’s Parade comprises a mix of occupied and vacant properties which front onto each of the streets. A significant number of buildings which originally fronted Queen’s Parade were demolished some years ago. In recent years, this vacant piece of land was occupied by the Council-run</p>			

initiative, Project 24, on a temporary basis but has now been removed pending redevelopment of the site. A temporary car park and the public King Street car park are also situated to the rear of this part of the site. The site is affected by two rights of way; one known as The Vennel, which runs across the site from Queen’s Parade at the immediate east of Project 24, along the rear of the properties on Main Street and through to King Street to the north; the other right of way runs across the site in an east/west direction from Southwell Road towards the Vennel.

The existing Marine Gardens car park is also located within the site on the opposite side of Queen’s Parade. To the immediate east of the car park is an area of open space including a fountain as a central feature and the listed McKee Clock. Beyond this to the north is an additional hard landscaped area of open space with trees dispersed throughout, with the existing public toilet block located along the northern boundary of the site.

The topography of the site falls initially quite steeply in a north/north westerly direction from its highest point at the junction of Main Street/King Street down 6 to Southwell Road and Queen’s Parade where the ground then levels out and is relatively flat across Queen’s Parade itself and the Marine Gardens car park.

**2. Site Location Plan**



**Figure 1 – Site Location Plan**



**Figure 2 – Aerial view of site**

### 3. Relevant Planning History

#### **W/2014/0456/F**

Demolition of existing buildings at 9-12 and 35-41 Queen's Parade, 20-42 Main Street, 6-34 King Street and 5-17 Southwell Road; retention, conversion and extension of 5- 8 Queen's Parade for a 40 bedroom hotel; erection of a mixed use development comprising culture and leisure facilities (class D), a 64 bedroom hotel, retails units, restaurants, offices (class B1 (a), 72 apartments and 8 terraced dwelling houses, multi-storey car park comprising 351 spaces, new accesses at King Street and Southwell Road, creation of a courtyard plaza and public open space on Marine Gardens including: play equipment, landscaping, bandstand, covered walkways, relocation of temporary buildings (Project 24) and covered event spaces as well as other ancillary uses, Lands bounded by 18-52 66 and 68 Main Street, 2-51 King Street, 5-18 Southwell Road, 5-41 Queen's Parade and Marine Gardens car park, Bangor

**Approved 20.07.2015**

#### **LA06/2019/0608/PAN**

Regeneration proposal for Bangor town centre comprising redevelopment of Marine Gardens car park to create public realm area, gardens, kiosks and event space; and the redevelopment of lands at Queen's Parade comprising a mixed use development

consisting of hotel, retail, office, community, cultural and recreation floor space, eateries and residential development together with the creation of new public squares and courtyards including new pedestrian access points; car parking and the relocation of Project 24, Lands bounded by 18-52, 66 and 68 Main Street, 2-51 King Street, 5-18 Southwell Road, 5-41 Queen's Parade and Marine Gardens car park, Bangor (PAN – Proposal of Application Notice for current application)

#### **LA06/2020/0097/F**

Demolition of existing buildings at 5-12 and 35-41 Queen's Parade, 22-30 Main Street (formerly B & M Bargains), 34-36 Main Street (Oxfam and Hospice shops), 6-34 King Street and 5-17 Southwell Road; minor extension and elevational changes to 40-42 Main Street (Caffe Nero); creation of new means of escape and installation of rooflights to 20 Main Street (Halifax); creation of new bin storage and basement access together with minor facade works to 48 Main Street (TK Maxx); erection of a mixed use development comprising culture and leisure facilities (class D), a 66 bedroom hotel, retail units, food and beverage outlets, offices (class B1- (a)), 137 residential units comprising 113 apartments in 3 blocks and 12 duplex apartments along King Street, creation of a new vehicular access onto Southwell Road to serve undercroft car park comprising 217 spaces together with 14 courtyard spaces and 24 on street, creation of new vehicular access onto King Street to serve residential parking, minor modifications to the Main Street and King Street junction and creation of a two-way street along Southwell Road from the junction with Primrose Street, creation of a new service vehicle access onto Main Street, creation of new public squares and courtyards including new pedestrian access points; and the redevelopment of Marine Gardens Car Park including partial demolition of sea-wall to create a public realm space comprising gardens and lawns, play areas, events spaces, covered shelters, 4 kiosks and 2 pavilions (housing food and beverage operators), and water feature together with other ancillary development, Lands at and to the rear of 18 – 52 Main Street (Reeds Rain to TK Maxx), 2 – 34 King Street, 5 -17 Southwell Road, 5 – 41 Queen's Parade, Marine Gardens car park, the Esplande Gardens, and area around McKee Clock, Queen's Parade, Bangor.

**Approved 29/09/2022**

#### **LA06/2023/2026/DC**

Discharge of Condition 17 of Planning Approval LA06/2020/0097/F which states ' 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, and submitted to 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.'

**Under Consideration (submitted 19/07/2023)**

#### **LA06/2023/2182/DC**

Discharge of Condition 45 of Planning Approval LA06/2020/0097/F which states ' No development activity, including ground preparation or vegetation clearance, shall take place with the exception of the establishment of the two site compounds indicated on Drawing No. 58C bearing the date stamp 30 June 2022 and any archaeological works

as required by conditions 17 and 18 above, until an updated breeding bird survey of the site has been undertaken by a suitably qualified and experienced ecologist between April and June and the findings of this survey and appropriate mitigation and compensation measures to be implemented are included in a Breeding Bird Survey and Mitigation Report which shall be submitted to and approved in writing by the Council. The approved Breeding Bird Survey and Mitigation Report shall be implemented in accordance with the approved details, and all works on site shall conform to the approved Breeding Bird Survey and Mitigation Report, unless otherwise agreed in writing by the Council. The Breeding Bird Survey and Mitigation Report shall include the following:

- a) Details of the results of the updated breeding bird survey carried out at the appropriate time of year and using appropriate methodology;
- b) Details of mitigation and compensation measures for birds, including the specifications and locations of the compensatory measures such as nest boxes/bricks;
- c) Details of the appointment of an Ecological Clerk of Works (ECoW) to oversee the implementation of mitigation and compensation measures for birds and their roles and responsibilities.

**Under Consideration (submitted 11/09/2023)**

#### 4. Planning Assessment

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

- North Down and Ards Area Plan 1984 - 1995
- Draft Belfast Metropolitan Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2 (PPS2) - Natural Heritage
- Planning Policy Statement 3 (PPS3) - Access, Movement and Parking
- Planning Policy Statement 4 (PPS 4) - Planning and Economic Development
- Planning Policy Statement 6 (PPS6) – Planning, Archaeology and the Built Heritage
- Planning Policy Statement 6 Addendum (PPS6A)– Areas of Townscape Character
- Planning Policy Statement 7 (PPS7) – Quality Residential Environments
- Planning Policy Statement 8 (PPS 8) - Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 15 (PPS15) - Planning and Flood Risk
- Planning Policy Statement 16 (PPS16) - Tourism
- Creating Places
- Living Places
- DCAN 8 - Housing in Existing Urban Areas
- DCAN 15 - Vehicular Access Standards



**Background and Legislative Requirements**

This planning application has been made under Section 54 of The Planning Act (Northern Ireland) 2011 for the variation of conditions 2 and 3 of extant planning permission LA06/2020/0097/F.

The original planning permission, to which this current Section 54 application relates, granted approval for major development as defined in the Planning (Development Management) Regulations (Northern Ireland) 2015. A Planning Application Notice (PAN) was submitted to the Council on 29 May 2019 for the original application which the Council confirmed as acceptable on 21 June 2019. In accordance with Section 28 of the Act, a Planning Application Community Consultation (PACC) Report was also submitted with the application. The report satisfactorily outlined how community consultation was carried out in accordance with the requirements of Section 27 of the Act and Regulation 5 of The Planning (Development Management) Regulations (Northern Ireland) 2015 ('the DM Regs').

As this current application relates to the same development as previously approved under application LA06/2020/0097/F, it also falls within the schedule of development categorised as "major development". While the legislation is silent on the issue of a Pre Application Notice (PAN) including details of pre-application consultation in respect of a Section 54 application that relates to an already approved major development, paragraph 4.12 of Development Management Practice Note (DMPN) 24 states that if a section 54 application already relates to an approved major development where a PACC has already been undertaken, then, it is not the legislative intention that it would be subject to PACC.

The purpose of a Section 54 application is not to revisit the principle of development on a given application site, rather a section 54 application must consider only the question of the conditions attached to an extant planning permission. The PACC is a means to engage the communities in the planning system. Paragraph 4.14 of the DMPN 24 advises that section 54 applications will be subject to statutory publicity and neighbour notification through which the community may engage in the planning process and interested parties may submit representations. Accordingly, even though this application relates to a "major development", there is no requirement in this instance to undertake a PACC prior to the submission of the application.

**EIA Screening**

A determination was carried out upon receipt of the application under Regulation 12(1) of The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 as to whether the proposal would be EIA development. The Planning Department is satisfied that the proposed development when considered alongside the proposed changes to its phasing as requested under this S54 application, would not be likely to result in any significant environmental effects and therefore is not considered to be EIA development and as such does not need to be accompanied by an Environmental Statement. The Planning Department is also satisfied that there have been no material changes in circumstances relevant to the site or surrounding area since the approval of the original permission which would result in any significantly greater environmental impact.

**Development Plan Context**

Section 6(4) of the Planning Act (Northern Ireland) 2011 (“the Act”) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6(4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The purported adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) was quashed by the Court of Appeal on 18th May 2017. Consequently, the North Down and Ards Area Plan 1984-1995 (NDAAP) is the statutory development plan for the area, alongside the Bangor Town Centre Plan.

The draft BMAP remains a material consideration. The Chief Planner in his fourth update to Councils dated 29 November 2019 confirmed that the draft Belfast Metropolitan Area Plan remains as an emerging plan and, as such, the draft plan, along with representations received to the draft plan and PAC inquiry reports, remains as a material consideration to be weighed by the decision-maker.

The site lies within the development limit of Bangor as defined in NDAAP. The site is also located within the centre of Bangor as identified in the draft BMAP. There are several other designations and policies in the draft plan which are also applicable to the site as follows:

- Existing open space at Wilson’s Point Local Landscape Policy Area (BR31)
- Bangor Urban Waterfront (BR32)
- Bangor Town Centre Primary Retail Core (BR40)
- Bangor Town Centre Primary Retail Frontage (BR41)
- Development Opportunity Site (BR44)
- Bangor Central Area of Townscape Character (ATC) (BR49)
- Bangor Town Centre Urban Design Criteria (BR48)
- Policy TRAN 4 Areas of Parking Restraint (BR47)
- Policy TRAN 5 Publicly owned off street surface car parks within city and town centres



**Figure 3 - Bangor Town Centre (Draft BMAP Map 3I)**

### **Principle of Development**

As outlined above, the principle of development on this site has already been established through extant planning permission LA06/2020/0097/F. The only matter under consideration is the proposed variation of conditions 2 and 3 of the permission. All other aspects of the development remain unchanged.

Condition 2 currently reads:

*'The development hereby approved shall be carried out in accordance with the sequential (numeric) phasing plans as indicated on Drawing Nos. 58C, 59C, 60C and 61C bearing the date stamp 30th June 2022. The development hereby approved shall commence with Phase 1 and be built out sequentially thereafter. No subsequent phase of development shall be commenced unless the preceding phase has been completed and written approval issued by the Council confirming completion.'*

It is proposed to vary the wording of this condition as follows:

*'The development hereby approved shall be carried out in the following sequence and restrictions thereon, with each phase as referred to being as delineated on approved plans 58C, 59C, 60C and 61C bearing the date stamp 30th June 2022:*

- 1) The developer may commence concurrently, phases 1, 2 and 3 of the development hereby approved.*
- 2) The developer may not occupy or operate phases 1, 2 or 3 of the development until the areas of open space within phases 1 and 2 of the development as*

delineated on drawing No. 64 date stamped received 28th January 2022, hereby approved have been completed in full and written confirmation of such satisfaction provided by the Council.

- 3) The developer may not occupy or operate phase 3 of the development until the areas of open space within phase 3 of the development hereby approved comprising the Market Place, Trinity Square and the pedestrian linkage between Market Place and Marine Gardens, as delineated on drawing No. 60C date stamped 30th June 2022, have been completed in full and written confirmation of such satisfaction provided by the Council.
- 4) Prior to the commencement of construction of any building within phase 4 of the development, the construction of phases 1 and 2 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion of construction provided in writing by the Council.
- 5) Prior to the occupation of, or operation from, any building within phase 4, the construction of phases 1, 2 and 3 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion of construction provided in writing by the Council.'

As condition 3 also requires the development to be carried out in accordance with the timing of the phasing plans, permission is also sought to vary this condition from the current wording:

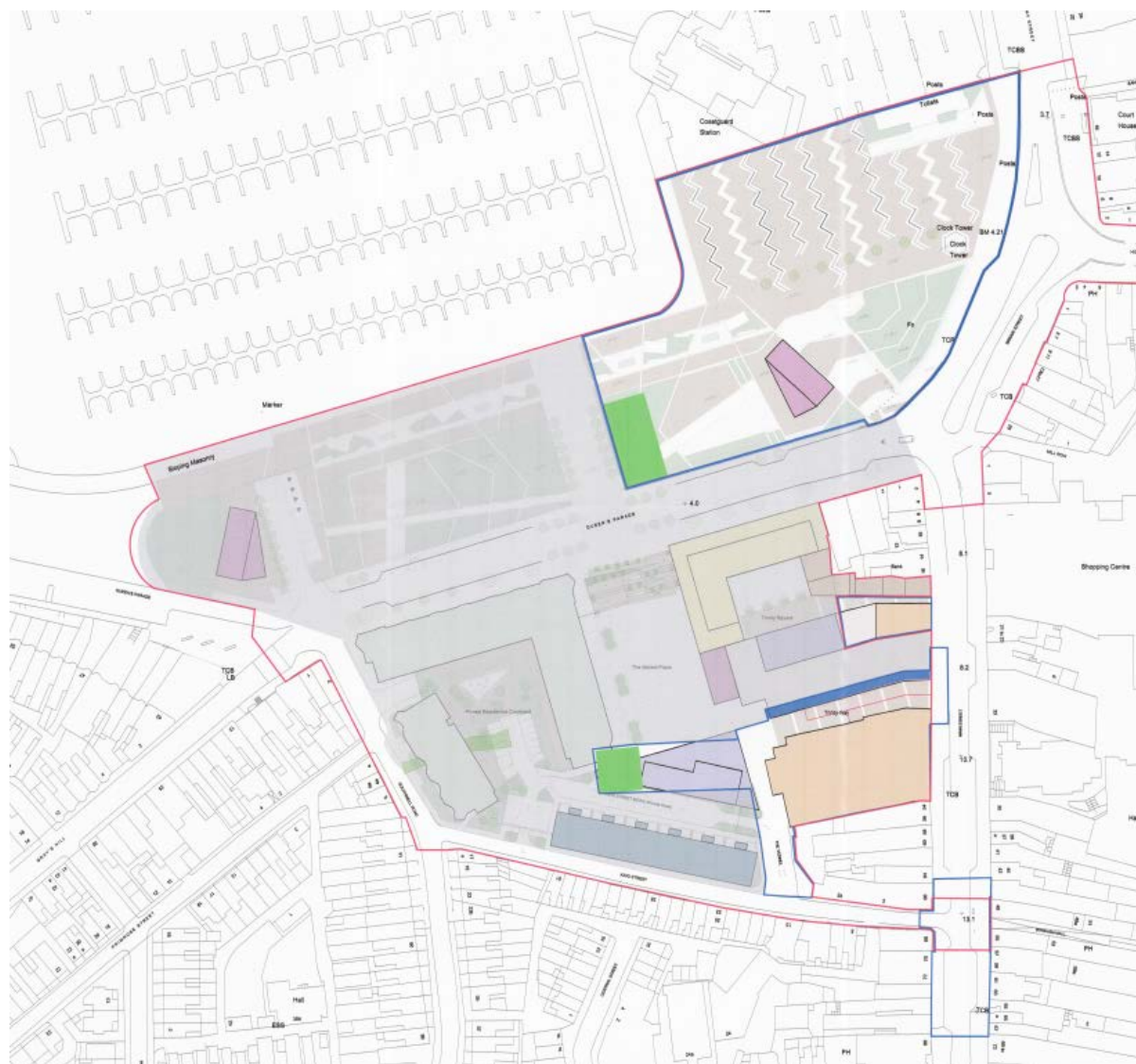
*'The proposed public realm areas of open space as indicated on drawing No. 64 bearing the date stamp 28 January 2020 shall be laid out in accordance with drawing Nos. 64, 65, 66, 67 and 68 bearing the date stamp 28 January 2020 and in accordance with the timing as set out in the above phasing plans. The public realm areas of open space within phases 1 and 2 shall be completed prior to the occupation of any residential unit in phase 2. These areas shall not thereafter be used for any purpose other than as open space (with the exception of the approved kiosks and pavilion buildings) as indicated on drawing No. 64 bearing the date stamp 28 January 2020.'*

The proposed revised wording of the condition would read as follows:

*'The proposed public realm areas of open space as indicated on the approved drawing No. 64 bearing the Council date stamp 28 January 2020, shall be laid out in accordance with drawing Nos. 64, 65, 66, 67 and 68 bearing the Council date stamp 28 January 2020 and in accordance with the timing and requirements set out in condition 2 above. These areas shall not thereafter be used for any purpose other than open space with the exception of the approved kiosks and pavilion buildings as indicated on drawing No. 64 bearing the date stamp 28 January 2020.'*

The developer has advised that a revision to the wording of the above conditions is being sought as the current wording of condition No.2 permits no more than one phase of development to be under construction at any one time. The developer considers this to be overly stringent, prohibiting the efficient delivery of the project. The public realm works along the front of Queen's Parade, including the seafront lawns, play area, promenade, event space and gardens at McKee Clock are included in Phase 1 and Phase 2 of development. It is proposed these phases are brought forward and constructed in tandem to allow the public realm works to be undertaken and completed in their entirety in one uninterrupted stage.

The development will comprise of 4 phases in total as follows:



**Phase 1** - Delivery of first part of Marine Gardens, demolition of 34 & 36 Main Street, minor alterations to TK Maxx and Café Nero buildings, existing right of way agreements to be extinguished prior to commencement, works at Trinity Way/Main Street junction to create new vehicular egress.



**Phase 2** – Delivery of remaining public realm at Marine Gardens and commencement of development on under-croft car park and residential blocks 1 and 2 with all remaining buildings demolished with exception of King Street, widening of Southwell Road, marking of loading bays at western end of Queen’s Parade



**Phase 3** – Commencement of work on hotel, kids' zone, offices, Market Square and associated steps and completion of works to Trinity Square, installation of raised table at Queen's Parade, marking of loading bays at eastern end of Queen's Parade marked out.



**Phase 4** – Demolition of King Street terrace and completion of 24 new residential units and cinema building and completion of all hard and landscaped surfaces.

The proposed revised wording of conditions 2 and 3 allows for a degree of flexibility for delivery of the project in its entirety. As revised, the conditions will now permit phases 1, 2 and 3 to commence concurrently. However, the revised wording also incorporates a number of clauses which will continue to ensure that the development within each phase is completed in a timely manner and that the important public realm and open space aspects of each phase are delivered.

To secure the delivery of all open space areas within phases 1 and 2, the proposed condition requires these to be completed prior to the occupation or operation of any part of phases 1, 2 or 3. In addition, the developer may not occupy or operate phase 3 of the development until the areas of open space within phase 3 comprising the Market Place, Trinity Square and the pedestrian linkage between Market Place and Marine Gardens have been completed.



To ensure that earlier phases are completed in a timely manner, phase 4 cannot commence construction of any building until the construction of phases 1 and 2 has been completed. Furthermore, the buildings within phase 4 cannot be occupied or operated until the construction of phases 1, 2 and 3 has been completed.

The revised wording therefore continues to contain safeguards to ensure that the public realm works would be completed first and that no development relating to later phases would commence until written approval from the Council has been provided that the preceding phases have been completed as outlined above.

I am satisfied that the proposed amendments to the timing of the phasing for the development will continue to comply with all the relevant planning policy and development plan requirements as previously set out in the detailed planning report for application LA06/2020/0097/F. The changes to the timing of the phasing will not result in any additional adverse impact on interests of acknowledged importance including:

- visual impact,
- impact on the character of the area and appearance of the proposed ATC,
- traffic impact, road safety and parking (DFI Roads consulted and advised no objections)
- archaeology and built heritage
- flooding and drainage
- natural heritage interests including impact on designated sites and protected species
- residential amenity of nearby occupied dwellings
- retail impact/impact on the vitality and viability of the city centre
- the provision of public open space
- existing sewerage infrastructure

All other planning conditions of the original permission will continue to apply the development and shall be included in the decision for this Section 54 application. While two applications have been submitted to discharge conditions 17 and 45 of the original permission, these remain under consideration at the time of writing this report.

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

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

### **Other material considerations**

As the proposed amendments to the phasing of the development will allow the construction of a number of phases in tandem rather than just one phase at a time, the potential additional impact and any implications of increased construction activity being carried out simultaneously must be considered.

DFI Roads was consulted in this regard and has raised no objections to the proposed phasing amendments. The phasing amendments will not conflict with any of the Roads conditions outlined below.

With the potential for a greater amount of construction activity being undertaken at the same time, there would be potential for increased noise and disturbance which could impact upon nearby properties and residents. However, it is noted that the construction noise predictions set out in the Noise Impact Assessment submitted with the original application, were based on all construction activity within all phases being simultaneously active, therefore the proposed changes to the phasing of the development which permit some phases to be simultaneously under construction, will not result in any great noise impact than that already considered by Environmental Health. Furthermore, conditions 26-28 of the original planning permission will continue to include restrictions and measures to ensure that any noise impact from construction will be mitigated. These include restrictions on the hours for demolition and construction works, noise monitoring to ensure the appropriate threshold limit is not exceeded and the erection of construction barriers to provide noise reduction.

Condition 38 of the original permission also requires submission of a dust management plan to be agreed in writing by the Council prior to commencement. This shall outline the site-specific dust mitigation measures to be employed during demolition and construction phases to minimise the generation and movement of dust from the proposed development to surrounding area and must consider the revised phasing.

Condition 16 of the original permission requires a Construction Event Management Plan and Construction Site Traffic Management Plan to be submitted and agreed by the Council prior to commencement of development. This plan must now set out how construction and site traffic will be managed in accordance with the revised phasing i.e. with a number of phases simultaneously under construction. Condition 16 also requires submission of a construction methodology and details of the timings of works of development which must be approved by the Council in consultation with NIEA prior to the commencement of works.

**5. Representations**

One letter of support has been received from Mr Ian Nesbitt.

**6. Recommendation**

**Grant Planning Permission**

**7. Conditions**

1. The development hereby permitted shall be begun before the 29<sup>th</sup> September 2027.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011 and in accordance with planning permission LA06/2020/0097/F.

2. The development hereby approved shall be carried out in the following sequence and restrictions thereon, with each phase as referred to being as delineated on approved plans 58C, 59C, 60C and 61C bearing the date stamp 30th June 2022:
  1. The developer may commence concurrently, phases 1, 2 and 3 of the development hereby approved.
  2. The developer may not occupy or operate phases 1, 2 or 3 of the development until the areas of open space within phases 1 and 2 of the development as delineated on drawing No. 64 date stamped received 28th January 2022, hereby approved have been completed in full and written confirmation of such satisfaction provided by the Council.
  3. The developer may not occupy or operate phase 3 of the development until the areas of open space within phase 3 of the development hereby approved comprising the Market Place, Trinity Square and the pedestrian linkage between Market Place and Marine Gardens, as delineated on drawing No. 60C date stamped 30th June 2022, have been completed in full and written confirmation of such satisfaction provided by the Council.
  4. Prior to the commencement of construction of any building within phase 4 of the development, the construction of phases 1 and 2 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion of construction provided in writing by the Council.
  5. Prior to the occupation of, or operation from, any building within phase 4, the construction of phases 1, 2 and 3 of the development hereby approved must be completed (excluding interior fit out) and confirmation of completion of construction provided in writing by the Council.

Reason: To ensure the orderly development of the site.

3. The proposed public realm areas of open space as indicated on the approved drawing No. 64 bearing the Council date stamp 28 January 2020, shall be laid out in accordance with drawing Nos. 64, 65, 66, 67 and 68 bearing the Council date stamp 28 January 2020 and in accordance with the timing and requirements set out in condition 2 above. These areas shall not thereafter be used for any purpose other than open space with the exception of the approved kiosks and pavilion buildings as indicated on drawing No. 64 bearing the date stamp 28 January 2020.

Reason: To ensure the provision, retention and maintenance of a high standard of public open space.

4. The proposed public realm areas of open space as indicated hatched purple on the approved drawing No. 63 bearing the Council date stamp of 28 January 2020, shall remain open and accessible to the public, 24 hours a day and 7 days a week.

Reason: To ensure that an adequate level of public access through the site is maintained in perpetuity.

5. The proposed public realm areas of open space as indicated hatched purple and red on the approved drawing No. 63 bearing the date stamp of 28 January 2020 shall be managed and maintained in perpetuity by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, must be submitted to and agreed in writing with the Council prior to the occupation or operation of the development. These public realm areas of open space shall be completed in accordance with the approved plans prior to occupation of the residential units in phase 2 and prior to operation of the hotel, offices and culture/leisure facilities in phase 3.

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

6. No development/site clearance works, lopping, topping or felling of trees, trucking machinery over tree roots, shall take place on the site until full details of both hard and soft landscape works required in conjunction with the development have been submitted to and approved in writing by the Council and these works shall be carried out in accordance with the approved phasing plans as indicated on Drawing No. 58C, 59C, 60C & 61C bearing the date stamp 30 June 2022. The works as approved shall be completed during the first available planting season following completion of ease phase.

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

7. The hard and soft landscape works to be submitted as required by condition 6 above shall include the following details:
  - (a) proposed finished levels and proposed contours;
  - (b) any means of enclosure, hard surface materials/minor artefacts and structures e.g. street furniture, play equipment, refuse storage, lighting, existing and proposed services above and below ground;
  - (c) soft landscape works including planting plans; written planting specifications; schedules of plants and trees indicating site preparation, planting methods, planting medium and additives together with the species, appropriate numbers of native species trees and shrubs, the size at time of planting, the presentation, location, spacing and numbers and an implementation programme.
  - (d) details of the protection of retained trees and hedgerows by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations.

Reason: To ensure the provision of amenity afforded by appropriate landscape design, to compensate for the loss of existing vegetation on the site and to minimise the impact of the proposal on the biodiversity of the site.

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

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

9. A detailed landscape management and maintenance plan, including long term design objectives, performance indicators, management responsibilities and maintenance schedules for all areas of open space and public realm as indicated hatched red and purple on the approved drawing No. 63 bearing the date stamp 28 January 2020, shall be submitted to the Council for approval prior to the commencement of development. The landscape management and maintenance plan shall be carried out as approved.

Reason: To ensure the sustainability of the approved landscape design through its successful establishment and long-term maintenance.

10. Prior to the commencement of each phase of development with the exception of ground preparation, site investigation works, vegetation clearance, or any archaeological works required under conditions 17 and 18, no works shall commence until detailed drawings showing the proposed design and finishes for all of the structures, buildings and street furniture located within the public realm areas as indicated on drawing No. 64 bearing the date stamp 28 January 2020 have been submitted to and approved by the Council. The development shall be carried out in accordance with the approved details and in accordance with the approved phasing plans referred to in condition 2 above.

Reason: In the interest of visual amenity and to allow the Council to control the external appearance of the structures, buildings and street furniture.

11. The two pavilion buildings indicated as B1 and B2 on drawing No. 64 bearing the date stamp 28 January 2020, shall be single storey and shall have a maximum ridge height of 6.5m in height when measured from finished floor level and a maximum internal floor space of 200sqm. Details of the design and finishes shall be submitted to and approved in writing by the Council prior to commencement of construction of either of the pavilion buildings. The development shall be carried out in accordance with the details as subsequently approved.

Reason: In the interest of visual amenity and to ensure that the buildings will not appear dominant in the coastal setting.

12. The proposed kiosks and shelters indicated as S1-S5 and K1-K4 on drawing No. 64 bearing the date stamp 28 January 2020 shall not exceed 4.25m in height when measured from finished floor level. The internal floor space of the kiosks shall not exceed 20sqm and the footprint of the shelters hereby

approved shall not exceed 32sqm. Details of the design and finishes shall be submitted to and approved in writing by the Council prior to commencement of construction of the kiosks and shelters. The development shall be carried out in accordance with the details as subsequently approved.

Reason: In the interest of visual amenity and to ensure that the buildings will not appear dominant in the coastal setting.

13. Prior to the commencement of development within phase 2 and onwards, details of the specification and colour of the proposed brick to be used for the buildings within each phase shall be submitted to and approved in writing by the Council. The development shall be carried out in accordance with the details as subsequently approved.

Reason: To ensure that the materials and finishes of the built development will respect the character and appearance of the area.

14. The height and floorspace of the proposed plant rooms and housing on the roofs of blocks 5, 6 and 10 (otherwise known as the hotel, office and cinema buildings) shall not exceed that shown on drawing Nos. 41 and 42 bearing the date stamp 28 January 2020 and 43B and 44B bearing the date stamp 22 December 2020.

Reason: To ensure that the plant will not appear as an adversely prominent feature within the existing townscape setting.

15. Prior to the installation of any rooftop plant as referred to in condition 14 above, details of the proposed materials and finishes for all plant rooms and enclosures shall be submitted to the Council for approval. The development shall be carried out in accordance with the details as subsequently approved.

Reason: To ensure that the materials and finishes of the built development will respect the character and appearance of the area.

16. No development, including ground preparation or vegetation clearance, shall take place, with the exception of the establishment of the two site compounds and any archaeological works required under conditions 17 and 18 as shown on phasing drawing No. 58C bearing the date stamp 30 June 2022 and any archaeological works required under conditions 17 and 18 below, until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. This shall reflect all of the mitigation and avoidance measures detailed in the outline CEMP and the Ecological Impact Assessment. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Council. The CEMP shall include the following:

- a) Construction methodology and timings of works;
- b) Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction materials, any refuelling, storage of oil/fuel, concrete mixing and washing

areas and any watercourses or surface drains present on or adjacent to the site;

- c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- d) Water Quality Monitoring Plan;
- e) Environmental Emergency Plan;
- f) Details of appropriate mitigation measures to protect hedgehogs;
- g) Details of updated Japanese knotweed surveys to be carried out and any necessary mitigation and/or management measures required;
- h) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities
- i) A Construction Event Management Plan and Construction Site Traffic Management Plan.

Reason: To ensure that the appointed contractor undertaking the work is fully appraised of all the risks associated with the proposal and to provide effective mitigation ensuring there are no adverse impacts on the integrity of European sites or priority habitats and species.

17.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, and submitted to 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.

18.No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 17 above.

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

19.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 17 above. These measures shall be implemented and a final archaeological report shall be submitted to the Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

20. The development hereby permitted shall not commence until a detailed remediation strategy to address all unacceptable risks to environmental receptors identified in Atkins Ltd Contaminated Land Assessment. Queens Parade, Bangor August 2019 has been submitted to and agreed in writing by the Council. This strategy shall identify all unacceptable risks on the site, the remedial objectives/criteria and the measures which are proposed to mitigate them (including maps/plans showing the remediation design, implementation plan detailing timetable of works, remedial criteria, monitoring program, etc).

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

21. The development hereby permitted shall not be occupied until the remediation measures as described in the remediation strategy submitted under condition 20 have been implemented to the satisfaction of the Council. The Council must be given 2 weeks written notification prior to the commencement of remediation work.

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

22. In the event that contamination or risks not previously considered are encountered during any of the approved development phases, all works shall cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>, as applicable. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Council in writing, and subsequently implemented and verified to its satisfaction.

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

23. After completing the remediation works under conditions 21 to 23; and prior to occupation of the development, a verification report shall be submitted in writing and agreed with the Council. This report shall be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>, as applicable. The verification report shall present all the remediation, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and wastes in achieving the remedial objectives.



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

24. No piling work shall commence on this site until a piling risk assessment has been submitted to and agreed in writing by the Council. Piling risk assessments should be undertaken in accordance with current best practice.

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

25. All noise mitigation measures for the construction and demolition phase shall be incorporated into the development as detailed in section 4.3 of Noise Impact Assessment, Redevelopment at Queens Parade, Bangor, prepared by RPS, referenced NI2123 17th December 2019.

Reason: To ensure the occupiers of nearby premises are not adversely affected by construction noise

26. Demolition or construction works shall not take place outside the following hours: - Mondays - Fridays -07:00 hrs 19:00hrs, Saturdays - 08:00hrs - 13:00hrs and not at all on Sundays or Public/Bank Holidays.

Reason: To ensure the occupiers of nearby properties are not adversely affected by construction noise.

27. Noise from the construction site shall not exceed the Category A noise threshold limit of 65dB at nearest residential premises. Construction noise monitoring shall be carried out throughout the construction period to ensure compliance with the noise threshold limits set and records be kept for inspection by the Council.

Reason: To ensure the occupiers of nearby premises are not adversely affected by construction noise.

28. Prior to the commencement of development in each phase, a construction barrier shall be erected around the perimeter of the site which shall provide at least 10dB reduction in noise levels and shall be retained until the relevant phase is complete.

Reason: To ensure the occupiers of nearby premises are not adversely affected by construction noise.

29. Glazing, capable of providing a sound reduction index of at least 33dB Rw shall be installed within all habitable rooms within the residential development prior to occupation and shall be permanently retained thereafter.

Reason: To ensure future occupants of the apartments are not adversely affected by noise.

30. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 33dB Rw when

in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all habitable rooms in the residential development prior to occupation and shall be permanently retained thereafter.

Reason: To ensure future occupants of the apartments are not adversely affected by noise.

31. Prior to the commencement of operation of each commercial/retail unit, details of the location and specification of all plant and equipment to be used in connection with the commercial/retail units shall be submitted to and agreed in writing by the Council. All plant and equipment associated with the commercial/ retail units must be demonstrated to comply with the derived threshold limits at noise sensitive receptors as detailed in Table 5.5 of Noise Impact Assessment, Redevelopment at Queens Parade, Bangor, prepared by RPS, referenced NI2123 17th December 2019. The development shall be carried out in accordance with the approved details.

Reason: To ensure future occupants of the apartments and patrons of the hotel are not adversely affected by noise.

32. Glazing, capable of providing a sound reduction index of at least 36dB Rw shall be installed within all hotel rooms on the first floor prior to the commencement of operation and shall be permanently retained thereafter.

Reason: To ensure future patrons of the hotel are not adversely affected by noise.

33. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 36dB Rw when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all hotel rooms on the first floor.

Reason: To ensure future patrons of the hotel are not adversely affected by noise.

34. Glazing, capable of providing a sound reduction index of at least 33dB RW shall be installed within all hotel rooms on the second floor prior to the commencement of operation and shall be permanently retained thereafter.

Reason: To ensure future patrons of the hotel are not adversely affected by noise.

35. An alternative form of ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 33dB Rw when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all hotel rooms on the first floor prior to the commencement of operation and shall be permanently retained thereafter.

Reason: To ensure future patrons of the hotel are not adversely affected by noise.

36. Prior to the commencement of operation of the hotel, details of the location and specification of all plant and equipment to be used in connection with the hotel shall be submitted to and approved in writing by the Council. All plant and equipment associated with the hotel must be demonstrated to comply with the derived threshold limits at noise sensitive receptors as detailed in Table 5.8 of Noise Impact Assessment, Redevelopment at Queens Parade, Bangor, prepared by RPS, referenced NI2123 17th December 2019. The development shall be carried out in accordance with the approved details.

Reason: To ensure future occupants of the apartments and patrons of the hotel are not adversely affected by noise.

37. The details of the specific sound insulation/design measures and noise control measures for the cinema shall be submitted to and approved in writing by the Council, prior to the commencement of development of the cinema. The development shall be carried out in accordance with the approved details.

Reason: To ensure future occupants of the apartments and patrons of the hotel are not adversely affected by noise.

38. Prior to the commencement of development, a dust management plan shall be submitted to and agreed in writing by the Council. This shall outline the site-specific dust mitigation measures to be employed during demolition and construction phases to minimise the generation and movement of dust from the proposed development to surrounding areas.

Reason: To ensure the emission of dust is controlled during the demolition and construction phase of the development.

39. The measures agreed in the dust management plan secured by condition 38 above shall be implemented, controlled and managed, with all records held on-site and made available to the Council if required.

Reason: To ensure the emission of dust is controlled during the demolition and construction phase of the development.

40. Prior to installation, full details and specifications of all combustion units to be installed are to be submitted to and approved in writing by the Council (in consultation with its Environmental Health Department). All installations as approved shall be completed and commissioned prior to occupation. No changes to the approved heating system provision shall be made without the prior written approval of the Council.

Reason: To control impact on air quality through emissions from any associated combustion plant.

41. Prior to commencement of any tenant fit out, for each unit or part thereof, full details and specifications of extract ventilation and odour control are to be forwarded to Ards and North Down Borough Council Environmental Health Department for review and approval in writing prior to installation. All installations are to be completed and commissioned in accordance with the approved details prior to occupation/commencement of use and are to be retained throughout the tenancy. No changes shall be made to the occupancy or ventilation provision without the prior written approval of the Council.

Reason: To ensure the occupants of nearby residential premises are not adversely affected by cooking odours from the proposed food businesses.

42. Deliveries by commercial vehicles shall not take place outside the following hours: - 07:00-23:00hrs Monday to Saturday and not at all on Sundays or Public/Bank Holidays.

Reason: To ensure nearby residents are not adversely affected by noise from delivery vehicles and associated activity.

43. Prior to the commencement of any development hereby approved, with the exception of the establishment of the two site compounds as shown on Drawing No. 58C bearing the date stamp 30 June 2022 and any archaeological works required under conditions 17 and 18 above, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 shall be submitted to and approved in writing by the Council.

Reason: To safeguard against flood risk to the development and elsewhere.

44. Prior to the commencement of any works on site with the exception of the establishment of the two site compounds as shown on Drawing No. 58C bearing the date stamp 30 June 2022 and any archaeological works required under conditions 17 and 18 above, an inspection shall be undertaken to review the site conditions and the potential for any re-occurrence of Japanese knotweed. If Japanese knotweed or other invasive species are found, necessary action shall be taken prior to works commencing on site. Details of these inspections and any action required shall be included in the 136 final Construction Environmental Management Plan (CEMP) referred to in condition 16 above. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the presence of any invasive species is eradicated from the site.

45. No development activity, including ground preparation or vegetation clearance, shall take place with the exception of the establishment of the two site compounds as shown on Drawing No. 58C bearing the date stamp 30 June 2022 and any archaeological works required under conditions 17 and 18 above, until an updated breeding bird survey of the site has been undertaken by a suitably qualified and experienced ecologist between April and June and the findings of this survey and appropriate mitigation and

compensation measures to be implemented are included in a Breeding Bird Survey and Mitigation Report which shall be submitted to and approved in writing by the Planning Authority. The approved Breeding Bird Survey and Mitigation Report shall be implemented in accordance with the approved details and all works on site shall conform to the approved Breeding Bird Survey and Mitigation Report, unless otherwise agreed in writing by the Planning Authority. The Breeding Bird Survey and Mitigation Report shall include the following:

- a) Details of the results of the updated breeding bird survey carried out at the appropriate time of year and using appropriate methodology;
- b) Details of mitigation and compensation measures for birds, including the specifications and locations of the compensatory measures such as nest boxes/bricks;
- c) Details of the appointment of an Ecological Clerk of Works (ECoW) to oversee the implementation of mitigation and compensation measures for birds and their roles and responsibilities.

Reason: To protect breeding birds.

46. No vegetation clearance or building demolition shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Council within 6 weeks of works commencing.

Reason: To protect breeding birds.

47. 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. 82 bearing the date stamp 24 May 2021.

Reason: To ensure there is a safe and convenient road system within the 137 development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

48. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. Prior to development in each phase becoming operational/occupied, the works necessary for the improvement of a public road shall be completed in accordance with the phasing particulars outlined below and the works outlined in blue on Drawing No. 82 bearing the date stamp 24 May 2021. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Phase 1

- Footway works – connection to Marine Gardens at Queen’s Parade/Bridge Street junction and at Trinity Way connection to Main Street.
- Carriageway works at Trinity Way/Main Street junction to create a new vehicular egress route onto Main Street.
- Improvements to the kerb line radii and loading bay amendments to Main Street/King Street junction.

#### Phase 2

- Southwell Road widened and made two-way between Primrose Street and Queen’s Parade/Grays Hill/Southwell Road mini roundabout junction to allow creation of basement car park access.
- Works to King Street footway to allow creation of private residential courtyard.
- Marking of loading bays to western section of Queen’s Parade.
- Marking of disabled parking bays on Queen’s Parade.

#### Phase 3

- Raised table on Queen’s Parade at end of phase 3
- Loading bays marked out to eastern section of Queen’s Parade.

#### Phase 4

- Works to King Street footway and final surfacing to The Vennel.

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

49. No development hereby permitted shall be occupied or become operational as detailed in the phasing plan until hard surfaced areas associated with that phase have been constructed and permanently marked in accordance with the approved Drawing Nos. 58C (phase 1), 59C (phase 2), 60C (phase 3) and 61C (phase 4) bearing the date stamp 30 June 2022 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

50. No development hereby permitted shall be occupied or become operational until a Parking Management Plan has been submitted to and agreed in writing by the Council. The Plan as submitted shall be generally in accordance with that detailed on figure 8-2 of the Transport Assessment bearing the date stamp 10 February 2020. The development shall be carried out in accordance with the Parking Management Plan as agreed.

Reason: To ensure the safe and functional operation of the parking provided in accordance with its associated planned use.

51. The development hereby permitted shall not be occupied or become operational until a Travel Plan has been submitted to and agreed in writing

by the Council. The Travel Plan as submitted shall be generally in accordance with the Travel Plan framework bearing the stamp 10 February 2020. The development shall operate in accordance with the Travel Plan as agreed.

Reason: To facilitate access to the site by means other than the private car and in the interests of road safety and traffic progression to ensure the adequacy of the service facilities.

52. The development hereby permitted shall operate in accordance with the Service Management Plan bearing the date stamp 10 February 2020.

Reason: To facilitate access to the site by means other than the private car and in the interests of road safety and traffic progression to ensure the adequacy of the service facilities.

53. Refuse collection for the development hereby approved shall be carried out by a private company utilising Euro Bins. Details of the final management arrangements for refuse collection shall be submitted to and approved in writing by the Council prior to the occupation or operation of any part of the development hereby approved and the approved arrangements shall be carried out in perpetuity thereafter.

Reason: In the interests of road safety and traffic progression and to ensure the adequacy of the service facilities.

54. The vehicular access associated with each phase of the development, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing Nos. 58C (phase 1), 59C (phase 2), 60C (phase 3) and 61C (phase 4) bearing the date stamp 30 June 2022 prior to the commencement of any works within that phase. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

55. The access gradients to the development hereby permitted shall not exceed 4% (1 in 25) over the first 10 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

56. A Road Safety Audit in accordance with GG119 of the Design Manual for Roads and Bridges shall be carried out at appropriate stages within the construction and operation process. Any out workings of the safety audit shall be submitted to and approved in writing by the Council (in consultation with

DFI Roads) with stage 1 and 2 audits being prior to the commencement of development with the exception of the establishment of the two site compounds as shown in phasing drawing No. 58C bearing the date stamp 30 June 2022.

Reason: In the interest of safety and convenience of road users.

57. Details of the temporary structure required to enclose the undercroft car park, screening/safety structures adjacent to the proposed retail units and steps required to be constructed within phase 2 of the development as indicated on Drawing No. 59C bearing the date stamp 30 June 2022, shall be submitted to and approved in writing by the Council prior to the commencement of phase 2. The structures as approved shall be erected prior to the occupation/operation of any of the residential or retail uses within phase 2 and shall be removed prior to the occupation/operation of any part of phase 3.

Reason: In the interests of site safety and visual amenity.

58. The proposed lift as indicated on Drawing No. 25 bearing the date stamp 28 January 2020 shall be installed and fully functional prior to the occupation/operation of any of the residential or retail uses within phase 2 and shall be permanently retained thereafter.

Reason: To ensure the provision of suitable means of alternative access to the development between the Market Place and Queen's Parade.

**Informatives**

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.
2. This approval is subject to a Planning Agreement prepared under Section 76 of the Planning Act (Northern Ireland) 2011.

<b>Case Officer Signature:</b>		<b>Date:</b>	
------------------------------------	--	--------------	--





Main Street ((Google Streetview image May 2023)



Queen's Parade (Google Streetview image May 2023)



**Marine Gardens Car Park (Google Streetview image September 2022)**



**Existing entrance to site from King Street (Google Streetview image September 2022)**




**Southwell Road**



## ITEM 4.3

## Ards and North Down Borough Council

Application Ref	LA06/2024/0102/F
Proposal	Demolition of existing 2-storey dwelling and construction of new build dwelling
Location	14 Shandon Park West, Bangor DEA: Bangor Central
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to the officer's recommendation
Validated	01/02/2024
Summary	<ul style="list-style-type: none"> <li>• Site within a proposed Bangor East ATC with dBMAP 2015. The existing dwelling offers no architectural merit or historic significance, and its removal would not be detrimental to the character of the area. Proposal considered on character of the overall area.</li> <li>• The submitted Design and Access Statement outlines how the proposed scheme is in line with the surrounding built form.</li> <li>• The proposal is in accordance with policy QD1 of PPS 7 with its scale and massing in keeping with the surrounding street scene and its height and siting respects neighbouring dwellings in the cul-de-sac, and the overall design and use of materials in line with the character and appearance of the surrounding area.</li> <li>• The proposed dwelling is on the footprint of the existing dwelling and recently approved extension (details in case officer report) and thus the separation distances (back-to-back) constant.</li> <li>• Obscure glazing to be conditioned on any approval to prevent unacceptable overlooking and protect neighbouring private amenity.</li> <li>• Access is to be widened therefore DfI Roads consulted and no objections.</li> <li>• Ample parking proposed for four-bedroom dwelling. Exceeds recommended 2.75 spaces outlined in Creating Places.</li> <li>• Nine separate letters of objection received and three letters of support, which have been considered in detail in Case Officer Report.</li> </ul>
Recommendation	Approval
Attachment	Item 4.3a – Case Officer Report

<b>Development Management Case Officer Report</b>			
<b>Reference:</b>	LA06/2024/0102/F	<b>DEA:</b> Bangor Central	
<b>Proposal:</b>	Demolition of existing 2-storey dwelling and construction of new build dwelling		
<b>Location:</b>	14 Shandon Park West, Bangor, BT20 5JD		
<b>Applicant:</b>	David Wilson		
<b>Date valid:</b>	01/02/2024	<b>EIA Screening Required:</b>	No
<b>Date last advertised:</b>	15/02/2024	<b>Date last neighbour notified:</b>	09/08/2024
<b>Letters of Support:</b>	<b>3</b>	<b>Letters of Objection:</b>	<b>9</b>
		<b>Petitions:</b>	<b>0</b>
<b>Consultations – synopsis of responses:</b>			
DFI Roads		No objection subject to condition	
NI Water		No objection	
<b>Summary of main issues considered:</b>			
<ul style="list-style-type: none"> <li>• Principle of development</li> <li>• Impact on proposed Area of Townscape Character (ATC)</li> <li>• Visual impact, design and impact on the character of the established residential area</li> <li>• Impact on Residential Amenity</li> <li>• Impact on Biodiversity</li> <li>• Parking and Access</li> </ul>			
<b>Recommendation: Grant Planning Permission</b>			
<b>Report Agreed by Authorised Officer</b>			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal <a href="http://planningsystemni.gov.uk">Northern Ireland Public Register (planningsystemni.gov.uk)</a>			

## 1. Site and Surrounding Area

The application site is located at the end of a small cul de sac of detached and semi-detached dwellings, dating from the interwar period (1920s.) No. 14 follows the three-bay detached form of the Edwardian and Victorian periods, although is devoid of much of the stucco embellishment that would be common with dwellings of this era. The dwelling is two storey in character with a pitched slate roof and porch, ground floor bay windows and robust chimneys expressed on the ridgeline. Whilst occupying a relatively secluded site away from the main road, the building does act as a prominent terminal feature when you drive along Shandon Park West. Overall, Shandon Park West is an eclectic mix of dwellings in terms of facing materials and elevational form. This variation includes some dwellings finished in render, others in facing brick and others a mixture of the two. Some buildings have fenestration with a horizontal emphasis, whilst others have a vertical emphasis. At ground floor some dwellings have canted bay windows, some have gabled projecting bays, some have recessed openings under archways. One of the dwellings in the cul-de-sac is a bungalow (no3.)

The area is predominately residential with a variety of house types with mature gardens and on-site parking. Ballyholme beach and promenade are located to the front of the dwelling.

The site lies within the settlement limits of Bangor and within the Proposed Bangor East Area of Townscape Character.



Figure 1 – Front Elevation of existing dwelling.



**Figure 2: view of application site form Shandon Park West**



**Figure 3: View from front of application site looking towards Clifton Road**

## 2. Site Location Plan

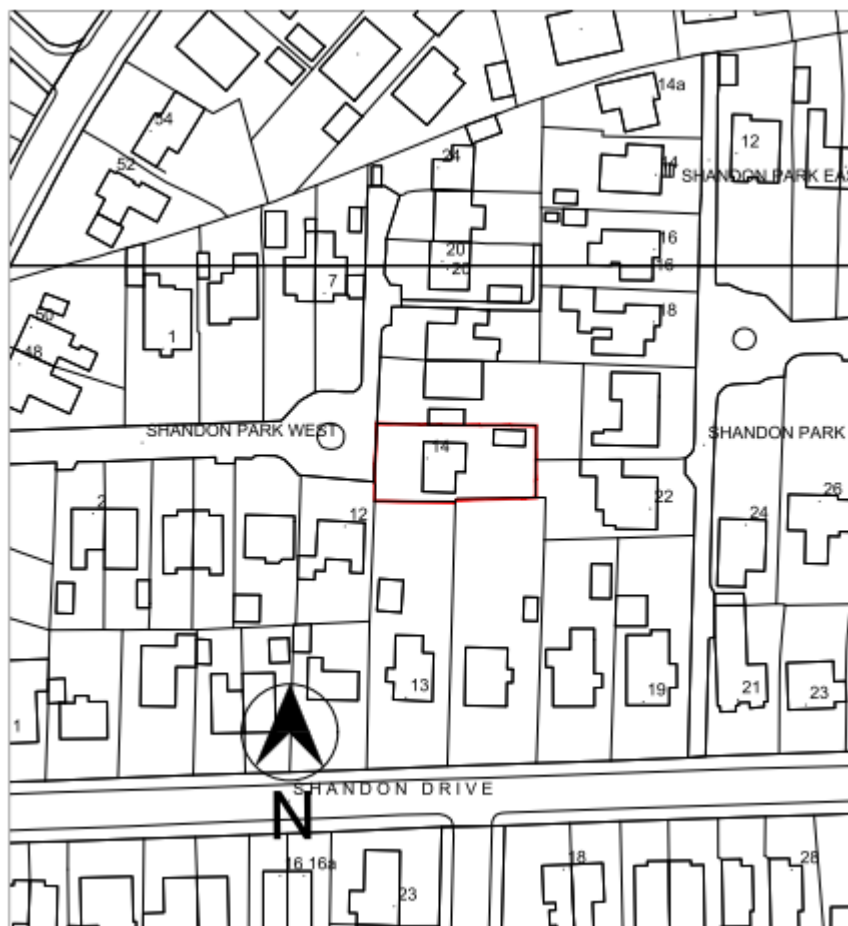


Figure 4 – Site Location Plan



Figure 5 – Aerial View of site



### 3. Relevant Planning History

There is one relevant planning history to the application site.

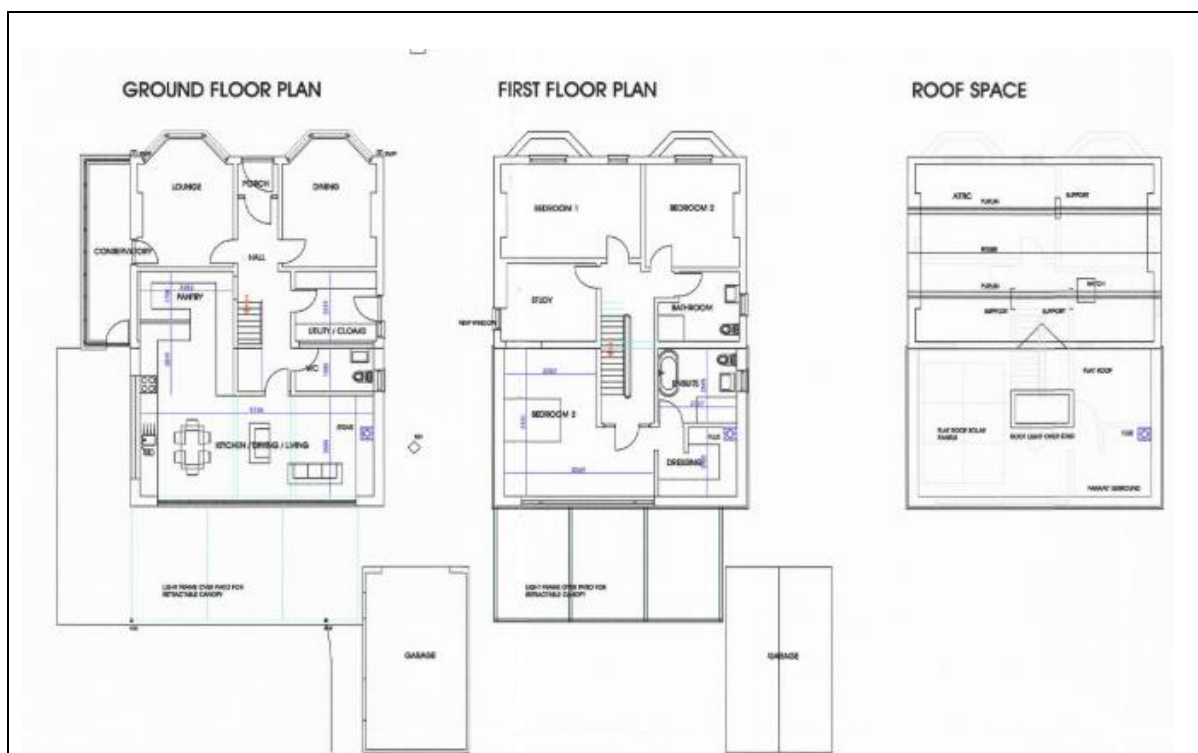
**Planning reference:** LA06/2022/1152/F

**Proposal:** Demolition of existing rear extension to facilitate two storey rear extension with retractable canopy and solar panels.

**Address:** 14 Shandon Park West. Bangor BT20 5JD

**Decision:** Planning Granted (03.03.2023)





**Figure 6: Approved block plan, elevations and floor plans for previous approval on the site.**

#### Surrounding area.

**Planning reference:** LA06/2022/0452/F

**Proposal:** Single Storey Side and Rear Extension

**Address:** 13 Shandon Drive, Bangor

**Decision:** Planning Permission Granted (14.06.2022)

**Planning reference:** W/2004/0052/F

**Proposal:** 1st Floor Rear Extension and Loft Conversion

**Address:** 15 Shandon Drive, Bangor

**Decision:** Planning Permission Granted (26.03.2004)

## 4. Planning Assessment

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

- North Down and Ards Area Plan 1984 - 1995

- Draft Belfast Metropolitan Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2 (PPS2) - Natural Heritage
- Planning Policy Statement 3 (PPS3) - Access, Movement and Parking
- Planning Policy Statement 6 (PPS6) – Planning, Archaeology and the Built Heritage
- Planning Policy Statement 6 Addendum (PPS6A)– Areas of Townscape Character
- Planning Policy Statement 7 (PPS7) – Quality Residential Environments
- Planning Policy Statement 7 Addendum (PPS7A) – Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 12 (PPS12) - Housing in Settlements

#### Supplementary planning guidance

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

#### **Principle of Development**

Regional planning policies of relevance are set out in the SPPS and other retained policies. Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In respect of the proposed development, there is no conflict or change in policy direction between the provisions of the SPPS and the retained policies contained in PPS3, PPS6, PPS6A, PPS7, PPS7A, and PPS12 therefore these remain the applicable policy documents to consider the development under.

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

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

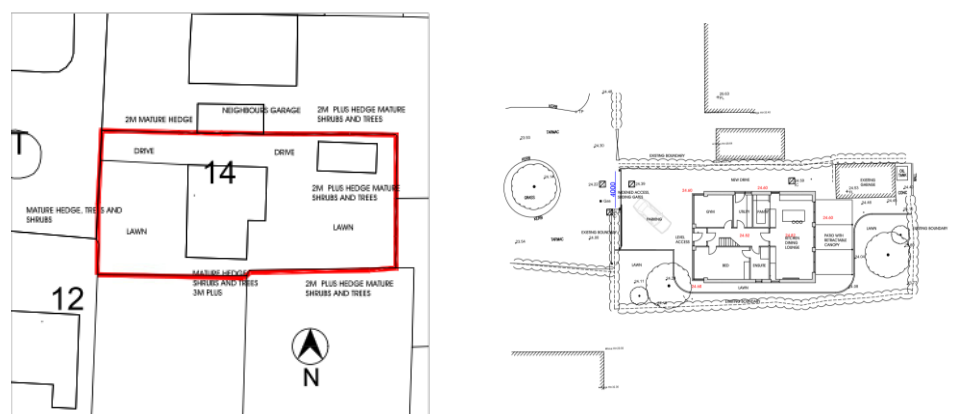
In dBMAP the site is not zoned for any purpose. The site does however lie within the boundary of Bangor East ATC (BR14). The text for the draft ATC identifies multiple key features of the ATC. The impact of development on the proposed ATC and the compliance or otherwise with the provisions of the LDP and the weight to be given to dBMAP will be assessed in detail in the consideration below. The matter of the applicability of the Addendum to Planning Policy Statement 6 – Areas of

Townscape Character (PPS6A) and the related provisions of the SPPS will also be considered below.

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

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

The application seeks the demolition of the existing dwelling, and the erection of a replacement dwelling sited within the established residential curtilage of 14 Shandon Park West, as shown on the existing and proposed site layout plans in Figure 6 below.



**Figure 7 – Existing and Proposed Site Layout**

Paragraph 4.26 of the SPPS states that design is an important material consideration in the assessment of all proposals. It goes on to state that particular weight should be given to the impact of development on existing buildings, especially listed buildings, monuments in state care and scheduled monuments, and on the character of areas recognised for their landscape or townscape value, including ATCs. Paragraph 6.21 of the SPPS states that in managing development within ATCs designated through the LDP process the council should only permit new development where this will maintain or enhance the overall character of the area and respect its built form. Paragraph 6.22 goes on to state that the demolition of an unlisted building in an ATC should only be permitted where the building makes no material contribution to the distinctive character of the area and subject to appropriate arrangements for the redevelopment of the site.

Notwithstanding this, the policies within APPS6 and the related provisions of the SPPS refer to designated ATCs. No reference is made to draft/proposed ATCs, which do not have the same status or legal standing as a designated ATC. In relation

to the weight to be given to a draft/proposed ATC by the Planning Appeals Commission the following decision references are applicable:

- *In Appeal Decision Reference 2021/A0227 the Commissioner stated that a draft ATC is not designated therefore policy cannot apply. Para 16 reads – “Notwithstanding the above, the policies within the APPS6 and the related provisions of the SPPS refer to ATCs. No reference is made to draft ATCs, which do not have the same status or legal standing as a designated ATC.”*
- *In Appeal Decision Reference 2018/A0093: ‘...As it is not known how any lawfully adopted BMAP will describe the overall character of the area to be designated, it is not possible to assess the impact of the proposed development on that character and built form. However, ... the impact of the development on the character and the appearance of the proposed ATC remains a material consideration and can be objectively assessed...’*

Therefore, Policies ATC1 and ATC2 of APPS6 and the aforementioned provisions of the SPPS are not applicable to the consideration of the development.

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

The Planning Appeals Commission considered objections to this proposed ATC designation within its report on the BMAP public inquiry and recommended no change to the proposed ATC. Therefore, it is likely, that if and when BMAP is lawfully adopted, a Bangor East Area of Townscape Character designation will be included. Consequently, the proposed ATC designation in draft BMAP is a material consideration relevant to this application.

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

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

decisions, for example 2018/A0093 (as outlined above) – dwelling and garage at 1 Farnham Park, Bangor and 2020/A0099 – 17 Apartments, Seacliff Rd, Bangor.

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

The proposed Bangor East ATC covers a large area of the town adjacent to Ballyholme Bay. Within this area there is a wide variety of built form. Overall, Shandon Park West is an eclectic mix of dwellings in terms of facing materials and elevational form. This variation includes some dwellings finished in render, others in facing brick and others a mixture of the two. Some buildings have fenestration with a horizontal emphasis, whilst others have a vertical emphasis. At ground floor some dwellings have canted bay windows, some have gabled projecting bays, some have recessed openings under archways. One of the dwellings in the cul-de-sac is a bungalow (no3.).

The site is located towards the eastern portion of the proposed ATC designation as indicated on the map below. Draft BMAP does not divide the proposed ATC into separate character areas, therefore it is the impact on the ATC as a whole which must be considered.



**Figure 8 - Extract from Draft BMAP – Bangor East ATC (BR14)**

With regard to the proposed demolition, while the existing building fits comfortably within its context by way of its size and form, it is not considered to make any material contribution to the established built form or appearance of the area. It has no

particular design merits and makes little, if any, contribution to the appearance of the proposed ATC. The building is also not included within any of the key features of the ATC as identified in Draft BMAP and shown in Figure 9 below.

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

**Figure 9 - Extract from Draft BMAP - Key features of Bangor East ATC**

Although the proposed application site is not within a conservation area, I considered it appropriate to gauge the opinion of the Council's conservation officer regarding the demolition of No.14. The officer stated that: *"Shandon Park West is not explicitly referred to as one of the key characteristics of the ATC, the building is not listed and was not even surveyed as a potential candidate for listing and public views of it are limited to within the cul-de-sac only. I am therefore of the opinion that demolition of the existing dwelling and replacing it with a single well designed family dwelling would not be detrimental to the character and appearance of the area."*

The proposal involves the replacement of one dwelling with another within the established curtilage of the site respecting the established building line.

As such, overall, it is my opinion that the demolition of the building will cause no harm to the overall appearance of the proposed ATC.

Turning to the development of the proposed replacement dwelling itself, paragraph 4.27 of the 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.

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

A Design and Access Statement has been submitted by the agent setting out the design principles and how the proposal will respect the established built form of the area. In the statement it refers to planning history of the site (contemporary 2 storey extension to the rear) and the erection of 11 detached houses including garages at 56-66 Clifton Road, Bangor which received planning approval 15 September 2014. The proposed dwelling design is similar to those within Clifton Mews - see below:



**Figure 10: dwellings with “Clifton Mews” with a similar roof design.**

The site has limited visibility from a public perspective meaning views of the new build would be localised within Shandon Park West. In relation to the design of the proposed dwelling, it is recognised the dwelling is of a more contemporary design than others within the cul-de-sac. However, as can be seen from the following



images, no particular house type prevails in Shandon Park West and there are variations in rooflines, finishes, fenestration and dwelling format.



**Figure 11: View of application site from Shandon Park West.**



**Figure 12: View from Shandon Park West towards Clifton Mews**



**Figure 13: No. 59 Clifton Road – example of similar design**

**The images above have been taken from Google Street View (March 2022)**

The proposed elevations show the roof as hipped which is different to the existing pitched roof. The conservation officer highlights the visually discordant nature of the roof which appears as a pyramid style with no chimney. However, it is recognised there are dwellings within the immediate vicinity which are directly comparable and in more prominent locations on Clifton Road. Para 4.24 of PPS 7 states, "*While the Department considers it important to ensure that all new development fits in well with its surroundings this will not preclude quality contemporary design using modern materials.*" The mix of house height, scale and design within Shandon Park West and similar roof types in the immediate vicinity mean that in my professional opinion the proposed roof design and dwelling finishes are not contrary to policy QD1 of PPS7.

The proposed replacement dwelling is to be of a similar height to the existing dwelling and those adjacent, meaning the proposal will sit comfortably in the street scene in terms of scale and massing. The proposed projecting bay to the front elevation represents a modern interpretation of the bay on the existing dwelling and some of the neighbouring properties. The proposed use of facing brick for walls and grey slate/tile roof are common materials in the surrounding area and therefore are not considered to be incongruous in the street scene. Existing boundaries are indicated on the plans to be retained.

On balance, whilst it is recognised that the proposed design is contemporary and the roof shape does not match those within Shandon Park West, the overall design of the replacement dwelling is not considered to have a harmful impact on the character of the area given the mix of house types within Shandon Park West and the immediate surrounding area.

The onus is on the developer to produce a high standard of design which respects and is sympathetic to the particular qualities of the area. All new housing developments should demonstrate a high quality of design, layout and landscaping. Overall, I am satisfied that the proposal represents a high standard of design. The scale, massing, landscaping and materials proposed are combined to create a development that will not be harmful or have an adverse visual impact to the overall character and appearance of the area. The existing access is to be used (but slightly widened). The plot size and ratio of built form to garden is acceptable and in keeping with the area. Given the application is for a replacement dwelling, this will not lead to an increase in the housing density of the area. It is considered that the proposed dwelling will set comfortably alongside existing dwellings and will not detract from the overall character and appearance of the immediate and surrounding area.

### **Impact on Residential Amenity**

The dwellings within closest proximity to the site which would have the potential to be most affected by the development are No. 16 Shandon Park West, no. 20 Shandon Park East, no. 22 Shandon Park East, no. 15 Shandon Drive, no. 13 Shandon Drive and no. 12 Shandon Park West. It is acknowledged that there is potential for a degree of overlooking to amenity spaces in urban areas.

The proposed dwelling is positioned centrally on the application site on the footprint of the original dwelling house (and the approved extension). It is set off the northern (side) boundary by 3 metres approx. 10 metres approx. from the eastern (rear) boundary, 2.2metres (approx.) from the southern (side boundary) and 8.7m (approx.) from the eastern boundary (front). The proposed dwelling does not come closer to the boundaries than that which is existing and approved. Windows on the rear elevation serve living kitchen area on the ground floor and master bedroom at first floor. The previously approved extension application permitted a window at first floor level on this elevation and coupled with the adequate separation distance will ensure there will be no unacceptable overlooking impact and subsequent loss of privacy towards neighbouring properties at the rear. An additional window is proposed at first floor level on the north elevation facing towards number 16. Given the separation distance of approx. 3 metres and the proposed window position, there is a potential for overlooking towards the private amenity space immediately to the rear of number 16. I consider it is necessary to attach a planning condition to ensure the proposed window is fitted with obscure glazing which is permanently retained. A condition is acceptable in this location considering the proposed bedroom is also served by windows to the rear. This will ensure there will be no unacceptable overlooking or loss of privacy to neighbouring dwellings.

The siting of the proposed dwelling is respectful of the established building line and will not result in any dominant impact by way of outlook from the main front elevation of No. 16.

The location of the proposed dwelling on the original footprint of the dwelling along with no increase in height ensure there will be no unacceptable overshadowing or subsequent loss of natural light to neighbouring properties. It could be argued that replacing a pitched roof with a hipped roof design may improve the relationship between the dwellings.

The potential dominant impact of the development on neighbouring properties is also a material consideration in addition to the impact on daylight. Dominance is the extent to which a new development adversely impinges on an immediate aspect or outlook from an adjoining property. Guidance contained in policy EXT1 of PPS7 Addendum Residential Extensions and Alterations is a useful reference in this regard. The policy advises that neighbouring occupiers should not be adversely affected by a sense of being 'hemmed in' by an extension. This can often result from the construction of a large blank wall and dominance can be increased when the neighbouring property is at a lower ground level to the development site, with loss of light usually a consequence of dominance. However, it is appropriate, to take account of the prevailing local environment.

Taking account of the above policy guidance, it is not considered that the development will result in any adverse dominant impact on neighbouring properties.

In summary, having considered all the above factors, I am satisfied that overall, the proposed dwelling will be located a sufficient distance from the existing dwellings to ensure that no unacceptable degree of dominance or overshadowing will occur and there will be no unacceptable adverse impact on residential amenity.

### **Access and Road Safety and Parking**

Development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. Parking should be provided in accordance with Creating Places standards. A detached four-bedroom dwelling requires 2.75 spaces. The proposed site layout plan indicates that there will be ample room for parking within the boundaries of the application site with room for at least two vehicles to the front of the dwelling and parking on the driveway to the side of the proposed dwelling. The driveway has a width of 2.7m approximately and the standard width of a car parking space is 2.4m x 4.8m long.

Several representations have raised issues regarding impact of traffic and parking both during construction phase and also serving the proposal. As discussed above adequate car parking has been provided. Inconsiderate parking and traffic issues during the construction phase of the development would be a civil issue between residents and the developer. This does not carry determining weight to warrant refusal of the application.

DfI Roads was consulted on the proposed widening of the driveway and offers no objections subject to conditions. It is considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic.

### **Private Amenity Space**

Sufficient amenity space will be provided within the development. The plot is adequate to ensure that sufficient provision is made for private amenity space well above the average space standard for the development, providing a greater than 70m<sup>2</sup> (approx. 105 m<sup>2</sup>) amenity space as recommended in Creating Places.

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

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

Planning permission will only be granted where a development proposal is not likely to harm a protected species or result in the unacceptable adverse impact or damage to priority species, habitats or features of natural heritage importance. In terms of

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

### **Trees and Landscaping.**

Existing boundaries are indicated to remain, and this will be conditioned to ensure their retention.

## **5. Representations**

9 letters of objection have been received to this application. A summary of the main issues raised have been highlighted below and considered throughout this planning report.

- Disruption during construction period impacting on access and car parking
- Design does not fit in with the rest of the cul-de-sac
- Houses at Clifton Mews are in their own development
- Setting a precedent to demolish older houses
- Potential damage to newly resurfaced street.
- Impact on car parking
- Impact on character of Shandon Park West and Shandon Park East.
- Potential damage to front hedges during demolition
- With no timeline to rebuild creating an unsightly building site creating hazards and lowering the property values in the area.
- No need to demolish, house could be restored
- Neighbouring dwelling could be damaged by vibrations during construction

The main concerns raised in relation to the impact of the development on the character of the area and principle of have all been considered in detail in section 4 above.

Other matters raised are considered as follows:

- **Disruption/damage during construction**  
Any issues or concerns regarding the demolition and construction of the replacement dwelling is a matter for the developer and falls outside the planning remit. Any damage caused to adjacent properties during demolition or construction would be a civil matter to be resolved between the parties involved.

3 letters of support have been received. A summary of the main points has been highlighted below:

- Existing dwelling has rising damp
- Dwelling has a poor environmental footprint
- Internal layout and access/egress unsuitable for less mobile
- Dwelling not culturally significant or unique in design/finish
- Two houses in Shandon Park West or of the same or similar design and variety of red brick houses.

- Not all dwellings in Shandon Park West have leafy front hedges.
- Dwelling has same footprint as existing and same height therefore no new or increased impact on neighbouring properties
- Proposed parking area to front of dwelling will further reduce the requirement for on street parking.
- Proposed dwelling of similar design to recent approvals and builds in the immediate locality: College Lawns, Clifton Mews and other one-off builds.
- There is no architectural consistency in Shandon Park West
- Financial viability of refurbishing older properties is increasingly challenging
- Proposal is designed with futureproofing for change in circumstances

## 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. Existing boundary treatments as shaded green on drawing No. 02A shall be permanently retained.

Reason: To ensure the maintenance of screening.

3. If any retained planting is removed, uprooted or destroyed or dies, another hedgerow/tree/s shall be planted at the same place and shall be of such size and species to be agreed in writing with the Council. The planting as approved shall be planted within the next available planting season.

Reason: To ensure the continuity of amenity afforded by existing planting.

4. The window, as shaded yellow, on the approved drawing No 02a shall be finished with obscure glass. The obscure glazing shall be installed prior to the occupation of the dwelling hereby approved and shall be permanently retained thereafter.

Reason: In the interest of privacy and amenity.

5. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015 any Order revoking and re-enacting that Order, no buildings, walls, gate pillars, fences or other structures shall be erected within the curtilage of the dwelling hereby permitted without the grant of a separate planning permission from the Council.

Reason: In the interests of visual amenity.

6. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no extension or enlargement (including alteration to roofs) shall be made to the dwelling hereby permitted without the grant of a separate planning permission from the Council.

Reason: The further extension of these dwellings requires detailed consideration to safeguard the amenities of the surrounding area.

#### **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.

### Proposed plans

**GROUND FLOOR PLAN**  
INTERNAL FLOOR AREA 110.802

**FIRST FLOOR PLAN**  
INTERNAL FLOOR AREA 100.000

**ROOF PLAN**

**BLOCK PLAN SCALE 1 : 200**

**EAST ELEVATION**

**WEST ELEVATION**

**LONGITUDINAL SECTION**

**CROSS SECTION**

**SOUTH ELEVATION**

**NORTH ELEVATION**

**PROPOSED FINISHES**

- ROOF - BLUE GREY SLATE OR TILE
- WALLS - FACED BRICK
- WINDOWS COLOUR COATED ALUMINIUM

**HOUSE DESIGN**  
12 SANDGROVE PARK WEST  
SANDGROVE CO. DUBLIN

**DATE**  
11/06/2024

**SCALE**  
1:100 (ELEVATIONS)  
1:200 (PLANS)

**David Wilson**  
RIBA Chartered Architects





4.3a

329



4.3a



4.3a



4.3a



4.3a



4.3a



Unclassified

335

**ITEM 5****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 November 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	22 October 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 Appeal decision 2022/A0073

**Appeal Decisions**

1. The following appeal was dismissed on 15 October 2024.

PAC Ref	2022/A0073
Council Ref	LA06/2019/1195/F
Appellant	Mrs Rosina Herron
Subject of Appeal	Refusal of Full Planning Permission for two single storey infill dwellings
Location	Lands adjacent to and south of 9 Killinakin Road, Killinchy

The Council refused the above application on 3 March 2022 following a Planning Committee decision to overturn the Planning Service's opinion to approve the application at a meeting held on 18 January 2022. The application was refused for the following reasons:

## Not Applicable

336

- i. The proposal was contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there were no overriding reasons why this development was essential in this rural location and could not be located within a settlement.
- ii. The proposal was contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal did 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 creation of ribbon development along the Killinakin Road.
- iii. The proposal was contrary to The Strategic Planning Policy Statement for Northern Ireland and CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would approach the top of a slope location and would be a prominent feature in the landscape and would not visually integrate into the surrounding landscape as the site was unable to provide a suitable degree of enclosure and backdrop.
- iv. The proposal was contrary to The Strategic Planning Policy Statement for Northern Ireland and policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwellings would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and create a ribbon of development which would therefore result in a detrimental change to further erode the rural character of the countryside.

There was no dispute amongst parties that there exists a substantial continuously built-up frontage (SCBUF) with three buildings identified – the dwellings at No's 1 and 9 Killinakin Road and the detached garage at No.9, as set out under policy CTY 8 of PPS 21. It was argued that the gap site was not small enough and would accommodate more than two dwellings. The Commissioner outlined that to consider whether a gap is “small” in an otherwise substantial and continuously built-up frontage, one had to assess its size, scale, siting and plot size.

The Commissioner firstly concluded that No.1 measured 0.48Ha in area and No.9, 0.22Ha. As the plot size of the appeal dwellings would be approximately 0.3Ha per dwelling plot it would respect this aspect of the development pattern.

Secondly, in terms of plot width the Commission found that No.1 measured 83m and No.9 measured 60m. Taking into account the guidance in Building on Tradition, which states that when the gap frontage is longer than the average ribbon plot width, and when the gap is more than twice the length of the average plot width, it is often unsuitable for the infill with two new plots. In this case the average plot width is approximately 72m. As the proposed gap is 91m, it is not more than twice the length of the average plot width and therefore does not offend policy CTY 8 in this regard.

However, the Commissioner concluded that the proposed dwellings would be sited further back from the road than No's 1 and 9 and behind the building line. As a



Not Applicable

337

consequence, the front gardens would be much deeper and taking this in combination with the centralised proposed access point, which does not respect the pattern of development in the area leads to development more akin to a suburban style of development.

Whilst the Commissioner found there to be a small gap in an otherwise SCBUF, the proposed dwellings would not respect the existing development pattern and be thus contrary to policy CTY 8. As the gap represents an important visual break in an otherwise SCBUF, and shares a common road frontage with No's 1 and 9 Killinakin Road and the garage at No.9, the proposal would result in a ribbon of development. The Commissioner found that the appeal therefore does not meet the requirements of Policy CTY 14 of PPS 21, criteria (b) and (d).

Furthermore, the Commissioner found that the site represents an important visual break with the gap being fully visible on an exposed hill, which provides relief between two settlements in this Area of Outstanding Natural Beauty.

In terms of integration the Commissioner concluded that No.8 on the opposite site of the road to the site provides a degree of a backdrop to Site A only with Site B partly breaking the skyline when read from a critical viewpoint on Whiterock Road. The Commissioner concluded that the site is prominent, and the appellant would be required to rely upon new planting to integrate and therefore fails to meet the requirements under Policy CTY 13 of PPS 21.

Third parties' arguments were not accepted regarding that the proposal did not comply with policy NH5 of PPS 2 'Natural Heritage' as there was no evidence of an adverse impact on priority habitats or priority species. This is based on the fact that only a small section of the roadside boundary hedge would be removed, other hedges within the site would be retained and augmented and that there was no clear evidence that the existing hedgerows are species rich or have biodiversity value.

Finally, the Commissioner was content that given the number of vehicle movements associated with the proposal, her on-site observations and that DfI Roads did not have any objections to the proposal, it would not prejudice road safety or inconvenience the flow of traffic.

It was also considered that the septic tanks could be located within the site however their installation etc falls under separate legislation outside the Planning Act (NI) 2011.

2. **New Appeals Lodged** - No new appeals have been lodged since the date of the last report.

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

## RECOMMENDATION

It is recommended that Council notes the report and attachment.



# Appeal Decision

4<sup>th</sup> Floor  
 92 Ann Street  
 BELFAST  
 BT1 3HH  
 T: 028 9024 4710  
 E: info@pacni.gov.uk

338

---

<b>Appeal Reference:</b>	2022/A0073
<b>Appeal by:</b>	Mrs Rosina Herron
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposal:</b>	Two single storey infill dwellings
<b>Location:</b>	Lands adjacent to and south of 9 Killinakin Road, Killinchy
<b>Planning Authority:</b>	Ards and North Down Borough Council
<b>Application Reference:</b>	LA06/2019/1195/F
<b>Procedure:</b>	Written Representations with Commissioner's site visit on 9 August 2024
<b>Decision by:</b>	Commissioner B Stevenson, dated 15 October 2024

---

## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the appeal proposal would:
  - be acceptable in principle;
  - visually integrate into the landscape;
  - detrimentally change the rural character of the area; and
  - have an unacceptable adverse impact on priority habitats.
3. Section 45(1) of the Planning Act (Northern Ireland) 2011 requires the Commission when dealing with an appeal to have regard to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires 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.
4. The Ards and Down Area Plan 2015 (ADAP) operates as the LDP for the area wherein the appeal site is located. In the ADAP, the appeal site is in the countryside. The site also lies within Strangford and Lecale Area of Outstanding Natural Beauty (AONB), and an unscheduled monument is nearby. While there are no policies in the plan relating to either the AONB or the unscheduled monument, there are separate regional policies that deal with both. However, the Council and the third parties have raised no objection to those regional policies in this appeal. The ADAP also contains no material policies in relation to dwellings in the countryside.
5. Transitional arrangements are set out in the Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS). Those arrangements are in operation until a Plan Strategy (PS) for each of the Council

areas is adopted. As there is no adopted PS for this area, the SPPS retains certain Planning Policy Statements (PPSs) including Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21) and Planning Policy Statement 2 'Natural Heritage' (PPS2). There is no conflict or change in policy direction between the provisions of the SPPS, PPS21 and PPS2 insofar as they relate to the issues that arise in this appeal. In accordance with the transitional arrangements, the retained policies provide the policy context for assessing the proposal. Supplementary planning guidance is contained in 'Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside' (BoT).

6. Policy CTY1 of PPS21 is entitled '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 that will contribute to the aims of sustainable development. The development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY8 'Ribbon Development' is one of those types of development. The appeal is made under this particular policy and underpins my consideration of the proposal as set out below.
7. Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Notwithstanding the presumption against ribbon development, the policy permits under the exception test, 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. The policy defines a substantial and built up frontage as including a line of three or more buildings along a road frontage without accompanying development to the rear.
8. The appeal site is part of a much larger agricultural field and is located on a hill between the detached bungalow at No. 1 Killinakin Road and a one and a half storey detached dwelling and its detached garage at No. 9, which sits on the brow of the hill. The topography of the appeal site falls significantly from the road to the eastern boundary and steadily rises in a northerly direction towards No. 9. The Killinakin Road is on the northern side of Whiterock Road and lies between the settlements of Killinchy and Whiterock. The latter faces onto Strangford Lough.
9. The appellant is seeking full planning permission for two detached single storey dwellings – Sites A and B. The footprints of the proposed dwellings and their adjoining double garages are the same and take a L-shaped form. Their floorspace measures around 260m<sup>2</sup> each. Before separating into single driveways, both dwellings would be accessed by a shared vehicular access point in the centre of the appeal site.
10. While there is no dispute between the parties that there is a substantial and built-up frontage, the third parties argue that the built-up frontage is not continuous and that there is no awareness of any frontage. Nevertheless, the policy test is not one of 'awareness' and while the word 'continuously' is cited in the policy, this relates to the nature of the frontage which is qualified in the policy as "including a line of 3 or more buildings along a road frontage". It is a matter of fact whether or not buildings have frontage to the road. In this case, Nos. 1 and 9 have frontage to the road because the plots upon which they sit abut the road. The substantial and continuously built up

frontage therefore comprises three buildings as specified in the policy, namely, the two detached dwellings at Nos. 1 and 9 and the detached garage at No. 9. As per the high court judgement – *Gordon Duff v Newry, Mourne and Down District Council [2022] (NIQB37)* and the subsequent court of appeal judgement - *Gordon Duff's Application (Re. Glassdrumman Road, Ballynahinch) [2024] NICA 42*, Policy CTY8 refers to a small gap site within an otherwise substantial and continuously built-up frontage, that is to say, which is continuously built up (in line with the policy) but for a 'small gap site' which is under consideration for development.

11. The Council and the third parties contend that there is no small gap site because the gap could accommodate more than two houses while still respecting the existing development pattern along the frontage. Paragraph 5.34 of the amplification text of Policy CTY8 states that *"many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated. Applicants must take full account of the existing pattern of development and produce a design solution to integrate the new buildings."*
12. The above quoted paragraph infers that for the purposes of the policy, the 'gap' is between buildings. The gap between the two dwellings is approximately 91 metres wide. In assessing whether that gap is 'small' and thus compliant with the policy, one must assess it in the context of the existing pattern of development along the frontage in terms of size, scale, siting and plot size. In relation to the plot of No. 1, unlike the position of the Council, I consider that the vegetation reads as part of the garden area, thus it is part of its plot which is approximately 0.48 hectares. The plot at No. 9 is around 0.22 hectares. The plot size of the appeal dwellings would be around 0.3 hectares per dwelling plot which, from my site inspection, would respect this aspect of the development pattern along the frontage.
13. The BoT states that where a gap frontage is longer than the average ribbon plot width the gap may be unsuitable for infill. It goes on to say 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. The guidance states that a gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon. From the Killinakin Road, the plot width of No. 1 is approximately 83 metres and No. 9 is around 60 metres. The average plot width is therefore some 72 metres. Factoring this in and given that the width of the gap is approximately 91 metres, the gap is not more than twice the length of the average plot width at around 72 metres. Again, this aspect of the proposal would be acceptable.
14. Notwithstanding my findings above, while the proposed dwellings would have a bigger footprint than that of No. 9, and be similar in size and scale to No. 1, both dwellings would be sited further back from the road when compared to Nos. 1 and 9. The majority of their built form would be sited behind the rear building line of the two adjacent dwellings meaning that they would have much deeper front gardens which would read as visually discordant. The overall layout arrangement together with the centralised shared access point would be uncharacteristic of the development pattern

- in this rural area and more akin to a suburban style setting. I therefore conclude that while there is a small gap site within an otherwise substantial and continuously built-up frontage, the proposed dwellings would not respect the existing development pattern along the frontage for the reasons given.
15. Policy CTY8 of PPS21 also requires that the proposal meets other planning and environmental requirements. The Council contends that the gap frames an attractive viewpoint in the Strangford and Lecale AONB that overlooks Strangford Lough from the Killinakin Road and that this represents an important visual break. The Council also argues that the gap when viewed from the Whiterock Road is located on the horizon and thus constitutes an important visual break amongst the existing development. Page 72 of BoT states that “some gaps are not suitable for infilling if they frame a view or provide an important visual break in development.”
  16. The appellant refers to three locations that she contends the appeal site is only visible from. While I observed the site from those viewpoints, it is for the Council to defend their objections and to provide what they consider to be the critical views. The Council expresses concern regarding one of those viewpoints only – from the Whiterock Road. It also refers to a critical view on the Killinakin Road itself.
  17. On the Killinakin Road, there is a long-distance view of the rolling countryside, Strangford Lough and its islands. Given that the proposed dwellings would be single storey, they would not unacceptably obscure this important public view of the lough and the AONB. After leaving Whiterock village along the Whiterock Road, the subject gap is fully visible on the exposed hill. Irrespective of the size of the gap or the limited visibility of No. 1, it frames the viewpoint of the hillside and provides visual relief between the two settlements in the AONB. For this reason, it therefore constitutes an important visual break in this part of the AONB.
  18. As outlined above, the appeal proposal fails to respect the development pattern. It would also add to a ribbon of development in that it would share common frontage with the dwelling and detached garage at No. 9 and the bungalow at No. 1. Moreover, the gap represents an important visual break as discussed above. The proposal therefore offends Policy CTY8 of PPS21. The Council’s second reason for refusal and the third parties’ concern in this regard are sustained.
  19. Policy CTY13 of PPS21 ‘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 goes on to say that a new building will be unacceptable where certain criteria are not met. The Council and the third parties contend that the proposed dwellings would be a prominent feature in the landscape and that the site is very open with no visual backdrop to provide a suitable degree of enclosure. Criteria (a), (b) and (f) of Policy CTY13 are in dispute.
  20. Paragraph 5.60 of the amplification text of Policy CTY13 states that the assessment of integration will be judged from critical views along stretches of the public road network. Paragraph 5.61 states that new buildings that would read as skyline development or occupy a top of slope/ridge location or otherwise be a prominent feature in the landscape will be unacceptable. While the existing dwelling at No. 8, opposite the site, would provide a certain amount of backdrop to the proposed dwelling at Site A, it would not provide a backdrop to that at Site B. Notwithstanding

the proposed ground level changes and that the site sits below the Killinakin Road, I consider that the proposed dwelling at Site B would partly break the skyline when read from the identified viewpoint on Whiterock Road.

21. Despite the ground level changes and No. 8 providing a certain amount of backdrop for one of the dwellings, the two dwellings would be very exposed on the hillside given the openness of the appeal site. Notwithstanding that No. 9 reads as prominent and that the appellant proposes to plant new native species hedgerows between the dwellings and along the eastern boundary, both dwellings would also be prominent features in the landscape due to their siting on an exposed hillside and the extent of their built form.
22. For the reasons given, I find that the site is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape. The appeal proposal therefore offends criteria (a) and (b) of Policy CTY13 of PPS21. The Council's fourth reason for refusal and the third parties' concerns in this regard are therefore sustained.
23. The third parties argue that the removal of the roadside hedging to create a new and safe site access would fail the test of integration. Paragraph 5.72 of Policy CTY13 requires that wherever possible, access to a new building should be taken from an existing laneway. It continues to say that a new access drive should, as far as practicable, run unobtrusively alongside existing hedgerows or wall lines, and should respect site contours and cross them gently. The paragraph also states that sweeping driveways which create a suburban emphasis will not be acceptable.
24. Given that the proposal would involve the creation of a new shared vehicular entrance before splitting into separate sweeping suburban-like driveways, and that the land would require a certain amount of regrading to provide the necessary splays and safe access, such ancillary works would be obtrusive and fail to integrate into their surroundings. The third parties' concerns in this regard are sustained.
25. Criterion (f) of Policy CTY13 states that a new building will be unacceptable where it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop. While the site is not on the hilltop, it is on the approach to it. The proposed dwellings would sit on a flat platform on the exposed hillside.
26. Bearing in mind the steep topography and that the two dwellings would be sited back from the road and have extensive footprints, there would be a significant amount of cutting into the landscape to achieve the flat building platform. This is contrary to paragraph 5.64 of Policy CTY13. The appeal proposal would permanently alter the landscape of an exposed hill in this highly scenic location. As both dwellings would rely on significant earth works, the appeal proposal would fail to blend with the natural landform contrary to criterion (f) of Policy CTY13. The third parties' concern in this regard are sustained.
27. Policy CTY 14 'Rural Character' of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The policy states that a new building will be unacceptable where (b) it results in a suburban style build-up of

- development when viewed with existing and approved buildings and (d) it creates or adds to a ribbon of development.
28. When the proposal is viewed with the two existing dwellings at Nos. 8 and 9 together with the rooftop of the bungalow at No. 1 and for the reasons given above at paragraph 14, both dwellings would result in a suburban style build-up of development. It would therefore offend criterion (b) of Policy CTY14. I have already concluded that the proposal would add to ribbon development offending criterion (d) of Policy CTY14. The Council's third reason for refusal and the third parties' concerns are therefore sustained.
  29. The third parties advanced other objections including (i) impact of the loss of hedgerows; (ii) impact on biodiversity; (iii) drainage issues, and (iv) road safety concerns. They allege that the proposed access would obliterate 50% of the roadside verge and hedge and that as hedging is a priority habitat, such removal should not be supported. They also argue that the proposed hardstanding and the manicured garden space would further reduce habitats.
  30. Despite the third-party's position, Policy NH5 of Planning Policy Statement 2 'Natural Heritage' (PPS2) was considered in the Council's Development Management Officer's Report (DMOR) at planning application stage. Accordingly, it is not a new matter, and in any event, the parties were given an opportunity to consider the third parties' comments on this issue. No prejudice therefore arises. Policy NH5 of PPS2 'Habitats, Species or Features of Natural Heritage Importance' states that planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to, inter alia, priority habitats, priority species or rare or threatened native species.
  31. The proposed 5 metres wide shared vehicular entrance and visibility splays are marked out on the block plan. This plan indicates which part of the roadside hedgerow would be retained, which part would be lost and which part would be adjusted to allow for the splays to be kept clear. The block plan also states that "the existing hedging, trees, banks etc. relocated to behind the visibility splays. Existing hedging to be strengthened with native species and maintained." In relation to the existing southern and northern hedgerow boundaries, the block plan indicates that they would be retained, strengthened and maintained with native species. There would also be new hedging along the boundary between the two proposed dwellings and along the eastern boundary using only native species.
  32. In respect of this matter, as part of the determination of the planning application, the Natural Environment Division (NED) informed the Council to refer to the Department of Agriculture, Environment and Rural Affairs' (DAERA) Environment Advice for Planning. The Development Management Officer's Report indicates that while the proposal would result in the removal of hedgerows, the Council's Biodiversity Officer stated that they were content. The Council's final position is that the proposal would not likely harm a protected species or adversely impact on priority species or habitats and conclude that further investigation would not be required.
  33. The subject roadside hedgerow is relatively low at approximately 1-1.5 metres high. It is devoid of any mature trees. I am satisfied that I can adequately gauge from the planning drawings the extent of the hedgerow that would be removed and adjusted. While 5m of the roadside hedgerow boundary would be lost to facilitate the access,

the rest of the hedgerow would be retained or relocated to behind the visibility splays and strengthened with native species. For those other hedgerows that would be retained, the appellant proposes to augment with native species also. Moreover, I have not been provided with persuasive evidence that the existing hedgerows are species rich or have biodiversity value. However, even if they are, in these circumstances, I am satisfied that there would not be a significant negative impact on priority habitats or priority species. Therefore, in the evidential context provided, I find that the proposal would not likely result in an unacceptable adverse impact on priority habitats or priority species contrary to Policy NH5 of PPS2. The third parties' concerns in this regard are not sustained.

34. Given my on-site observations, I also consider that the proposal would not prejudice road safety or significantly inconvenience the flow of traffic. I am reinforced in my conclusion by the limited number of vehicle trips that would be associated with the proposed dwellings, and that the Department for Infrastructure Roads Service had no objections to the proposed access arrangements.
35. In relation to concerns regarding the stormwater drainage and the proposed septic tanks, the block plan indicates that treatment plants would be piped to a soakaway and that percolation tests and consent to discharge would be sought prior to installation. I am satisfied that septic tanks could be accommodated within the appeal site for each dwelling at an appropriate distance from existing and proposed dwellings. In any event, separate legislation would have to be adhered to if the proposed dwellings were to be permitted.
36. Issues around setting an unwelcome precedent do not fall to be addressed given the sustained objections to the proposal above. Accordingly, and in considering the other concerns raised by the third parties, they would neither individually nor cumulatively warrant the dismissal of the appeal.
37. The corporate view of the Council was to refuse the application and concerns regarding internal Council procedures or its change in opinion are a matter for the appellant to address with the Council. In relation to other Councils approving sites for two dwellings including application LA05/2018/1163/O, full details of those decisions have not been provided. I therefore cannot comment on them. In any case, all decisions are based on their individual site-specific circumstances.
38. All in all, I have found that the appeal proposal does not comply with policies CTY8, CTY13 and CTY14 of PPS21. No overriding reasons as to why the development is essential have been advanced, contrary to Policy CTY1 of PPS21. The Council's four reasons for refusal are sustained, so the appeal must fail.

This decision relates to the drawings numbered below and date stamped received by the Council on 2 Dec 2020 unless specified: -

- **03A** Existing Block Plan to scale 1:500 @A3
- **04A** Site Location Map 1:2500 @A3
- **05G** Proposed Block Plan 1:500 @A3, date stamped received on 18 Jan 2022
- **06A** Proposed Floor Plan @A3
- **07A** Proposed Elevations 1 of 2, 1:100 @A3
- **08A** Proposed Elevations 2 of 2, 1:100 @A3



- **09A** Site Elevations / Sections 1 of 2, 1:200 @A1
- **10A** Site Elevations / Sections 2 of 2, 1:200 @A1
- **21** Proposed Block Plan, Graded Banks 1:500 @A3, date stamped received on 17 Jan 2022

**COMMISSIONER B STEVENSON**

**List of Documents**

Planning Authority: -  
Ards and North Down Borough Council

A Statement of Case and Appendices  
A1 Rebuttal Comments  
A2 Comments on Court of Appeal  
Judgement

Appellant: -  
Robert Gilmour Architects  
on behalf of Mrs R Herron

B Statement of Case  
B1 Rebuttal Comments  
B2 Comments on Court of Appeal  
Judgement  
B3 Rebuttal Comments on Court of  
Appeal Judgement

Third Parties: -  
Bell Architects

C Statement of Case  
C1 Rebuttal Comments and Appendix  
C2 Comments on Court of Appeal  
Judgement and Appendix

Unclassified

347

**ITEM 6****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 November 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	22 October 2024
File Reference	
Legislation	The Planning Act (NI) 2011 and The Planning (General Development Procedure) (Amendment) Order (NI) 2015
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below: N/A
Subject	DFI legislation on Validation Checklists
Attachments	Attachment a - Letter from DFI 03-10-24 Attachment b - The Planning (General Development Procedure) (Amendment) Order (Northern Ireland) 2024 Attachment c - Current list of 'Other Supporting Information' required as part of validation

**Background**

1. The purpose of this report is to advise Members that the Department for Infrastructure (DFI) Regional Planning Governance & Legislation Branch has written to the Council advising that it has made a Statutory Rule entitled "The Planning (General Development Procedure)(Amendment) Order (NI) 2024 which will come into operation on 01 April 2025.
2. This represents an amendment to the Planning (General Development Procedure) Order (NI) 2015 ("the GDPO"), the main purpose of which is to permit the management of development within the revised two tier planning

## Not Applicable

348

system with both councils and the Department operating as planning authorities where appropriate.

3. The purpose of the aforementioned amendment is to enable councils to publish a Validation Checklist. The purpose of a Validation Checklist is to extend the minimum level of information for an application to be legally valid (as currently set out in the GDPO) in order to improve the quality of applications submitted for processing.
4. This legislation will come into effect from 1st April 2025, providing councils time to prepare and consult on their Validation Checklist if deemed appropriate in advance of it becoming operational under statute.

**Detail**

5. Currently Article 3 of the GDPO sets out what is to be contained within an application for planning permission as follows:
  - A written description of the development;
  - The postal address of the land which the development related to (or description of the land if no postal address);
  - Name and address of applicant and agent (if applicable);
  - A plan sufficient to identify the land to which it relates and showing the situation in relation to the locality and neighbouring land;
  - Such other plans and drawings as necessary to describe the development;
  - A plan identifying where any neighbouring land is owned by the applicant;
  - An ownership certificate;
  - A pre application community report (for proposals in major category of development);
  - A design and access statement (if required);
  - 3 additional copies of plans; and
  - The relevant fee.
6. Article 3 (6) sets out that the Council may by direction in writing addressed to the applicant require such further information as may be specified in the direction to enable the Council to determine any application.
7. The above list is what is referred to as being the 'validation checklist' and the Council must be in receipt of all the above before being able to deem an application 'valid' in order to commence the appropriate processing. However, it has been recognised that the legislation as exists sets an extremely 'low bar' to make a legally valid planning application.
8. The Northern Ireland Audit Office (NIAO) Report into the planning system in Northern Ireland, dated February 2022, reported a view that the criteria set out in the Planning Act was too narrowly prescribed and did not require submission of key supporting documentation (e.g. flood risk assessments, transport assessments, bat surveys) at the point of submission. This means that potentially 'incomplete' (not appropriately front-loaded) applications must

## Not Applicable

349

currently be accepted by the planning authority (having met the minimum statutory requirements) and from which the time period for statutory processing begins.

9. The NIAO believes this contributes to inefficiency and poor processing times in a number of ways:
  - statutory consultees are often expected to provide a substantive response to planning applications where essential supporting information is missing;
  - consultees are spending time on poor quality or incomplete applications, and often have to be consulted multiple times on the same application; and
  - applications which arrive at the Planning Committee for a decision often have to be deferred to allow supporting information to be provided.
10. The NIAO considered if the planning system continued to accept poor quality applications, this created a culture of speculative applications, whereby the system is being used to effectively “MOT” proposals and determine the assessments required.
11. The Public Accounts Committee Report, published March 2022, highlighted significant concern regards the quality of applications entering the planning system, and that the current system does not encourage submission of good quality applications. Thus, it recommended that the Department for Infrastructure implement changes to improve the quality of applications entering the system and believed the introduction of validation checklists was one way to achieve this.
12. The Council currently operates an informal Validation Checklist, based on that of Belfast City Council, and introduced in January 2020. This, however, has limitations because it is advisory and does not hold statutory weight. The inability for councils to mandate the minimum level of information supplied with applications has a seriously detrimental impact in terms of adding significantly to processing times, placing additional burden on staff and consultees, and time wasted assessing proposals without the key information.
13. Councils are measured on the average time for processing Major and Local applications with “Day 1” being the date when the bare minimum level of information is provided. The clock does not stop to allow for the submission of the necessary additional information to properly assess and process the application. This significantly lengthens application processing times and makes it difficult for planning authorities to achieve statutory targets. The time for an amendment to existing legislation is long overdue, having been raised with the Department many times since transfer, and as referenced in the report to Planning Committee at its October 2019 meeting concerning introduction of ANDBC’s Validation Checklist.
14. The legislation will enable a council to specify additional information requirements for applications for full planning permission, outline planning permission and approval of reserved matters, according to the “nature, scale and location” of the proposed development. The information requirements must be

Not Applicable

350

“reasonable” and proportionate and be “material” to the consideration of the application.

15. The Validation Checklist must be reviewed and re-published by the Council at no more than 3-year intervals. Where an application is submitted which is not in compliance with the Validation Checklist, councils will normally request the additional information from the applicant on an informal basis. However, councils may ultimately issue a formal “notice” of non-compliance with the Validation Checklist. The applicant will then have the ability to lodge an appeal to the Planning Appeals Commission (PAC) within 14 days from the date of the notice. The PAC will then preside over the appeal and determine whether the additional information in question is necessary. Where the appeal is allowed, the applicant may resubmit the application to the Council absent the originally requested information.
16. The statutory average processing time will be measured from the date of the last information required to make the application valid in accordance with the published Validation Checklist. DfI has been preparing best practice guidance on the publication and implementation of Validation Checklists with support from councils. The best practice guidance has not been published at this time but is expected in due course.
17. It is not considered necessary for the Planning Service to consult publicly on the content of its Validation Checklist, as it will be likely be entirely upon that introduced and in operation since January 2020 (as reported to Committee in October 2019 as Item 11) albeit on a non-statutory basis. That checklist was formulated on the basis of trying to help our customers get a timely planning decision and for officers and consultees to have all the relevant information from the outset (and appended to this report). A report detailing the content of our proposed Validation Checklist will be brought to Committee in the next months for approval, after liaison with our statutory consultees.

## Conclusion

- The attached Order amends the Planning (General Development Procedure) Order (Northern Ireland) 2015 (GDPO), to enable local council planning authorities to prepare and publish planning application validation checklists.
- Article 5A is inserted to enable councils to specify by direction validation particulars or verifying evidence that is required by the council to accompany an application for planning permission or for approval of reserved matters.
- Article 12A is inserted requiring councils to issue a notice (notice of non-compliance with direction) to an applicant where an application does not comply with the specified information requirements in the direction.
- Article 12B is inserted and sets out four grounds for appealing against a notice of non-compliance with direction. Appeals are to be to the Planning Appeals Commission.

Not Applicable

351

**RECOMMENDATION**

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



Department for

**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

352

**Regional Planning Governance & Legislation**Council Chief Executives  
& Heads of PlanningJames House  
2-4 Cromac Avenue  
The Gasworks  
BELFAST  
BT7 2JA

Tel: 0300 200 7830

Email: [rosemary.daly@infrastructure-ni.gov.uk](mailto:rosemary.daly@infrastructure-ni.gov.uk)  
[julie.maroadi@infrastructure-ni.gov.uk](mailto:julie.maroadi@infrastructure-ni.gov.uk)

Your Ref:

Our Ref:

3 October 2024

Dear Chief Executives &amp; Heads of Planning

**Planning Application Validation Checklists**

I am writing to advise you that the Department for Infrastructure has made a Statutory Rule entitled "The Planning (General Development Procedure) (Amendment) Order (NI) 2024" (S.R. 2024 No.176), which comes into operation on 1 April 2025. The interim period between laying and making the SR and its commencement is to give time to councils to prepare and consult upon their proposed statutory validation checklists (including engaging with agents in the local area), and to allow the PAC time to develop, consult upon, and put in place its approach to the associated dispute mechanism including drafting potential advice and guidance. A copy of the Order is attached and will be available on the Legislation website in due course: [Legislation.gov.uk](http://Legislation.gov.uk)

This Order amends Articles 3, 5, and 20 of The Planning (General Development Procedure) Order (NI) 2015 (S.R. 2015 No. 72) (the 2015 Order) and introduces a number of new provisions enabling councils to prepare and publish planning application validation checklists to address 'poor quality' or 'incomplete' applications entering the planning system.

A validation checklist will help inform applicants, (above the current minimum statutory requirements which remain unchanged), on the level and type of information required to be submitted with a planning application. Such a list will set out the additional supporting information required to accompany different types of planning applications made to a

E-mail: [planning@infrastructure-ni.gov.uk](mailto:planning@infrastructure-ni.gov.uk)Website: [www.infrastructure-ni.gov.uk/topics/planning](http://www.infrastructure-ni.gov.uk/topics/planning)



council, specific and proportionate to the type of development proposed, including its nature, scale and location.

The Statutory Rule also introduces an associated appeals mechanism in circumstances where an applicant disagrees with a council's decision (by way of notice issued by the council) not to validate a planning application, and is to be conducted upon application, by the Planning Appeals Commission.

The Department has also taken the opportunity (in the amending Order) to make three technical amendments to the 2015 Order, namely: amending the interpretation of 'outline planning permission' in Article 2 to align with the definition of 'outline planning permission' at section 62 of the Planning Act (NI) 2011; and amending Articles 13 and 15 to allow statutory consultees 30 days to consider planning applications that are accompanied by an Environmental Statement. The latter amendments would align the 2015 Order with the timeframes currently required by the Environmental Impact Assessment Regulations (Northern Ireland) 2017. These technical amendments do not represent a new policy, or substantive change to any existing policy.

These provisions form part of the Department's Planning Improvement Programme, arising from the recommendations contained in the First Report on the Implementation of the Planning Act (NI) 2011, and in addition to recommendations contained in both the NIAO and PAC reports on Planning published in 2022.

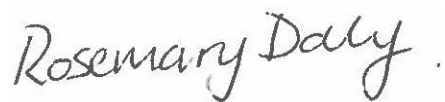
The overall objective of such the amendments is to enhance the quality of applications entering the system, to front-load the decision-making process, resulting in better processing times and more efficient consultee responses.

Finally, I wish to put on record the Department's gratitude to councils for their contributions and assistance in developing the amending legislation.

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

I trust you find this information helpful.

Yours sincerely



---

**ROSEMARY DALY**  
Director

Encl

---

STATUTORY RULES OF NORTHERN IRELAND

---

**2024 No. 176**

**PLANNING**

**The Planning (General Development Procedure) (Amendment)  
Order (Northern Ireland) 2024**

*Made* - - - - - *1st October 2024*

*Coming into operation* *1st April 2025*

The Department for Infrastructure makes the following Order in exercise of the powers conferred by sections 32, 40(1), and 247(6) of the Planning Act (Northern Ireland) 2011(a) and now vested in it(b).

**Citation and commencement**

**1.** This Order may be cited as the Planning (General Development Procedure) (Amendment) Order (Northern Ireland) 2024 and shall come into operation on 1st April 2025.

**Amendment of the Planning (General Development Procedure) Order (Northern Ireland) 2015**

**2.—**(1) The Planning (General Development Procedure) Order (Northern Ireland) 2015(c) is amended in accordance with paragraphs (2) to (9).

(2) In Article 2(1) interpretation—

(a) after the definition of “the Department” insert—

““EIA application” has the meaning assigned to it by regulation 2 of the EIA Regulations”;

(b) for the definition of “outline planning permission” substitute—

““outline planning permission” means planning permission granted in accordance with the provisions of a development order, conditional on the subsequent approval by the council or, as the case may be, the Department of the particulars of the proposed development (referred to in this Order as reserved matters)”.

(3) In Article 3(3) (applications for planning permission)—

(a) in paragraph (3)(h) omit “and”;

(b) in paragraph (3)(i) after “Regulations” omit “.” and insert “; and”;

(c) after paragraph (3)(i) insert—

---

(a) 2011 c.25(N.I.)

(b) S.R. 2016 No. 76 – see Article 8 and Part 2 of Schedule 5 of the Departments (Transfer of Functions) Order (Northern Ireland) 2016

(c) S.R. 2015 No. 72

“(j) by such particulars and be verified by such evidence, as may be specified by a direction in writing given by a council made under this Order and published on its website.”.

(4) In Article 5 (application for approval of reserved matters)—

- (a) in paragraph (5)(b) after “permission;” omit “and”;
- (b) in paragraph (5)(c) after “required” omit “.” and insert “; and”;
- (c) after paragraph (5)(c) insert—

“(d) shall be accompanied by such particulars and be verified by such evidence, as may be specified by a direction in writing given by a council made under this Order and published on its website.”.

(5) After Article 5 insert—

**“Validation particulars specified by direction**

**5A.**—(1) Subject to paragraph 2 the council may specify by direction published on its website what particulars or verifying evidence shall accompany any application—

- (a) for planning permission; or
- (b) for approval of reserved matters.

(2) Paragraph (1) only applies if the direction is—

- (a) reasonable having regard, in particular, to the nature, scale and location of the proposed development;
- (b) about a matter which it is reasonable to think will be a material consideration in the determination of the application; and
- (c) published or reviewed and re-published by the council during the 3 year period immediately before the date on which the application is made.”

(6) After Article 12 (applications made under planning condition) insert—

**“Notice confirming non-compliance with direction**

**12A.**—(1) This Article applies where any application is made to the council—

- (a) for planning permission; or
- (b) for approval of reserved matters,

and the council has made a direction under this Order specifying the particulars, or such verifying evidence, which shall accompany the application.

(2) In the case of any application—

- (a) for planning permission mentioned in paragraph (1)(a); or
- (b) an application for approval of reserved matters mentioned in paragraph (1)(b),

the council shall give notice to the applicant if it considers the application has not been accompanied by such particulars, or verified by such evidence, as specified in the direction made under this Order.

(3) A notice given under paragraph (2) shall be in writing and set out the council’s reasons for issuing the notice and shall specify the particulars or evidence as are reasonable for the council to request.

(4) A notice given under paragraph (2) shall be deemed a refusal for an approval required under a development order under section 58(1) of the 2011 Act.

**Appeal against a notice of non-compliance with direction**

**12B.**—(1) If a council gives notice to an applicant under Article 12A(2) the applicant may by notice in writing stating the applicable grounds of appeal, appeal to the planning appeals commission.

(2) Any notice under this Article shall be served on the planning appeals commission and the council within 14 days from the date of the council's notice under Article 12A(2).

(3) The appeal may be brought on any of the following grounds—

- (a) the application was accompanied by such particulars, or was verified by such evidence, as specified in the direction;
- (b) the identified particular, or such evidence verifying the particular, which the council asserts did not accompany the application has not been specified in the direction;
- (c) the council's request specifying the particulars or evidence under the notice issued under Article 12A(2) is unreasonable; or
- (d) that the application is not one to which the direction applies.

(4) The planning appeals commission may—

- (a) allow the appeal;
- (b) dismiss the appeal; or
- (c) vary the notice issued under Article 12A(2) to give effect to its determination on the appeal.

(5) The planning appeals commission decision on the appeal is final.”

(7) In Article 13(4)(b)(ii) for “28” substitute “30”.

(8) In Article 15(2)(a) after “the period of 21 days” insert “, or 30 days in the case of an EIA application, in either case”.

(9) In Article 20(3) (time periods for decisions)—

- (a) in paragraph (3)(b) omit “and”;
- (b) in paragraph (3)(c) after “council” omit “.” and insert “; and”;
- (c) after paragraph (3)(c) insert—

“(d) any direction made by the council under this Order specifying the validation particulars or verifying evidence which shall accompany the application has been complied with.”.

Sealed with the Official Seal of the Department for Infrastructure on 1st October 2024.



*Rosemary Daly*  
A senior officer of the Department for Infrastructure

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Planning (General Development Procedure) Order (Northern Ireland) 2015 (the 2015 Order), to enable local council planning authorities to prepare and publish planning application validation checklists.

Article 5A is inserted to enable councils to specify by direction validation particulars or verifying evidence that is required by the council to accompany an application for planning permission or for approval of reserved matters.

Article 12A is inserted requiring councils to issue a notice (notice of non-compliance with direction) to an applicant where an application does not comply with the specified information requirements in the direction.

Article 12B is inserted and sets out four grounds for appealing against a notice of non-compliance with direction. Appeals are to be to the Planning Appeals Commission.

This Order includes three technical amendments to the 2015 Order, namely amending the interpretation of ‘outline planning permission’ in Article 2 to align with the definition of ‘outline planning permission’ at section 62 of the Planning Act (Northern Ireland) 2011; and amending Articles 13 and 15 to allow statutory consultees 30 days to consider planning applications that are accompanied by an Environmental Statement. The latter technical amendments would align the 2015 Order with the timeframes currently required by the Environmental Impact Assessment Regulations (Northern Ireland) 2017.

The Explanatory Memorandum is available alongside the instrument on the Government’s legislation website: [www.legislation.gov.uk](http://www.legislation.gov.uk)

## Appendix 3

## Other Supporting Information

<p><b>1.</b> <b>Air Quality Impact Assessment (AQIA)</b></p> <p><b>Policy</b> <b>SPPS Para. 4.11-4.12</b></p>	<p><b>AQIA</b> is a process for determining the significance of the impact of new development on ambient air quality, or determining the significance of the impact of local ambient air quality on new development. These impacts need to be quantified and evaluated in the context of existing air quality, air quality objectives or limits.</p> <p><b>When is it required?</b> An <b>AQIA</b> may be required if a proposed development:</p> <ul style="list-style-type: none"> <li>- is to be located in an existing area of poor air quality such as in the case of a residential development;</li> <li>- will cause a significant increase in road traffic flows or changes the proximity to receptors, e.g. car parks, realigned roads, junctions etc;</li> <li>- introduces one or more substantial combustion processes, e.g. centralised boilers, CHP plant or biomass, where there is a risk of impact at relevant receptors; or</li> <li>- gives rise to potentially unacceptable air pollution impacts (such as dust) at nearby sensitive locations during demolition or construction processes.</li> </ul> <p><b>Guidance</b> In determining whether new development requires an AQIA, we will refer to best practice guidance such as <a href="#">Environmental Protection UK and the Institute of Air Quality Management, Land-use Planning &amp; Development Control: Planning For Air Quality (January 2017)</a></p> <p>Where an <b>AQIA</b> is required, it should be undertaken with reference to the Government's <a href="#">local air quality management technical guidance</a> (LAQM.TG (16)) and associated air quality screening and assessment tools. The <b>AQIA</b> may take the form of either a simple or detailed assessment but it must be sufficient to determine the significance of air quality impacts.</p> <p>Where the <b>AQIA</b> predicts that new development may give rise to, or experience a significant air quality impact, the assessment should set out the measures to avoid, reduce and, where appropriate, offset the impact.</p> <p>All information about current pollution levels, Air Quality Management Areas (AQMAs) can be found at: <a href="http://www.airqualityni.co.uk">www.airqualityni.co.uk</a></p>
<p><b>2.</b> <b>Archaeological Assessment</b></p> <p><b>Policy</b> <b>SPPS PPS 6 Draft BMAP 2015</b></p>	<p>An <b>archaeological assessment</b> normally entails a desk-based study, by a qualified archaeologist, of existing information including records of previous discoveries, historic maps or geophysical surveys.</p> <p><b>When is it required?</b> Policy BH3 of <a href="#">PPS 6 Planning, Archaeology and the Built Heritage</a> requires developers to provide an archaeological assessment where the impact of a development proposal on important archaeological remains is unclear, or the relative importance of such remains is uncertain.</p> <p><b>Guidance</b> Prospective developers need to take into account archaeological considerations and should deal with them from the beginning of the development management process. The needs of archaeology and development can often be reconciled, and potential conflict</p>

	<p>avoided or much reduced, if applicants discuss their proposals early. The first step is for applicants to consult the Department for Communities' <a href="#">Historic Environment map viewer</a> for known archaeological sites and monuments. Further advice on archaeological requirements can be found on the <a href="#">Department for Communities' website</a> and its Historic Environment Division.</p>
<p><b>3.</b> <b>Archaeological Field Evaluation</b></p> <p><b>Policy</b> <b>SPPS</b> <b>PPS 6</b> <b>Draft BMAP 2015</b></p>	<p>An <b>archaeological field evaluation</b> involves ground surveys and limited and targeted licensed excavation which is quite distinct from full archaeological excavation. Evaluations of this kind help to define the importance, character and extent of the archaeological remains that may exist in the area of a proposed development, and thus indicate the weight which should be attached to their preservation. They may also provide information useful for identifying potential options for minimising or avoiding damage.</p> <p><b>When is it required?</b> Policy BH 3 of PPS6 Planning, Archaeology and the Built Heritage requires developers to provide an archaeological field evaluation where the impact of a development proposal on important archaeological remains is unclear, or the relative importance of such remains is uncertain.</p> <p><b>Guidance</b> Prospective developers need to take into account archaeological considerations and should deal with them from the beginning of the development management process. The needs of archaeology and development can often be reconciled, and potential conflict avoided or much reduced, if applicants discuss their proposals early. The first step is for applicants to consult the Department for Communities' <a href="#">Historic Environment map viewer</a> for known archaeological sites and monuments. Further advice on archaeological requirements can be found on the <a href="#">Department for Communities' website</a> and its Historic Environment Division.</p>
<p><b>4.</b> <b>Biodiversity Checklist</b></p> <p><b>Policy</b> <b>SPPS Para. 6.168-198</b> <b>PPS 2</b> <b>Draft BMAP 2015</b></p>	<p>The <b>Biodiversity Checklist</b> is a 'step by step' tool which should be used by applicants to help identify if a development proposal is likely to adversely affect any biodiversity and natural heritage interests and whether further ecological assessments/surveys are required.</p> <p><b>When is it required?</b> The Biodiversity Checklist should be used for all applications where another biodiversity or ecological survey has not already been completed.</p> <p><b>Guidance</b> The Biodiversity Checklist can be found on the <a href="#">Department of Agriculture, Environment and Rural Affairs website</a>. The Department also provides <a href="#">standing advice on the development of land that may affect natural heritage assets</a>.</p> <p>In establishing whether a biodiversity survey is needed, the applicant or agent is advised to seek independent advice from an ecologist or suitably qualified person.</p>
<p><b>5.</b> <b>Biodiversity Survey</b></p> <p><b>Policy</b> <b>SPPS Para. 6.168-198</b> <b>PPS 2</b></p>	<p>A <b>Biodiversity Survey</b> (or ecological or wildlife survey) assesses the specific impacts of development proposals on natural heritage, including designated sites and priority habitats; and protected and priority species.</p> <p><b>When is it required?</b> A Biodiversity Survey is required where:</p>

<p><b>Draft BMAP 2015</b></p>	<ul style="list-style-type: none"> <li>- the need for a survey is identified as part of the completion of the Biodiversity Checklist (see above)</li> <li>- the proposal would impact or have the potential to impact on natural heritage, including designated sites and priority habitats; or protected and priority species.</li> </ul> <p><b>Guidance</b> Standing advice on the development of land that may affect natural heritage assets can be found on the <a href="#">Department of Agriculture, Environment and Rural Affairs website</a></p> <p>In establishing whether a biodiversity survey is needed, the applicant or agent is advised to seek independent advice from an ecologist or suitably qualified person.</p>
<p><b>6. Concept Statement or Concept Masterplan</b></p> <p><b>Policy PPS 7 Policy QD2</b></p>	<p>A <b>Design Concept Statement</b> demonstrates how a proposed residential scheme has taken account of the main features of the site and its context and how it will meet the criteria set out in Policy QD1, thereby contributing to the promotion of a quality residential environment.</p> <p>Where a <b>Concept Masterplan</b> is required, this will need to indicate in graphic form a scheme for the comprehensive development of the whole area, and include a written statement, detailed appraisals, sketches, plans and other illustrative materials to address all of the relevant matters set out in this Statement and its associated supplementary planning guidance. The <b>Concept Masterplan</b> should also clearly demonstrate how it is intended to implement the scheme.</p> <p>A <b>Design Concept Statement</b> demonstrates how a proposed residential scheme has taken account of the main features of the site and its context and how it will meet the criteria set out in Policy QD1, thereby contributing to the promotion of a quality residential environment.</p> <p>Where a Concept Masterplan is required, this will need to indicate in graphic form a scheme for the comprehensive development of the whole area, and include a written statement, detailed appraisals, sketches, plans and other illustrative materials to address all of the relevant matters set out in this Statement and its associated supplementary planning guidance. The Concept Masterplan should also clearly demonstrate how it is intended to implement the scheme.</p> <p><b>When is it required?</b> A <b>Design Concept Statement</b> is required to support:</p> <ul style="list-style-type: none"> <li>- all applications for residential development</li> </ul> <p>A <b>Concept Master Plan</b> will be required for planning applications involving:</p> <ul style="list-style-type: none"> <li>- 300 dwellings or more; or</li> <li>- the development, in part or full, of sites of 15 hectares or more zoned for housing in development plans; or</li> <li>- housing development on any other site of 15 hectares or more.</li> </ul> <p>In the case of proposals for the partial development of a site zoned for housing the <b>Concept Master Plan</b> will be expected to demonstrate how the comprehensive planning of the entire zoned area is to be undertaken.</p> <p><b>Guidance</b> The <b>Design Concept Statement</b> should outline in writing the overall design concept and objectives for the site and include an indicative concept plan, based on the appraisal of the</p>



site and its context. The amount of information and level of detail required will depend on the nature, scale and location of the proposed development. Where necessary the Statement should also address any local design considerations identified in Development Plans or Supplementary Planning Guidance and provide information on any improvements to infrastructure required to facilitate the proposed development.

For a large scheme or a site in a sensitive location, such as a Conservation Area, Area of Townscape Character or Area of Outstanding Natural Beauty, the type of information and detail required for the **Design Concept Statement** will include some or all of the detail highlighted at Para 4.46 of PPS 7.

For small housing schemes outside sensitive locations, involving the development of a site of up to 0.25 of a hectare or 5 dwellings or less, a short written statement and a diagrammatic layout will generally suffice.

Further guidance is contained within Policy QD 2 of [PPS 7 Quality Residential Environments](#)

**7.**  
**Construction Environmental Management Plan (CEMP)**

**Policy**  
**SPPS Para.**  
**4.11-4.12**  
**PPS 2**

A **Construction Environmental Management Plan** is a plan developed to avoid, minimise or mitigate any construction effects on the environment.

**When is it required?**

A **Construction Environmental Management Plan** is required to support applications for Major development in sensitive coastal and harbour areas, within or in close proximity to protected designated sites such as Special Protection Areas (SPA), RAMSAR sites and Areas of Special Scientific Interest (ASSI).

**Guidance**

The Construction Environmental Management Plan should generally include:

- details of all proposed excavations and construction;
- details of all areas to be used for the storage of substrate/spoil including a suitable buffer between location for storage of excavated spoil and construction materials and any watercourses or surface drain present on site or adjacent to site;
- details of the pollution prevention measures to be employed during construction and operation;
- detailed drawing plans, demonstrating a suitable buffer between locations for refueling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drain present on site or adjacent to the site; and
- a proposed storm drainage plan designed to the principles of Sustainable Drainage Systems (SuDS) in order to minimise the polluting effects of storm water on waterways. Construction of SuDS should comply with the design and construction standards as set out in The SuDS Manual - Construction Industry Research and Information Association (CIRIA) Report C753 (2015).

Guidance on the content of **Construction Environmental Management Plans** is available on the [Department for Agriculture, Environment and Rural Affairs website](#).

**8.**  
**Contaminated Land Report**

**Policy**  
**SPPS**

A **Contamination Land Report** assesses the suitability of contaminated land for new development. It sets out the nature of contaminants, the level of risk to future occupants, users of land or environment, and mitigation measures to reduce any risks to an acceptable level.

**When is it required?**

A **Contaminated Land Report** is required whenever new development is to be located on or adjacent to land, where the presence of natural sources or historical uses of the land may have given rise to land contamination. Brownfield land may encompass vacant or derelict lands, infill sites, land occupied by redundant or underused buildings or a piece of industrial or commercial property that is abandoned or underused. Such land is often contaminated and applications for its redevelopment will normally need to be accompanied by a **Contaminated Land Report**.

Examples of potentially contaminated land include:

- former industrial land
- petrol filling stations
- commercial premises
- residential estates
- land fill sites

**Guidance**

Contaminated land may present a risk to a range of receptors including humans, ecosystems, water quality and property.

Land contamination reports should be completed in accordance with the risk-based framework established via the Environment Agency publication, '[Model Procedures for the Management of Land Contamination. Contaminated Land Report 11](#)'. This should include a *preliminary risk assessment* followed, where necessary, by a generic or detailed *quantitative risk assessment*, a *remediation strategy* and *verification*. Risk assessments, remediation and verification should be undertaken having regard to relevant British Standards and industry best practice.

The Northern Ireland Environment Agency (NIEA) Land Use Database contains a record of approximately 14,000 sites across Northern Ireland that have had previous industrial land use(s). This database is available via the Land & Property Services at: [Spatial NI Geoportal](#)

**9. Contextual Design Information**

**Policy**  
**SPPS Para. 4.23-4.40**  
**PPS 6**  
**PPS 7**

**Contextual Design Information** is visual material, such as a drawing or CGI, which accurately reflects the proposal in its immediate and local context, usually the existing street scene into which the development is to be placed. Planning policy requires careful consideration of the local context, urban character, the needs of residents and the local economy. New development should bring about an improvement of the area and sit comfortably within the area in which it is proposed.

**When is it required?**

**Contextual Design Information** will be required for:

- applications for Major development, particularly within town centres;
- proposals that impact on heritage assets including Listed Buildings, historic monuments/gardens, Conservation Areas and Areas of Townscape Character; or
- proposals that may significantly impact on the street-scene or townscape.

**Guidance**

The type of **Contextual Design Information** that is required will depend on the nature of the proposals, its location, scale and the expected impacts.

Design and the impact of proposals on the urban and rural environment are very important planning considerations. **Contextual Design Information** demonstrates how a proposal is

placed within the established area and accordingly how it fits into its visual context and may include:

- extended scaled elevations, both existing and proposed, which illustrate the existing context and how the proposal responds to this context in relation to neighbouring buildings and the wider street scene;
- photomontages showing existing and proposed key views;
- axonometric drawings; and
- 3D modelling

Specific requirements can be discussed as part of a Pre-Application Discussion.

**10.  
Daylight,  
Sunlight and  
Overshadowing  
Assessment**

**Policy**  
**SPPS Para.**  
**4.23-4.40**  
**PPS 6**  
**PPS 7**

A **Daylight, Sunlight and Overshadowing Assessment** is used to assess the impact of new development on existing surrounding properties and open spaces in terms of daylight and sunlight, as well as the performance of the development for future occupants. New development should maximise sunlight and daylight, both within the new development and to neighbouring properties. Development should seek to minimise overshadowing or blocking of light to adjoining properties.

**When is it required?**

An assessment will be required in support of all applications involving:

- buildings exceeding four storeys in height where adjoining other developed land or public open spaces;
- where proposed buildings or extensions could lead to overshadowing of adjacent or other proposed buildings or spaces within the same development site; or
- where the proposed development would itself be subject to significant shading from adjoining buildings or trees.

**Guidance**

To assess the impact of proposals on adjoining properties, including associated gardens or amenity space in respect of loss of daylight and sunlight, it is recommended that a “daylight, vertical sky component, sunlight availability and shadow study” is undertaken and assessed against the criteria set out in: *Building Research Establishment Site Layout Planning for Sunlight and Daylight: A Guide to Good Practice* (2011) and the British Standard BS8206-2:2008 Lighting for buildings – Part 2: Code of Practice for Daylighting. The information included in the assessment should be sufficient to determine the existing and expected levels of daylight, sunlight and overshadowing on neighbouring properties and the measures that will be taken to mitigate the expected impact of the proposed development.

**11.  
Demolition  
Justification  
Report  
Policy**  
**SPPS**  
**PPS 6**  
**Draft BMAP**  
**2015**

A **Demolition Justification Report** is a combined report which should include a condition and Structural Survey (section 27), Market Testing Report (section 19) and assessment of alternative proposals for where demolition is proposed for a building of heritage importance.

**When is it required?**

A **Demolition Justification Report** is required where the proposal involves:

- demolition of all or a significant part of a Listed Building; or

	<ul style="list-style-type: none"> <li>- demolition of all or a significant part of a building which makes a material contribution to a Conservation Area or an Area of Townscape Character (ATC).</li> </ul> <p><b>Guidance</b></p> <p>There is a presumption in favour of the retention of both Listed Buildings, and buildings within Conservation Areas and ATCs that make a material contribution to those areas. Policy BH 10 of PPS 6 relates to proposals to demolish, either whole or part, these buildings.</p> <p>Where demolition is proposed, the application will need to address the following:</p> <ul style="list-style-type: none"> <li>- the condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use;</li> <li>- the adequacy of efforts made to retain the building in use; and</li> <li>- the merits of alternative proposals for the site.</li> </ul> <p>Further explanation is provided by Policy BH 10, of <a href="#">PPS 6 Planning, Archaeology, and the Built Heritage</a>. The <b>Demolition Justification Report</b> should also refer to the general criteria set out at Para 6.5 of PPS 6. Guidance on whether a building makes a material contribution to a Conservation Area or an Area of Townscape Character can be provided through the Pre-Application Discussion process.</p>
--	--

<p><b>12.</b> <b>Drainage Assessment</b></p> <p><b>Policy</b> <b>SPPS</b> <b>PPS 15 Policy</b> <b>FLD 3</b></p>	<p>A <b>Drainage Assessment</b> (or drainage impact assessment) sets out the drainage issues relevant to new development and the measures to provide the appropriate standard of drainage. The detail of the assessment will be proportionate to the nature of the proposal.</p> <p><b>When is it required?</b></p> <p>A <b>Drainage Assessment</b> is required where the thresholds set out in Policy FLD 3 of PPS15: Planning and Flood Risk are met or exceeded:</p> <ul style="list-style-type: none"> <li>- new residential development comprising 10 or more residential units; or</li> <li>- a development site in excess of 1 hectare; or</li> <li>- change of use involving new buildings and/or hardstanding surface exceeding 1,000 sqm in area</li> </ul> <p>A <b>Drainage Assessment</b> will also be required for any development proposal, except for minor development, where:</p> <ul style="list-style-type: none"> <li>- the proposed development is located in an area where there is evidence of a history of surface water flooding; or</li> <li>- surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage.</li> </ul> <p><b>Guidance</b></p> <p>Further guidance is provided in Annex D of <a href="#">PPS 15 Planning and Flood Risk</a> (Revised).</p>
---	--

<p><b>13.</b> <b>Economic Statement</b></p> <p><b>Policy</b> <b>SPPS</b> <b>PPS 4</b></p>	<p>An <b>Economic Statement</b> sets out the economic effects of new development on the area, whether specific to the neighbourhood in which the proposal would be located, town-wide or region.</p> <p><b>When is it required?</b></p> <p>An Economic Statement is where:</p>
---	--

- the proposal is for Major development for commercial uses such as offices, light industry, general industry, warehousing, retail and leisure
- the proposal would result in the loss of employment land, having regard to Policy PED7 of PPS 4 Planning and Economic Development

#### Guidance

An **Economic Statement** should include:

- the number and type of jobs to be created both during the construction phase and on occupation, specifying whether the jobs are part time or full time;
- whether the proposal is speculative or if there is a specific end user;
- the timeframe for delivery of the development;
- any wider benefits of the proposal to the economy.

#### 14. Event Management Plan

Policy  
SPPS  
PPS 3

An **Event Management Plan** sets out proposal to minimise the transportation impacts of any events that would be held as a result of new development.

#### When is it required?

An **Event Management Plan** will be required for commercial, recreational and community proposals which will involve the hosting of events that generate significant large numbers of attendees.

#### Guidance

An **Event Management Plan** should be submitted for events that could result in significant travel disruption. The measures should consider the types of trips, in all modes, likely to visit the site, to ensure they can arrive, park if necessary and depart without causing a traffic safety hazard or disruption to other traffic on the network.

Where disruption to the network is anticipated, the Event Management Plan should propose measures that are co-ordinated with PSNI, Department for Infrastructure Roads, and the local community as necessary, to mitigate these impacts. It should consider measures to encourage sustainable travel, such as public transport, the use of coaches and off-site park and ride and shuttle bus facilities.

#### 15. Environmental Statement (EIA)

An **Environmental Statement** is a legislative requirement for applications for certain types of development. It sets out the likely significant effects of new development on the environment, whether positive or negative, and can relate to environmental, social and economic impacts.

#### When is it required?

Under [the Planning \(Environmental Impact Assessment\) Regulations \(NI\) 2017](#), certain types of application need to be accompanied by an Environmental Statement. An Environmental Statement is required where:

- the development proposal falls under Schedule 1 of the Regulations; or
- the development proposal falls under Schedule 2 of the Regulations and the City Council gives a screening opinion that an Environmental Statement is required.

#### Guidance

The purpose of an **Environmental Statement** is to assess the environmental, social and economic effects of development. Where an Environmental Statement is needed, the Council cannot process the planning application without it. The planning application process will be subject to extended consultation in line with the Regulations.

The requirement for an **Environmental Statement** can be discussed as part of the Pre-Application Discussion process. If the development proposal falls under Schedule 2 of the Regulations, the applicant is strongly advised to submit a formal request to the Council for a screening opinion prior to making the planning application.

Applications accompanied by an **Environmental Statement** are subject to an additional [planning fee](#).

## 16. Flood Risk Assessment

**Policy**  
PPS 15 Policy  
FLD 1

A **Flood Risk Assessment (FRA)** assesses the statistical probability of a flood event occurring combined with the scale of the potential consequences of that event and sets out measures to manage and mitigate flood risk on new development.

### When is it required?

Policy FLD 1 of [PPS 15 Planning and Flood Risk](#) (Revised) sets out the circumstances when a **Flood Risk Assessment** is required. This includes new development:

- within the 1 in 100 year fluvial flood plain or
- the 1 in 200 year coastal flood plain where the principle of development is accepted by the council through the proposal meeting the 'Exceptions Test'.

If you consider your application should be deemed as an Exception, please set out your evidence as part of your Planning Statement (see section 25). DFI Rivers Agency will only seek to assess an FRA where the Council has deemed the site to be an exception to Policy FLD1 and PPS 15 and set out its reason for this.

### Guidance

A **Flood Risk Assessment** must demonstrate that:

- all sources of flood risk to and from the proposed development have been identified; and
- there are adequate measures to manage and mitigate any increase in flood risk arising from the development.

Flood Maps can be viewed on the [Department for Infrastructure website](#).

## 17. Landscape and Visual Impact Assessment (LVIA)

**Policy**  
SPPS  
PPS 2  
PPS 6  
PPS 6a  
PPS 7  
PPS 21

A **Landscape and Visual Impact Assessment** is the process of evaluating the effects of a proposal on views and on the landscape itself. There is an important distinction between visual effects (the human view or perception) and the landscape effects (which occur whether or not anyone can see them).

### When is it required?

A Landscape and Visual Impact Assessment is required for:

- all development proposals for buildings of a height of 20 metres or more;
- all applications for Major or Local development within a Conservation Area or Area of Townscape Character, the setting of a Listed Building, or within a locality where the proposal will introduce an increase to the predominant scale and massing;
- proposals in the countryside which are likely to have a significant visual impact within the landscape, and for any Major applications within or affecting the setting of an Area of Outstanding Natural Beauty;
- proposals for wind turbines where their overall height would exceed 15 metres

**Guidance**

A Landscape and Visual Impact Assessment considers the impact of new development in the landscape. Understanding the character quality and value of the landscape determines the sensitivity of that landscape to accommodate change through development.

The two components of a **Landscape and Visual Impact Assessment** are:

- *landscape effects assessment* – deals with changes to landscape as a resource, and
- *visual effects assessment* – concerned with how the surroundings of individuals or groups of people may be specifically affected by change in the landscape.

The **Landscape and Visual Impact Assessment** should clearly demonstrate an understanding of the difference between them. The sensitivity of receptors (people) to changes in view is dependent upon the activity, location and nature of the view experienced. People engaged in outdoor sports or occupiers of commercial buildings are considered to be of low sensitivity, with road users, footpath users and views from upper storeys of residential properties of medium sensitivity. Residents experiencing views from principal rooms and people visiting well-known beauty spots are considered of high sensitivity to change.

A **Zone of Visual Influence map** (ZVI) or **Critical View Analysis** should also be included.

Further information can be obtained from the [Guidelines for Landscape and Visual Impact Assessment](#) published jointly by the Landscape Institute and the Institute of Environmental Assessment in 2013.

**18.**  
**Lighting**  
**Assessment**

**Policy**  
**SPPS**

A **Lighting Assessment** explains how proposals that include largescale external lighting will impact on visual amenity of the area, and the living conditions of local people.

**When is it required?**

A Lighting Assessment is required for:

- proposals involving largescale artificial lighting (such as floodlighting of sports pitches); or
- proposals for sensitive receptors close to a largescale existing artificial light source.

**Guidance**

A **Lighting Assessment** should include the following as a minimum:

- details of the external lighting, including a layout plan with beam orientation and a schedule of the equipment in the design;
- proposed hours of operation of the lighting;
- a vertical lux contour plan at appropriate façade height at sensitive premises;
- identification of the appropriate environmental zone as outlined in the relevant Institute of Lighting Professionals guidance document: Details of any directional hoods or other forms of mitigation;
- the design and layout details of the proposal should demonstrate that any existing light sources will have no negative impact on habitable rooms.

Detailed guidance on conducting an artificial lighting assessment can be found in the ILP 'Guidance on Undertaking Environmental Lighting Impact Assessments' .

Useful guidance is provided by the Institute of Lighting Professionals' publication:

[Guidance for the reduction of obtrusive light](#)

Further guidance is provided by [Sport England – Outdoor Sports Lighting Briefing Note](#)

<p><b>19.</b> <b>Market Testing Report</b></p> <p><b>Policy</b> <b>SPPS</b> <b>PPS 4</b> <b>PPS 6</b></p>	<p>A <b>Market Testing Report</b> demonstrates whether or not the existing use of a building or land is viable or likely to be viable in the context of market testing.</p> <p><b>When is it required?</b> A <b>Market Testing Report</b> is required where the applicant seeks to demonstrate that the current use of a building or land is no longer viable or is unlikely to be viable, and believes that this is an important material consideration when the planning application is assessed.</p> <p>For example, a Market Testing Report may be used where the proposal would result in the loss of employment land having regard to Policy PED7(e) of PPS 4 Planning and Economic Development.</p> <p>It should also be used in the context of a proposal for complete or partial demolition of a Listed Building or an un-listed building in that makes a material contribution to a Conservation Area, having regard to Policies BH10 and BH14 of PPS 6 Planning, Archaeology and the Built Heritage (see section 11, Demolition Justification Report).</p> <p><b>Guidance:</b> The Council expects the building or land to be subject to rigorous marketing for a minimum period of 18-months. The Market Testing Report should include the following information:</p> <ul style="list-style-type: none"> <li>- how the building or land was marketed – by whom, for how long, the media used for marketing, as well as frequency, terms, conditions and value/rent;</li> <li>- details of any interest in the building or land resulting from the marketing exercise, including viewings;</li> <li>- details of any offers made; and</li> <li>- explanation of why any interest was not followed up or why any offers were not accepted.</li> </ul> <p>A <b>Market Testing Report</b> demonstrates whether or not the existing use of a building or land is viable or likely to be viable in the context of market testing.</p>
<p><b>20.</b> <b>Noise and Vibration Impact Assessment (NVIA)</b> <b>Policy</b> <b>SPPS</b></p>	<p>A <b>Noise and Vibration Impact Assessment</b> sets out the potential for new development to impact on its surroundings by way of noise and/or vibration. Where necessary, it will include measures to mitigate noise and vibration impacts, particularly if the site is surrounded by sensitive premises such as housing and other residential uses.</p> <p><b>When is it required?</b> A <b>Noise and Vibration Impact Assessment</b> is required where:</p> <ul style="list-style-type: none"> <li>- noise and/or vibration arising from the proposed development has potential to adversely impact on nearby residential property or other noise sensitive premises (e.g. schools or hospitals); or</li> <li>- proposed noise sensitive premises or development is likely to be exposed to adverse noise and/or vibration from an existing noise source (e.g. from road traffic/railway/ entertainment venues/sports/leisure facilities/plant noise)</li> </ul> <p><b>Guidance</b> The <b>Noise and Vibration Impact Assessment</b> should:</p> <ul style="list-style-type: none"> <li>- be carried out by a competent acoustic consultant;</li> </ul>



- include an assessment of existing baseline noise conditions;
- be carried out in line with current guidance and British Standards;
- assess the impact on the internal amenity and, where appropriate the external amenity;
- identify any intensification of use of a site and/or cumulative impacts for a major mixed-use site;
- identify the necessary mitigation/design measures to ensure suitable internal and external noise targets are not exceeded.

Reference should be made to current guidance such as: BS4142, BS8233, WHO Guidelines for Community Noise 1999; BS6272-1 Guide to evaluation of human exposure to vibration in buildings; ProPG Guidance: Planning & Noise (2017), and IEMA Guidelines for Environmental Noise Impact Assessment.

**21.**  
**Odour Abatement System (flue and ventilation details)**

**Policy**  
**SPPS**

An **Odour Abatement System** controls the level of odour emissions resulting from odour generating equipment such as a commercial kitchen, waste transfer station or industrial premises.

**When is it required?**

Details of an **Odour Abatement System** are required where:

- the proposal has potential to generate odours which could adversely impact on nearby sensitive premises e.g. from cooking operations (hot food bars, restaurants, cafes etc.); waste transfer stations; and light industrial and commercial developments that may cause odorous emissions.

**Guidance**

Details of the **Odour Abatement System** should include:

- floor plans, positioning and design of ventilation and extraction equipment;
- manufacturers details of the equipment proposed including odour abatement techniques; and
- elevation drawings depicting the external location of the odour abatement system and ventilation termination points

A Noise Assessment may also be required (see section 20).

Useful guidance is provided by [DEFRA – Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems \(2005\)](#) (This guidance was officially withdrawn in 2017 but remains a useful reference point)

Further guidance is provided by IAQM – [Guidance on the assessment of odour for planning, dated May 2014](#)

**22.**  
**Parking Survey**

**Policy**  
**SPPS**  
**PPS 3**  
**Creating Places**

A **Parking Survey** assesses the volume of vehicles parked at any one time in the vicinity of the application site, either on street or in existing car parks, and provides an indication of parking trends and any available capacity that could serve the new development.

**When is it required?**

A **Parking Survey** should be submitted when there is an identified parking need that cannot be accommodated within the application site. Typically, it is used to

demonstrate whether there is sufficient parking capacity on public roads or streets to accommodate the additional vehicles generated by the new development.

#### Guidance

The **Parking Survey** can form part of a Transport Assessment. It should be undertaken over a minimum of two days at appropriate times during the day and evening on both weekdays and weekends.

Further guidance on when a **Parking Survey** is required and what should be included in it can be obtained from the Department for Infrastructure Roads Southern Division.

### 23. Phasing Plan

Policy  
SPPS  
PPS 7

A **Phasing Plan** sets out the sequence in which the various parts of a larger development scheme will be brought forward. The phasing is indicated on a diagrammatic plan with supporting narrative that describes the sequencing and why it is to take place in that order.

#### When is it required?

Where the phasing of development of a site is critical, either from a planning or commercial perspective. This may include the sequencing of development to ensure that necessary infrastructure is put in place, such as a road, junction or a community facility.

#### Guidance

Where circumstances warrant, plans may specify a phased release of development land. Phasing may be necessary having regard to infrastructure requirements or the adequacy of other services, which may indicate that a particular area cannot be released for development until a particular stage in the plan period. It may also take into account any relocation of people, sale or rental of land, the property market, possible movement issues, land ownership patterns, funding availability, and relevant planning processes and legislation.

### 24. Planning Agreement (Heads of Terms)

Policy  
SPPS

A **Planning Agreement** is a legally binding agreement, normally between the applicant, landowner and council, secured under Section 76 of the Planning Act (Northern Ireland) 2011. Planning Agreements are used to secure a planning obligation, such as developer contributions, where it is not possible to do so by a planning condition. The Planning Agreement must be signed and completed before the planning permission can be issued.

**Heads of Terms** set out the applicant's intention to enter into a **Planning Agreement** as part of the planning application process and the nature of the planning obligations that it is expected to contain.

#### When is it required?

**Heads of Terms** should be provided for all applications where it is expected that a Planning Agreement will be a prerequisite to the granting of planning permission.

#### Guidance

The requirement for a **Planning Agreement** can be discussed as part of the Council's Pre-Application Discussion service.

The applicant may voluntarily submit a draft Planning Agreement with their planning application if it is expected that the planning permission, if granted, will be subject to a Planning Agreement.

Further guidance on planning agreements is provided by [Development Management Practice Note 21: Section 76 Planning Agreements](#)

## 25. Planning Statement

**Policy**  
SPPS  
All PPSs  
Draft BMAP  
2015

A **Planning Statement** is a written document that explains the rationale for a proposal within the relevant planning policy context

### When is it required?

A Planning Statement is required for applications for:

- Major development;
- proposals that would result in a loss of existing open space;
- proposals that would result in a loss of employment land;
- proposals that require the exceptional test to be applied under Policy FLD 1 of PPS 15; and
- proposals that would result in the demolition or part demolition of either:
  - o a Listed Building; or
  - o an un-listed building within a Conservation Area that makes a material contribution to the character or appearance of that Conservation Area.

### Guidance

The **Planning Statement** should set out how a development proposal takes account of relevant planning policies and other material considerations. It should include:

- a description of the site and its surrounding context;
- a description of the proposal and why it is needed;
- relevant planning history;
- summary of the relevant regional and local planning policies, including the Local Development Plan, and how those planning policies have been applied;
- other relevant material considerations;
- assessment of the key planning issues;
- justification for the proposal if it is contrary to planning policy (e.g. loss of open space) or if an exception needs to be applied (e.g. Policy FLD1 of PPS 15);
- Heads of Terms if a planning agreement is required (see section 23); and
- draft planning conditions in the event that planning permission is granted.

## 26. Retail Impact Assessment (RIA)

**Policy**  
SPPS  
Draft BMAP

A **Retail Impact Assessment** considers the impacts of proposals for retail or other main town centre uses (including cultural and community facilities, retail, leisure, entertainment and businesses) on the vitality and viability of the Town Centres, District and Local Centres.

### When is it required?

A **Retail Impact Assessment** is required for:

- proposals for retail or other main town centre uses above a threshold of 1,000 sqm not proposed in a town centre location (i.e. primary core, district or local centre) and are not in accordance with the Local Development Plan; or
- proposals for an extension to retail or other main town centre uses which would result in the overall development exceeding 1,000 sqm gross external area.

### Guidance

The Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) requires a town centre first approach for the location of future retailing and other main town

centre uses. The planning system should protect and enhance diversity in the range of town centre uses appropriate to their role and function, such as leisure, cultural and community facilities, housing and business.

A **Retail Impact Assessment** considers the impacts of development proposals for retailing and other main town centre uses on the vitality and viability of existing centres in the catchment including the primary retail core; district and local centres. It should include an assessment of:

- the impact of the proposal on trade and turnover for both convenience and comparison goods traders, and the impact on town centre turnover overall for all centres within the catchment of the proposal;
- the impact of the proposal on existing committed and planned public and private sector investment and investor confidence in the town centre(s);
- the impact of the proposals on the delivery of the planned/allocated sites and the LDP strategy;
- the impact on the vitality and viability of existing centres including consideration of the local context. This should take into account existing retail mix and the diversity of other facilities and activities.
- cumulative impact taking account of committed and planned development, including plan commitments within the town centre and wider area; and,
- a review of local economic impacts.

**27.**  
**Sequential Test**  
**(main town**  
**centre uses)**

**Policy**  
**SPPS**  
**ADAP**  
**NDAAP**  
**Draft BMAP**  
**2015**

The **Sequential Test** is used by the Council to assess whether the application site for retail or a main town centre (including cultural and community facilities, retail, leisure, entertainment and businesses use) is located within, or as close as possible to the Town Centre or District Centre.

**When is it required?**

The **Sequential Test** is required for:

- all development proposals for retail or main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Development Plan, irrespective of scale.

**Guidance**

The Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) requires new retail development and other main town centre uses to be directed to existing centres. Where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused.

The Council will require applications for retail or main town centre uses to be considered in the following sequential order of preference (and consider all of the proposal's catchment):

1. primary retail core;
2. town/district centres;
3. local centre;
4. edge of centre; and
5. out-of-centre locations, only where sites are accessible by a choice of good public transport modes.

The applicant should submit a **written statement** with their application that sets out

	<p>which sequentially preferable sites (in the sequence above) they have considered for the development proposal and the reasons why those sites have been rejected.</p>
<p><b>28.</b> <b>Structural Survey</b></p> <p><b>Policy</b> <b>PPS 6</b> <b>PPS 21</b></p>	<p>A <b>Structural Survey</b> is a comprehensive report on the condition and construction of a property.</p> <p><b>When is it required?</b> A <b>Structural Survey</b> will be required to support applications for:</p> <ul style="list-style-type: none"> <li>• the conversion of a rural building in the countryside to demonstrate that it is capable of conversion without major or complete reconstruction;</li> <li>• the erection of buildings on sites where there is a possibility of land instability</li> <li>• listed building consent or conservation area consent (in some cases)</li> <li>• demolition of a building within an Area of Townscape Character if the building is deemed by the Planning Service to make a contribution to the overall character of the area</li> </ul> <p>For applications involving demolition in Conservation Areas (and possibly within an Area of Townscape Character) a Structural Survey will be required for the building proposed for demolition. Demolition will not be acceptable unless it can be demonstrated that the building is beyond economic repair. The structural Survey should detail why the building is not repairable.</p> <p><b>Guidance</b> This must be carried out by a competent person and give an appraisal of the structural stability of the building, identify clearly any re-building works and include a schedule of works necessary to carry out the conversion, or in the case of demolition clearly demonstrate why it is necessary.</p>

<p><b>29.</b> <b>Transport Assessment</b></p> <p><b>Policy</b> <b>SPPS</b> <b>PPS 3</b> <b>PPS 13</b></p>	<p>A <b>Transport Assessment</b> is a comprehensive review of all the potential transport impacts of a proposed development or re-development, with an agreed plan to mitigate any adverse consequences.</p> <p><b>When is it required?</b> A <b>Transport Assessment</b> is required where the new development would likely have significant transport implications. Applicants should complete a <b>Transport Assessment Form</b> (TAF) to help establish if a detailed Transport Assessment is needed (see section 30).</p> <p>The following table provides an indicative guide as to when a <b>Transport Assessment</b> may be required.</p> <table border="1" data-bbox="347 1713 1497 2072"> <tr> <td>Non-food retail - 1,000 sqm Gross Floor Area</td> </tr> <tr> <td>Cinemas and conference facilities - 1,000 sqm Gross Floor Area</td> </tr> <tr> <td>Leisure facilities - 1,000 sqm Gross Floor Area</td> </tr> <tr> <td>Business - 2,500 sqm Gross Floor Area</td> </tr> <tr> <td>Industry - 5,000 sqm Gross Floor Area</td> </tr> <tr> <td>Distribution and warehousing - 10,000 sqm Gross Floor Area</td> </tr> <tr> <td>Hospitals - 2,500 sqm Gross Floor Area</td> </tr> <tr> <td>Higher and further education 2,500 sqm Gross Floor Area</td> </tr> <tr> <td>Stadia - 1,500 seats</td> </tr> </table>	Non-food retail - 1,000 sqm Gross Floor Area	Cinemas and conference facilities - 1,000 sqm Gross Floor Area	Leisure facilities - 1,000 sqm Gross Floor Area	Business - 2,500 sqm Gross Floor Area	Industry - 5,000 sqm Gross Floor Area	Distribution and warehousing - 10,000 sqm Gross Floor Area	Hospitals - 2,500 sqm Gross Floor Area	Higher and further education 2,500 sqm Gross Floor Area	Stadia - 1,500 seats
Non-food retail - 1,000 sqm Gross Floor Area										
Cinemas and conference facilities - 1,000 sqm Gross Floor Area										
Leisure facilities - 1,000 sqm Gross Floor Area										
Business - 2,500 sqm Gross Floor Area										
Industry - 5,000 sqm Gross Floor Area										
Distribution and warehousing - 10,000 sqm Gross Floor Area										
Hospitals - 2,500 sqm Gross Floor Area										
Higher and further education 2,500 sqm Gross Floor Area										
Stadia - 1,500 seats										

Housing – 100 units

**Guidance**  
 A **Transport Assessment** is a comprehensive review of all the potential transport impacts of a proposed development, with an agreed plan to mitigate any adverse consequences. The coverage and detail of the Transport Assessment should reflect the scale and the likely extent of transport impacts of the proposed development.

Developers need to consider a wide range of options to deal with the transport impacts of a development rather than simply increasing highway capacity to meet demand. Such measures may include the preparation of a **Travel Plan** (see section 31), travel cards, financial incentives to encourage alternatives to private car use, infrastructure improvements to make walking and cycling more attractive or public transport service improvements.

Further guidance on Transport Assessments is provided by the Department for Infrastructure’s publication, [Transport Assessment: Guidelines for Development Proposals in Northern Ireland \(November 2006\)](#)

**30.**  
**Transport Assessment Form**

**Policy**  
**SPPS**  
**PPS 3**  
**PPS 13**

A **Transport Assessment Form** is a tool that applicants can use to screen out those applications where no further information on the transport impacts of the proposal is required.

**When is it required?**  
 A **Transport Assessment Form** (TAF) should be submitted for the following types of proposal:

- residential comprising 25 or more units
- non-residential with a gross floor area of 500 sqm or more
- likely to generate 30 or more vehicle movements per hour
- likely to generate 10 or more freight movements per day or 5 in any given hour

**Guidance**  
 Further advice can be found on the Department of Infrastructure Roads website

**31.**  
**Travel Plan**

**Policy**  
**SPPS**  
**PPS 3**  
**PPS 13**

A **Travel Plan** is a means of mitigating the transportation impacts of new development through long-term management measures to promote sustainable travel.

**When is it required?**  
 The requirement for a **Travel Plan** will be informed by a Transport Assessment (see section 28).

**Guidance**  
 A **Travel Plan** is intended to influence the way people travel to / from new development by encouraging more walking, cycling and public transport use.

The transport measures contained in a **Travel Plan** should address the scale and the anticipated transport impacts of the proposed development and be tailored to the development proposal. Travel Plans that provide a range of coordinated transport measures will be more effective in changing travel behaviour.

A Travel Plan can help mitigate the transport and parking impacts associated with proposed developments.

Further guidance on when a **Travel Plan** and what it should include can be obtained from the Department for Infrastructure Roads Southern Division.

### 32. Tree Survey

**Policy**  
**SPPS**  
**PPS 2**  
**PPS 7**  
**Creating Places**

A **Tree Survey** (or arboricultural survey) assesses the impact of new development on any existing trees that are likely to be affected by the proposal, whether they are within the site or adjacent to it. The **Tree Survey** will assess the health and condition of the affected and assess their amenity value to the character and appearance of the area. The survey should also set out measures to protect the trees during construction.

#### **When is it required?**

Where the new development has the potential to impact on existing trees on or adjacent to the site (including street trees).

#### **Guidance**

Applicants will need to satisfy the Council that new development will not have an adverse impact on important trees within or adjacent the site, and that a high quality and ecologically friendly landscaping scheme can be provided as part of the scheme.

A **Tree Survey** should be carried out in accordance with BS5837:2012 *Trees in relation to design, demolition and construction – recommendations* (or any subsequent replacement BS) and should be prepared by a suitably qualified and experienced arboriculturalist.

The **Tree Survey** should include as a minimum:

- a plan showing existing trees on or adjacent to the site;
- an evaluation of the health, condition and amenity value of the trees affected by the proposal
- a proposed layout showing retained trees and Root Protection Areas (RPAs);
- a plan showing new tree planting;
- Arboricultural Implications Assessment;
- existing and proposed finished levels;
- Tree Protection Plan;
- Arboricultural Method Statement (where applicable), including details for all special engineering within the Root Protection Area (as determined by the Arboricultural Implications Assessment); and
- the position of existing and proposed services.

### 33. Viability Appraisal

**Policy**  
**SPPS**  
**PPS 6**

A **Viability Appraisal** assesses whether a development proposal is financially viable. Therefore, that after taking account of all costs, the scheme provides a competitive return to the developer to ensure that development takes pace and generates a land value sufficient to persuade a land owner to sell the land for the development proposed. If these conditions are not met, a scheme will not be delivered.

#### **When is it required?**

A **Viability Appraisal** will be required in the following circumstances:

- where the applicant believes that the requirement for developer contributions to mitigate or manage the impacts of the proposal would make the scheme unviable;
- or

- where the applicant believes that it would not be financially viable to retain a Listed Building in its current use, having regard to Policy BH7 of PPS 6 Planning, Archaeology and the Built Heritage.

#### Guidance

The viability of a development proposal may in some circumstances be a material planning consideration.

A **Viability Appraisal** should be carried out by a suitably qualified professional such as a quantity surveyor.

The Council may choose to commission an independent review of the Viability Appraisal, the cost of which will be met by the applicant.

### 34. Waste Management Plan

Policy  
SPPS  
PPS 7  
PPS 11

A **Waste Management Plan** sets out how waste will be managed when new development is occupied (residential) or operational (commercial).

#### When is it required?

A **Waste Management Plan** is required in the following circumstances:

- new residential development for which communal waste storage is proposed (e.g. apartments, flats or sheltered housing); or
- new commercial development of 500 sqm or more.

#### Guidance

The **Waste Management Plan** will establish the volume of waste likely to arise from new development once occupied or operational and sets out the provision for waste storage and access.

The **Waste Management Plan** should ensure that appropriate provision is made to:

- accommodate the total waste generated from the building/s;
- accommodate segregation of waste for recycling;
- facilitate convenient and safe access and egress for depositing waste and collecting waste.

It should include:

- occupier separation (how the occupier will manage waste within their own space)
- occupier deposit and storage (how materials will be moved to the communal areas, and how materials will be stored)
- collection method (how materials will be collected and by whom, where are the materials stored prior to collection)
- removal and or on-site treatment (how materials will be removed from or treated/sorted on site)
- end destination (whether materials are to be recycled and how much will end up in landfill)

Further advice on waste storage guidelines can be found here

<http://www.buildingcontrol-ni.com/assets/pdf/Waste-storage-guide-NI.pdf>



Unclassified

377

**ITEM 7****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 November 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	16 October 2024
File Reference	160051
Legislation	
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input checked="" type="checkbox"/> If other, please add comment below: N/A
Subject	NIW on The Story of Belfast Lough
Attachments	The Story of Belfast Lough

**Background**

Officials within Northern Ireland Water (NIW) and the Council have previously been engaged in relation to the Living with Water Programme (LwWP) water sampling, and the LwWP Wastewater Treatment Works (WwTW) upgrade project. Through those discussions matters around water quality, flood risks and development constraints were raised.

Planning officials raised the matter of funding for the LwWP with Members at the Planning Committee meeting of 09 April 2024 – Item 6, at which Members agreed that the Council writes to the Minister for Infrastructure seeking assurances that the monies committed to NIW for infrastructure projects, particularly the planned upgrade to Kinnegar WwTW, be reinstated forthwith. A response to that letter was reported to Committee at its meeting of 06 August 2024 – Item 6.

We have now reached a critical stage as NIW and other LWWP partners await the outcome of the Department for Infrastructure's review of the LWWP, which will

Not Applicable

378

determine if any of the LWWP Major Projects (which includes the replacement of Kinnegar WwTW) will be able to proceed as had been planned in 2021.

### **The Story of Belfast Lough**

NIW has provided the attached document, entitled 'The Story of Belfast Lough' which it prepared and has released to stakeholders, after review by the Utility Regulator and the Department for Agriculture, Environment and Rural Affairs.

The report references how improvement of the water quality in the rivers of Belfast and Belfast Lough is dependent upon key decisions being made today.

In relation to Ards and North Down Borough Council Members should note that:

- Figure 2.1 illustrates how the LWWP catchment area spans from Holywood to Helen's Bay
- Figure 5 shows the locations of storm overflows in the ANDBC area that are 'unsatisfactory' - causing pollution
- Section 5.4 sets out how the odour at Kinnegar is a result of land reclamation coupled with unsatisfactory overflows
- Section 6.4 sets out the impact of pollution on swimming at designated Bathing Waters controlled by ANDBC
- Section 6.5 sets out the impact of pollution on Seapark – and the important role of the Council in advising the public about the risks of water quality
- Section 7 sets out the impact of capacity constraints on economic development
- Section 9.5 sets out how the NI Assembly has until 3 December 2024 to respond to a report by the Office for Environmental Protection (OEP)

### **Living With Water Programme (2021)**

In many places the 'Story of Belfast Lough' references the 'Living With Water Programme' (LwWP) and the Living With Water In Belfast Plan.

Further information on this can be found here:

<https://www.infrastructure-ni.gov.uk/sites/default/files/publications/infrastructure/living-with-water-in-belfast-plan-updated-apr22.pdf>

### **Storm Overflows Document and Data**

In March 2024 NIW published the document '*Northern Ireland's Wastewater System*' on its website.

This can be accessed from the storm overflow page: [Storm Overflows \(niwater.com\)](https://www.niwater.com/storm-overflows)

NI Water has also launched a second webpage called '*storm overflow performance*' that makes available in a spreadsheet the modelled results for frequency and volume of spills from storm overflows. This can be accessed from the storm overflow performance page: [Storm Overflow performance \(niwater.com\)](https://www.niwater.com/storm-overflow-performance)

Sharing of this information is part of NIW's commitment to increasing understanding of Northern Ireland's wastewater system, how it works and performs. Publishing

Not Applicable

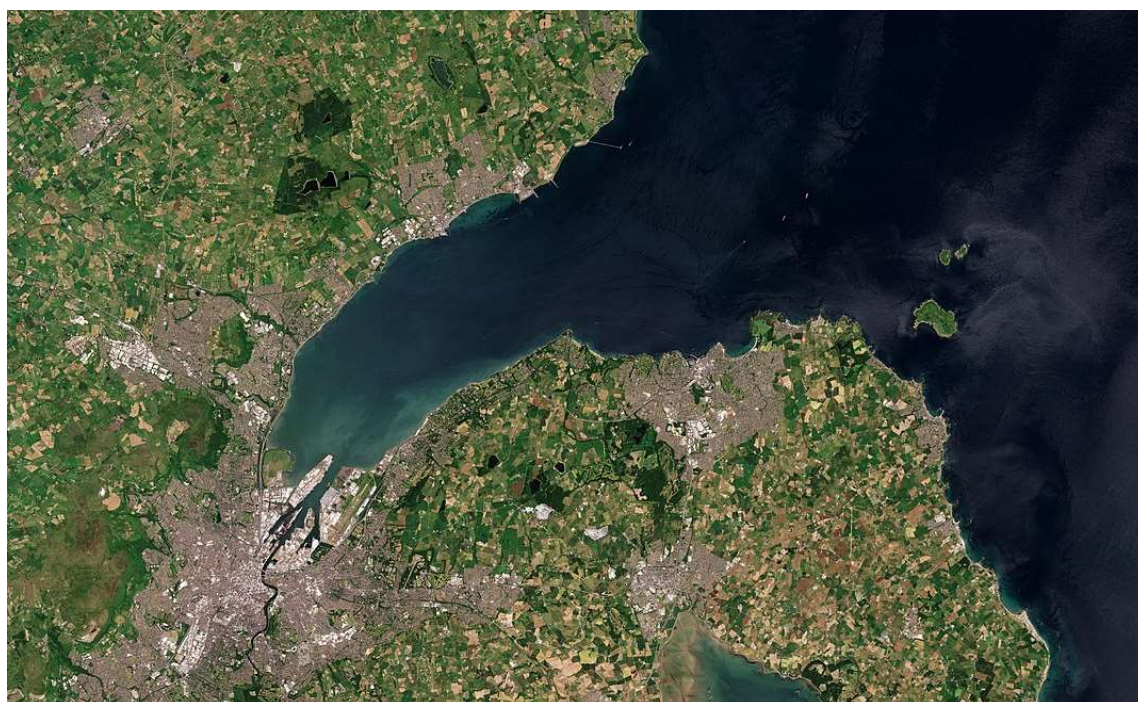
379

drainage modelling data also ensures that NI Water is compliant with FOI requirements.

**RECOMMENDATION**

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

# Story of Belfast Lough



**A Document to Inform Engagement  
between LWWP Partners  
(DfI, DAERA, NIEA, UR, BCC & NI Water)**

V12 18/09/24 (reviewed by DAERA, NIEA and UR)

## Table of Contents

- Executive Summary
- 1) Introduction
- 2) Drainage of Greater Belfast
- 3) Investment in Drainage and Wastewater Treatment
- 4) Shellfish Industry
- 5) Land Reclamation
- 6) Recreation
- 7) Economy
- 8) Legislation and Compliance
- 9) Key Published Government Documents
- 10) Conclusion

## Executive Summary

### The Story of Belfast Lough

The story of Belfast Lough is one of a vital natural resource under strain. It is a story of the need for urgent action to preserve its ecological health, support recreational activities, and enable sustainable economic growth. The path forward requires significant investment, regulatory compliance, and a commitment to restoring and protecting this invaluable asset.

NI Water is poised to deliver about £1.9 billion of wastewater improvement schemes in the Greater Belfast area over at least 12 years. The funding is under severe threat which means we risk losing the prize that Belfast Lough will once again become a beautiful resource for people and wildlife to enjoy boosting economic prosperity to the region and achieving compliance with environmental legislative standards.

### Belfast Lough: A Vital Resource Facing Environmental Challenges

Belfast Lough, a large sea inlet on Northern Ireland's east coast, is more than just a picturesque body of water connecting Belfast to the Irish Sea. It is a vital natural resource that has shaped the region's history, economy, and way of life. The lough is known for its deep outer waters with rocky shores and sandy bays, and a shallow inner section rich in mudflats and lagoons. Surrounding towns like Bangor and Carrickfergus thrive on the lough's shores, and the area has been recognised for its environmental significance, being designated an Area of Special Scientific Interest (ASSI) in 1987 and a Ramsar site in 1998. These designations highlight its importance for bird species and its popularity for recreational activities like walking and sailing.

However, the story of Belfast Lough is also one of growing environmental challenges. Despite its ecological and recreational significance, the lough is experiencing a decline in water quality. This deterioration stems largely from issues related to the drainage system of Greater Belfast, which has long relied on discharging water into the River Lagan and the lough itself. As the city expanded, so did the burden on its combined sewers, which handle both sewage and rainwater. Although wastewater treatment facilities have been upgraded over the years, they struggle to keep pace with the demands placed on them. During heavy rainfall, combined sewer overflows (CSOs) become necessary to prevent flooding, but their overuse contributes significantly to pollution, making CSOs and treatment works responsible for over 90% of the bacteria and 50% of the nutrients polluting the lough.

### The Urgent Need for Investment: Living with Water

The need for investment in drainage and wastewater treatment is critical. Before 2014, many of Northern Ireland's wastewater facilities were outdated and struggling with capacity issues. The creation of NI Water in 2007 aimed to address these challenges, but funding constraints have slowed progress, particularly in Greater Belfast. A stormwater tunnel, partially completed in 2010, exemplifies the challenges faced due to limited budgets.

In response, the Northern Ireland Executive approved the Strategic Drainage Infrastructure Plan (SDIP) in 2014, leading to the establishment of the Living With Water Programme (LWWP). After being endorsed by the NI Executive, the plan was published in November 2021. It focuses on fixing years of underinvestment in our water and wastewater systems, which is crucial for strong economic and social growth. The plan also aims to support our

environmental, sustainability, and decarbonization goals. However, ongoing financial shortfalls threaten the programme's objectives.

### **Belfast Lough's Ongoing Struggles: Environment, Economy and Legislation**

The decline in Belfast Lough's health is not new. As early as 1903, a report by Dr. Thomas J. Browne highlighted the collapse of the oyster industry in the lough due to severe sewage contamination. This issue led to health crises and prompted early investments in wastewater treatment. Today, despite designations like the Shellfish Water Protected Area (SWPA) covering 40% of Inner Belfast Lough, water quality continues to decline. The mussel industry, which acts as a natural nutrient filter, is under threat from excess bacteria, excess nutrients leading to algae blooms and contamination by sewage related debris. The challenges facing this industry underscore the broader environmental and economic risks posed by inadequate wastewater management.

Land reclamation efforts, particularly in the arc between Holywood and the Abbey Shopping Centre, have further complicated matters. These projects, aimed at expanding transport infrastructure and commercial developments, have disrupted the natural processes that once diluted and dispersed wastewater discharges. The consequences include blocked sea outfalls, septic wildlife lagoons, and increased pollution. Examples such as the partially blocked Belfast wastewater treatment works sea outfall and the outdated Whitehouse WWTW headwall illustrate the urgent need for comprehensive infrastructure upgrades under the LWWP.

The recreational value of Belfast Lough is also at stake. Coastal walks near Whitehouse are marred by sewage-related debris, rivers in parks like Connswater Community Greenway and Victoria Park are contaminated, and swimming in Belfast Harbour and the beaches of the Inner Lough has been restricted due to poor water quality. Sailing clubs near Holywood face similar challenges, with polluted waters at times posing health risks to participants. In response, organisations like the Royal Yachting Association have formed the Clean Water Sport Alliance to advocate for better water quality and protect recreational users.

Economically, the effective treatment and management of sewage are essential for Belfast's growth. The city's 2035 vision aims to add 66,000 residents, 33,000 homes, and significant infrastructure. However, the current drainage and wastewater infrastructure are inadequate to support this growth. NI Water has already had to deny planning applications due to capacity issues, affecting 19,000 proposed units nationally. Without necessary investments, these constraints will worsen, threatening further development and economic progress.

Legislation, such as the EU Water Framework Directive (WFD) and the Urban Waste Water Treatment Regulations, sets ambitious environmental goals, including achieving "Good Status" for water bodies by 2027. However, surveys indicate that pollution from CSOs and wastewater treatment works are major barriers to achieving these goals, particularly in sensitive areas like Belfast Lough. The declining water quality has prompted considerations for additional protections, but failure to deliver necessary infrastructure improvements could lead to non-compliance, risking further environmental deterioration.

Key government documents, including the 2020 New Decade New Approach agreement and the 2021 Draft 3rd Cycle NI River Basin Management Plan, emphasise the critical need for investment in Northern Ireland's water infrastructure. The 2021 Living With Water in Belfast plan outlines how such investments can manage flood risks, improve water quality, and support economic growth. Recent actions by the UK Government and regulatory bodies like

OFWAT highlight the importance of legislative compliance and proper investment - a challenge that NI Water continues to face due to underfunding.

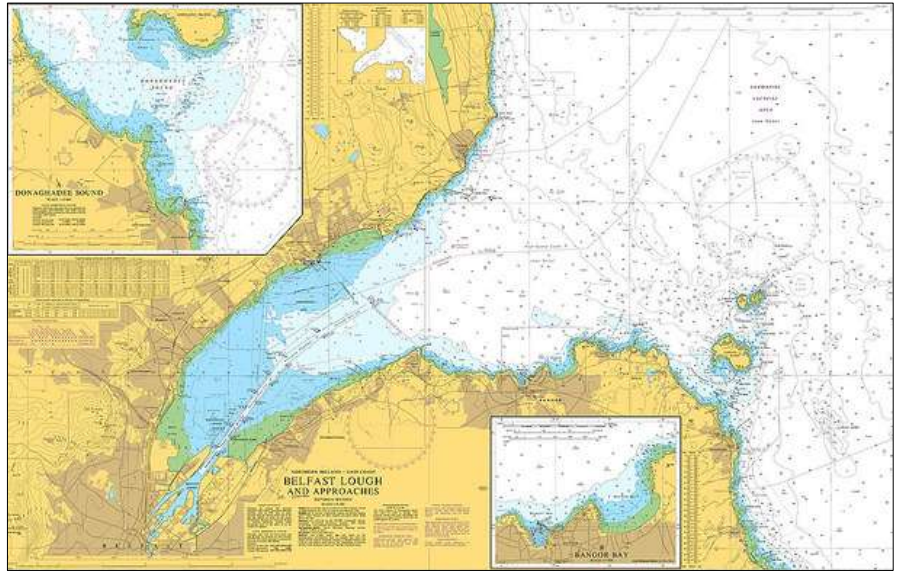
In September 2024 the Office of Environmental Protection (OEP) issued a report that found that the critical River Basin Management Plan (RBMP) that is required under law to protect and improve Northern Ireland's waters, needs to be strengthened and implemented without further delay. Delivery of the LWWP is central to the draft RBMP for improving Belfast Lough. The OEP report makes 16 recommendations to the Northern Ireland Executive, Northern Ireland Assembly and DAERA, designed to increase the prospects of protecting and improving the water environment.

The Northern Ireland Executive has an opportunity, within its response to the OEP report, to set out how the LWWP will play a key role in next chapters of the story of Belfast Lough.



### 1. Introduction

Belfast Lough is a large sea inlet on the east coast of Northern Ireland. At its head is the city and port of Belfast, which sits at the mouth of the River Lagan. The lough opens into the North Channel and connects Belfast to the Irish Sea.



**Figure 1: Marine Chart of Belfast Lough**

Belfast Lough is a long and wide expanse of water, virtually free of strong tides. The outer boundary of the lough is a line joining Orlock Point and Blackhead. The deeper outer lough is restricted to mainly rocky shores with some small sandy bays. The inner part of the lough is shallow, comprising a series of mudflats and lagoons bisected by a central dredged navigation channel. The main coastal towns are Bangor on the southern shore (County Down) and Carrickfergus on the northern shore (County Antrim). Other coastal settlements include Holywood, Helen's Bay, Greenisland and Whitehead.

The inner lough was made an Area of Special Scientific Interest (ASSI) in 1987. The Belfast Lough Ramsar site (wetlands of international importance under the Ramsar Convention) was designated in 1998. The Ramsar boundary entirely coincides with that of the Belfast Lough Special Protection Area (SPA). The area regularly supports internationally important numbers of common redshank, common shelduck, Eurasian oystercatcher, purple sandpiper, dunlin, black-tailed godwit, bar-tailed godwit, Eurasian curlew and ruddy turnstone.

The lough is popular for a wide range of recreational activities, including walking through coastal parks and shoreline paths and sailing. Within Belfast Lough there are designated bathing waters at Helens Bay, Crawfordsburn, Ballyholme, Groomsport, with Brompton (Bangor West) being a candidate site.

Belfast has grown rapidly and today over one third of the entire population of Northern Ireland lives in the parts of Greater Belfast and the nearby settlements that drain into Inner Belfast Lough.

This document sets out how and why:

- Belfast Lough has been shaped by drainage and land reclamation;
- it is important for wildlife, recreation and as a source of food;

- its water quality is declining, despite legislation being in place to protect it; and
- an investment plan has been developed to comply with legislation, enhance Belfast Lough, and facilitate economic growth.

## 2. Drainage of Greater Belfast

### 2.1 Overview

Originally all watercourses and the drains built across Greater Belfast discharged into the River Lagan and Belfast Lough. As the city and surrounding settlements grew it became necessary for new sewers to be built to transfer sewage to locations where it could be screened and discharged through sea outfalls to assist natural dilution and dispersion. Because these sewers collected both foul sewage and water from hard surfaces, such as roads and roofs, they are called 'combined sewers'.

As the pollutant load collected in sewers increased to a point where the discharges were causing odours and the contamination of shellfish, the first wastewater treatment works (WwTW) were built over 100 years ago. Through investment programmes, often driven by environmental legislation, these facilities have had to become more complex to be able to effectively treat the increasing volumes of sewage to adequately mitigate the impact on the environment, for example:

- In 1997 the current Belfast WwTW was extended to include a biological secondary treatment stage
- In 1999 a 25-year Public Private Partnership (PPP) contract was awarded to facilitate the upgrade of Kinnegar WwTW (this contract ended in April 2024)
- In 2005 Whitehouse WwTW was partially improved

Each of these investment projects provided the minimum standard of treated effluent necessary to comply with legislation that was applicable at that time and to provide for growth for up to 25 years. However the discharge standards set at that time were not based on environmental needs of Belfast Lough, as that was intended to follow by 2015.

Today when it rains across Greater Belfast, some of the water naturally seeps into the earth or makes its way directly to a watercourse. The rest finds its way via a network of underground pipes, into rivers and estuaries and finally into Belfast Lough. Some of this water is carried by separate storm drains and pipes and some flows into the combined sewers and is carried along with sewage to one of six WwTW that discharge into or beside Inner Belfast Lough. The diagram below in Figure 2 illustrates the drainage catchments of these six WwTW, which are within the areas of five local councils: Belfast City Council, Lisburn & Castlereagh City, Antrim & Newtownabbey Borough, Mid & East Antrim Borough and Ards & North Down Borough.

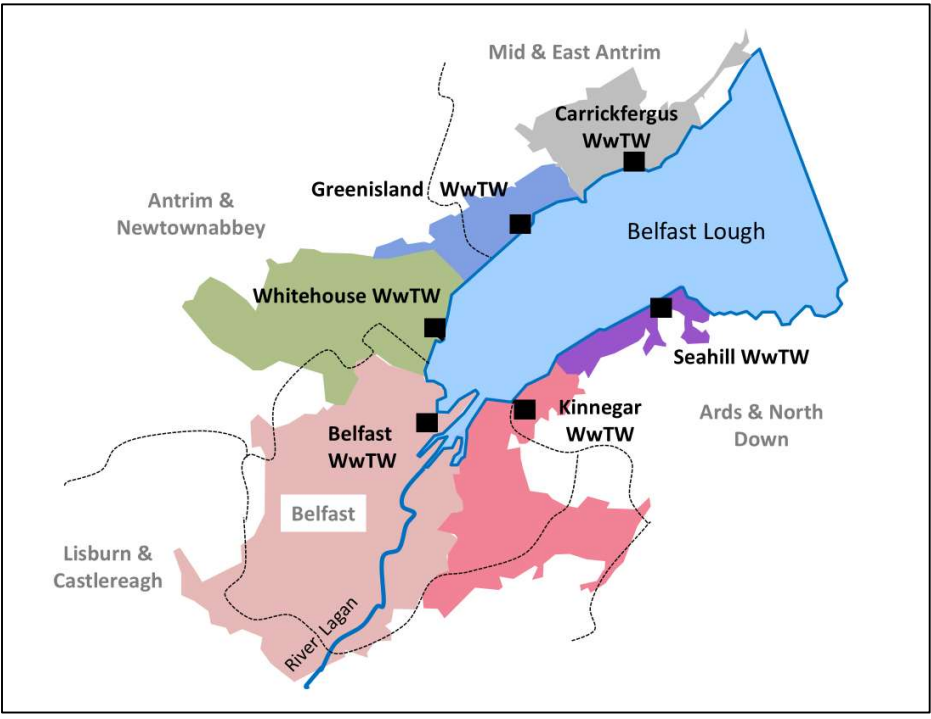


Figure 2: WwTW Catchments that Discharge into / close to Inner Belfast Lough

2.2 Combined Sewer Overflows

Excessive rainfall can also overload the combined sewerage systems, which can result in flooding and pollution; this is why storm overflows (sometimes known as combined sewer overflows - CSOs) are needed. Storm overflows prevent overloading of sewers by allowing surface water that has been mixed with sewage to rise inside the combined sewer and eventually enter a separate pipe, which discharges directly to a river or coastal water with minimal treatment, as shown in Figure 3 below. If there was no overflow in place, this sewage would force its way out of the network of pipes to the surface, causing flooding. These overflows should, however, only operate during heavy rainfall when the discharge is diluted. Where they spill too frequently and cause pollution these are categorised as unsatisfactory and must be rectified.

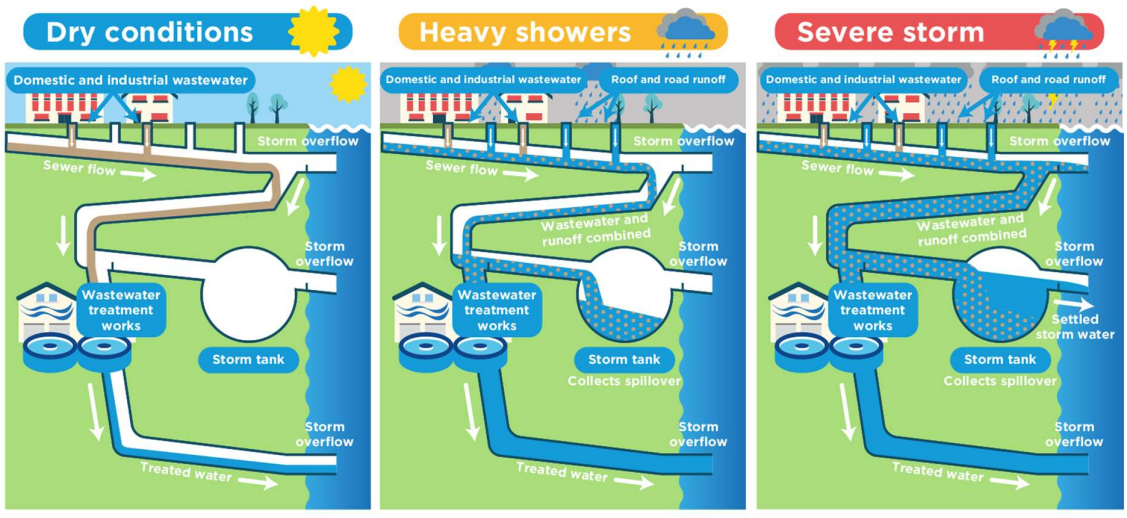


Figure 3: Storm Overflows

In March 2024 NI Water published the document 'Northern Ireland's Wastewater System' on its website which can be accessed from the storm overflow page Storm Overflows (niwater.com).

### 3.3 Sources of Pollution

There are many sources of pollution of Belfast Lough, with the majority (including over 90% of bacteria and over 50% of nutrients) being from storm overflows and WwTW. This is illustrated on the diagram in Figure 4 below.

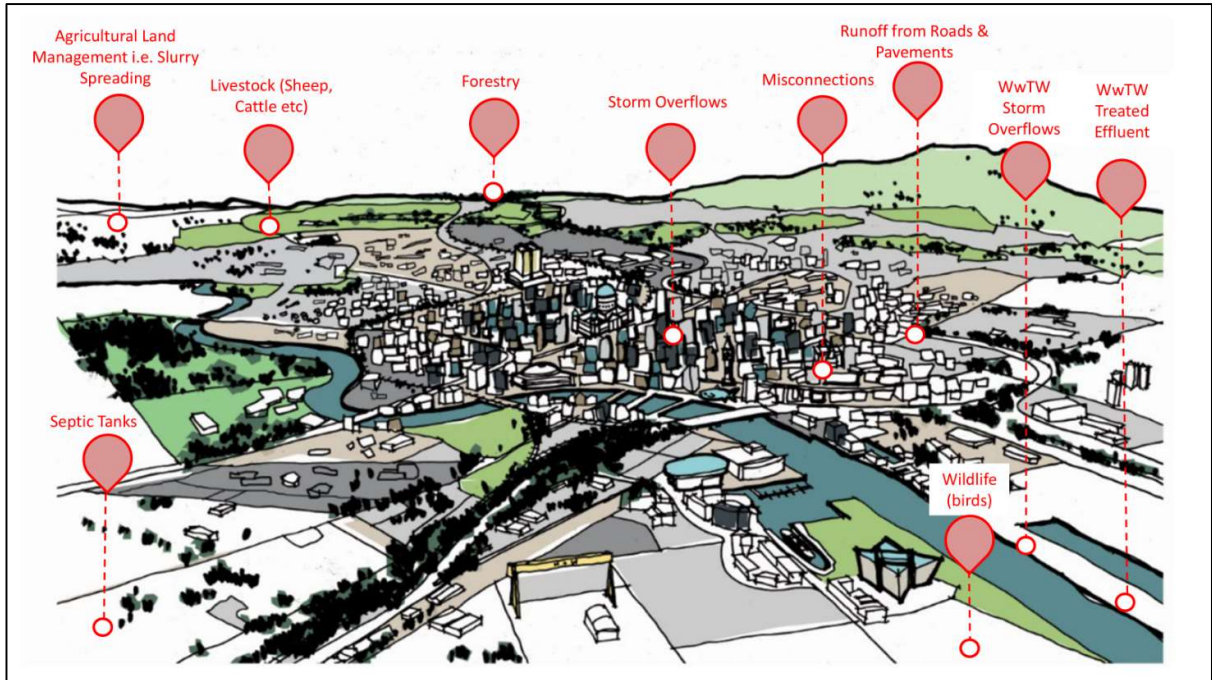


Figure 4: Sources of Pollution of Belfast Lough

## 3. Investment in Drainage and Wastewater Treatment

### 3.1 Period Leading to 2014

Many of the key facilities that provide essential wastewater services were last upgraded decades ago, now have inadequate capacity, are struggling to comply with their existing discharge consents. For example, Sydenham WwPS is the largest pumping station in NI and serves 6% of the population. However, it is over 40 years old and is prone to failures and blockages resulting in the internal flooding of houses due to the type of materials commonly found in today's sewage, such as wet wipes.

One of the key reasons that NI Water was created in 2007 was to allow a significant and sustained increase in the level of capital investment to be made available for drainage and wastewater treatment to comply with new legislation and provide the increased capacity needed to support economic growth.

Due to the severity of flooding in central Belfast and pollution of the River Lagan from storm overflows located in the city centre, a 9.4km long and 40m deep stormwater tunnel was built

and commissioned in 2010 to store and convey stormwater to Belfast WwTW. However, due to funding constraints it was not then possible to complete the tunnel by extending it to Musgrave Park to serve West Belfast. This was deferred and has since become one of the LWWP Major Projects.

As the sustained level of investment in drainage and wastewater foreseen as being necessary across NI 20 years ago has not occurred, the scale of the backlog has steadily increased since 2007, and most severely in Greater Belfast due to the complexity, number and scale of major projects required. The limited capital available has been used to invest in smaller drainage and WwTW projects, most of which have been outside of the Greater Belfast area.

### **3.2 Period From 2014**

In 2014 it was clear that the drainage infrastructure across Greater Belfast was unable to meet the requirements expected of it and that a plan was required to develop the most cost-effective programme of projects to address this. The Northern Ireland Executive approved the development of a Strategic Drainage Infrastructure Plan (SDIP) for Belfast to:

- protect against flooding by managing the flow of water through a catchment from source to sea;
- enhance the environment through effective wastewater management and the provision of enhanced blue/green spaces to benefit local communities; and
- grow the economy by providing the necessary capacity in our drainage and wastewater management systems to facilitate new development projects including house building.

To develop and deliver this Plan, an interdepartmental group, called the Living With Water Programme (LWWP), was established. The Plan, "Living With Water in Belfast" is the Strategic Drainage Infrastructure Plan for Belfast and was developed by this group and published by DfI in 2021, having been endorsed by the NI Executive. Work is underway to develop a similar plan for Derry / Londonderry.

The Plan sets out how its implementation over a 12-year period is central to the delivery of the Floods Directive, the Water Framework Directive, the United Nations Sustainable Development Goals (SDG), the Regional Development Strategy (RDS) and development plans prepared by local councils. In February 2020 the Northern Ireland Assembly declared a climate emergency. This Plan will help Belfast to adapt to changing rainfall patterns and mitigate against increased greenhouse gas emissions.

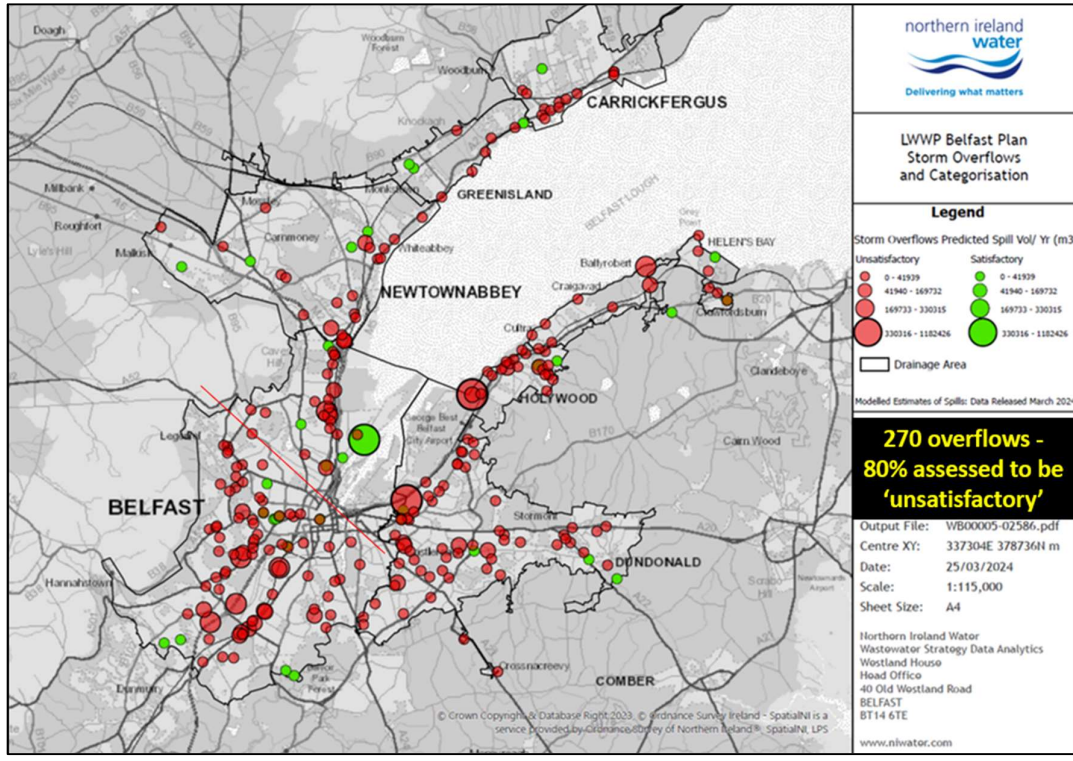


Figure 5: LWWP Area CSOs – Location, Volume, Classification

Today there are 270 storm overflows in the LWWP catchment area, of which over 80% have been assessed to be unsatisfactory and causing pollution. This large number of overflows is the result of overflows being made to reduce the risk of flooding, because investment was not available to increase sewerage capacity. Every time one of these overflows discharges prematurely, before heavy rainfall, it results in a loss of load to the water environment. This lost load cannot be returned to the WwTW for treatment. Some of these storm overflows are unsatisfactory because they do not have screens to retain sewage related debris (SRD) in the wastewater, or because key wastewater pumping stations do not have adequate capacity to pump the required level of flow forward to the WwTW for treatment.

This rate of loss of load is high in parts of Belfast as they have large relatively flat lower sections, including long syphons, that cause the flow to slow during dry periods, resulting in solids being deposited in the bottom of the sewers, and fats oils and grease (FOG) to mix with wet wipes to create fatbergs that then float and cover the surface. When it rains these settled deposits and fatbergs, if they have not already caused a blockage and / or constrained the volume of flow that can be passed forward, are rapidly mobilised by the increased flow to create a 'first flush' that contains a significant pollutant load. In a wastewater network that provides effectual drainage this 'first flush' would be captured in storm tanks located at overflows, pumping stations and the WwTW, before being later returned for full treatment after the rainstorm has passed. However, the combination of inadequate treatment capacity at the WwTW, too many unsatisfactory overflows, and inadequate storm tanks means that most of the first flush from rain events is being discharged into the River Lagan and Belfast Lough.

The latest EU wastewater environmental legislation<sup>1</sup> proposes that to provide effectual drainage, the future target for total losses from overflows should be <2% of the annual load

<sup>1</sup> UWWTD Recast 2022 'Article 5 – Integrated urban wastewater management plans'

that arises in the catchment. In contrast the LWWP Belfast SDIP catchments are each estimated to be leaking >20% of their annual load due to overflows from CSOs and WwTW.

On 6 August 2024 OFWAT, the UK Government appointed economic regulator of water companies in England and Wales, set out its proposed decision<sup>2</sup> to impose a financial penalty on Northumbrian Water, Thames Water and Yorkshire Water totalling £168m. A key reason given for the level of fine is that they are breaching their UWWTR duties by failing to effectually provide drainage and deal with the contents of their sewers. However Greater Belfast has three times more overflows per number of properties served compared to the number that exist across these companies (or five times, if compared to the whole of England).

If each of the wastewater networks in the LWWP were to be significantly upgraded first to provide 'effectual drainage', the largest five WwTW would be unable to operate effectively due to the increased load arriving to treatment exceeding their capacity, resulting in further pollution.

### 3.3 LWWP Belfast Plan WwTW Upgrades

Integrated Environmental Modelling (IEM) carried out to inform the LWWP has confirmed NIEA's 2013 assessment that most pollutants that are causing the deterioration of water quality in Belfast Lough are from the WwTW final effluent. The LWWP modelling has determined that to arrest the decline and then improve the water quality in Belfast Lough, the final effluent WwTW must achieve:

- reduced amount of nutrients (specifically nitrogen) to reduce the risk of eutrophication in Belfast Lough (which leads to a range of detrimental impacts, including algae blooms);
- reduced amount of bacterial content to reduce the level of bacteria at the shellfish farms (which is resulting in shellfish farms falling to class C); and
- reductions in the frequency and volume of storm overflows at WwTW to Belfast Lough that occur during wet weather, through the provision of increased storm storage.

In 2013 NIEA had advised DfI and NI Water that new more stringent 'environmental needs' based discharge standards would have to apply to each WwTW from April 2021 to address the pollution from WwTW. In 2016 NIEA agreed to provide time for the LWWP to develop the most appropriate environmental needs standards using IEM and specified a revised compliance date of end Feb 2025. In 2017 it was assumed that the necessary step increase in the level of capital investment would be provided from April 2021, accordingly the beneficial use date was slipped for a third time to the end Feb 2027 to provide time to efficiently build and commission the upgrades. This deferral was noted by the NI Water Framework Directive Inter-Departmental Board. NIEA has warned that environmental enforcement action may be taken by NIEA and / or the Office for Environmental Protection (OEP) if the beneficial use date of the key WwTW upgrades is again deferred, particularly as DAERA has assessed that water quality in Belfast Lough has deteriorated since 2013.

IEM has successfully been used to determine the future WwTW discharge standards based on the environmental needs of Belfast Lough, in accordance with regulatory targets. These include for reducing:

---

<sup>2</sup> [Thames, Yorkshire and Northumbrian Water face £168 million penalty following sewage investigation - Ofwat](#)

- the discharge of nutrients to prevent eutrophication and algae blooms that can have a highly detrimental impact on the eco-system.
- the levels of bacteria by including UV disinfection at Whitehouse WwTW and Belfast WwTW
- the levels of a range of pollutants by reducing the frequency and volume of storm spills from WwTW overflows, achieved by increasing the treatment capacity and volume of storm tanks

When the new environmentally based consents are applied by the end of February 2027 Kinnegar WwTW, Belfast WwTW and Whitehouse WwTW will each be formally deemed to be 'non-compliant' if they have not been upgraded by then.

To smooth the capital investment profile for Belfast WwTW it was agreed in 2020 that the WwTW would be upgraded in two phases, as follows:

- Phase 1: increase biological and hydraulic capacity and achieve the new nutrients operational target
- Phase 2: storm storage, achieve the new bacteria standard and any new odour control standard

This phasing was written into the plan 'Living With Water in Belfast' published in 2021.

### 3.4 Estimated Level of Investment and Funding Status

Detailed surveys, engineering studies, modelling and investment appraisals were carried out to inform this Plan. In 2020 it was estimated that delivery of NI Water's elements of the plan would cost £1.2bn<sup>3</sup>. In 2023, with most of the surveys completed, and after a period of construction industry hyper-cost inflation due to the global covid pandemic and war in Ukraine, the cost estimate of NI Water's elements was increased to £1.9bn.

NI Water's elements of the first 6 years of the 12-year LWWP Plan were independently reviewed and then endorsed by the UR in its Final Determination of the PC21 Business Plan.

Since 2021 NI Water has awarded contracts to the integrated design and construction teams necessary to deliver the first four LWWP Major Projects<sup>4</sup> (each with a value >£100m), with business cases being developed and submitted in accordance with the programme.

At this stage DfI has informed NI Water that it unlikely to be able to provide the full funding identified in the PC21 Business Plan and LWWP for 2024/25 and that funding is also likely to be constrained for following two years. The consequences for LWWP is that none of the LWWP Major Projects would be able to proceed to the delivery stage, with only minor projects being able to proceed.

NI Water awaits the outcome of the Utility Regulars PC21 Mid-Term Review and a review of the LWWP that DfI commenced in September 2023.

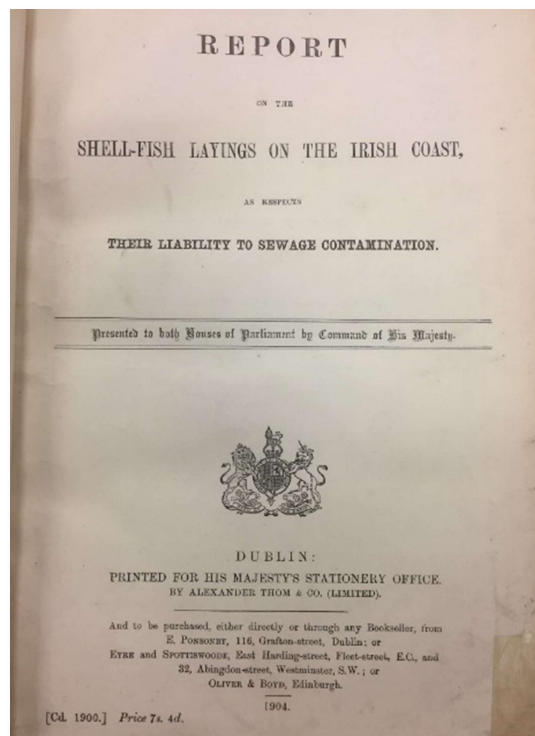
<sup>3</sup> In addition to NI Water's elements, DfI has estimated that £200m is required to deliver flood resilience and blue-green infrastructure type projects.

<sup>4</sup> First 4 LWWP Major Projects are Belfast WwTW, Kinnegar WwTW, Whitehouse WwTW, Sydenham WwPS.



#### 4. Shellfish Industry

In 1903 Local Government Board for Ireland presented a report by its Medical Inspector Dr Thomas J Browne on the 'Shell-fish Layings on the Irish Coast as respects their Liability to Sewage Contamination' to both Houses of Parliament.



**Figure 6: Cover of Report on the Shell-fish Layings on the Irish Coast as respects their Liability to Sewage Contamination**

This report set out the collapse in the Belfast Lough oyster harvesting industry, which occurred between 1891 & 1903, with the output declining by over 90%. It sets out that mussels were collected by hand at low water from beds located along the shore, with the harvest being 2,600<sup>5</sup>.

The report notes that 'the chief pollution of Belfast Lough is the sewage of Belfast City', and that 'almost the whole volume of sewage is discharged in its crude state into the Lough'. It states, 'Enteric fever<sup>6</sup> has been very prevalent in Belfast for several years past, and it seems probable that the consumption of shellfish, particularly among the working classes, may have to some extent been accountable.'

The report notes that the year 1898 was the year of the greatest prevalence of enteric fever in Belfast with 5,136 cases and that in the year 1902 there were 1,044 cases. It states: 'Several of these cases were attributed to the eating of shellfish collected on the shores of Belfast Lough'.

<sup>5</sup>In 2018 DAERA assessed that the overall production of Belfast Lough was 3,458 tonnes.

<sup>6</sup>Enteric fever (also known simply as typhoid) is a bacterial infection. It is spread by eating or drinking food or water contaminated with the faeces of an infected person. Risk factors include poor sanitation and poor hygiene. The risk of death may be as high as 20% without treatment.

As those eating mussels were generally poor, a conservative assumption is that at least 4% of those that contracted typhoid died of the infection; in 1898 is it likely that over 200 residents of Belfast died due to eating mussels contaminated by raw sewage.

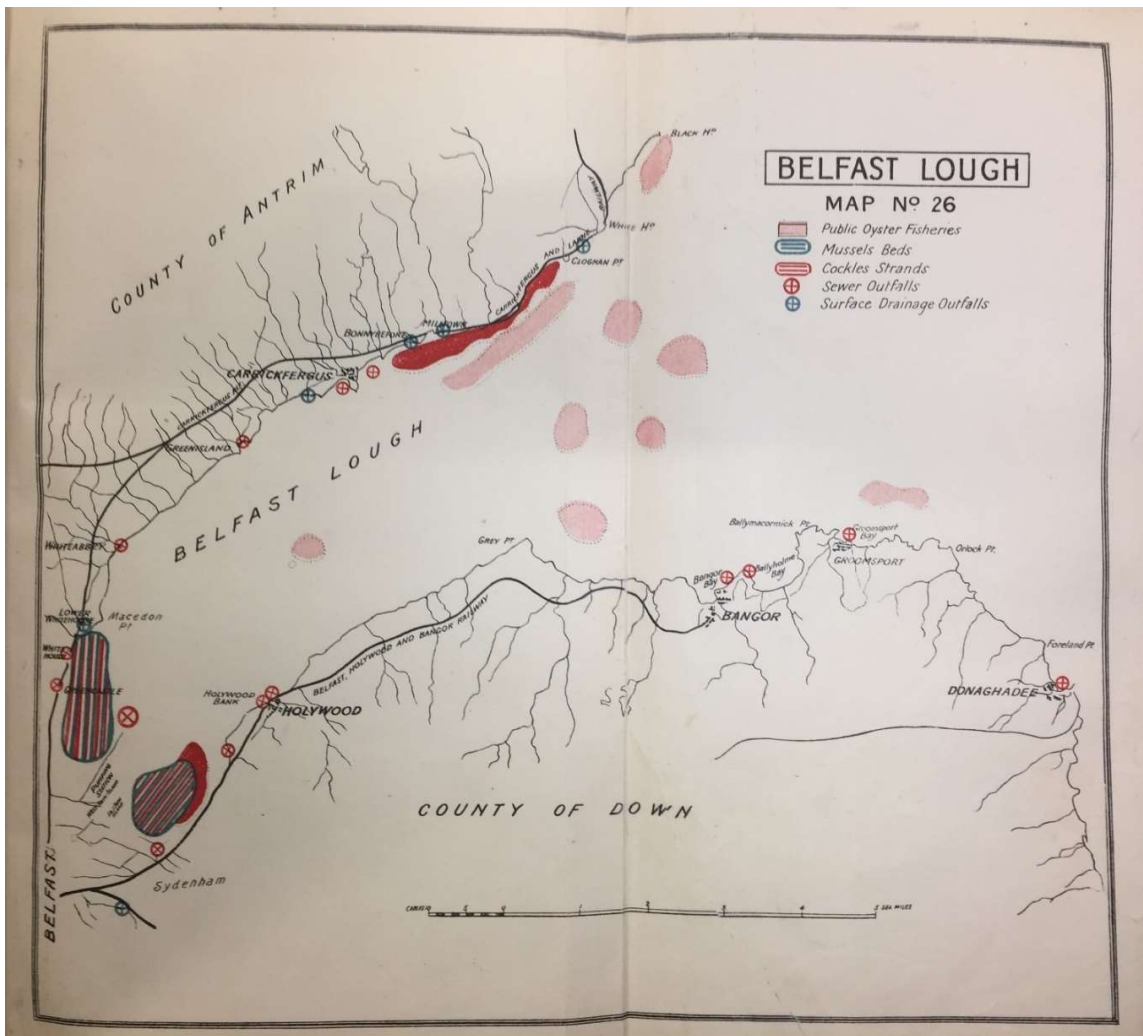


Figure 7: Report on the Shell-fish Layings on the Irish Coast – Map 26 ‘Belfast Lough’

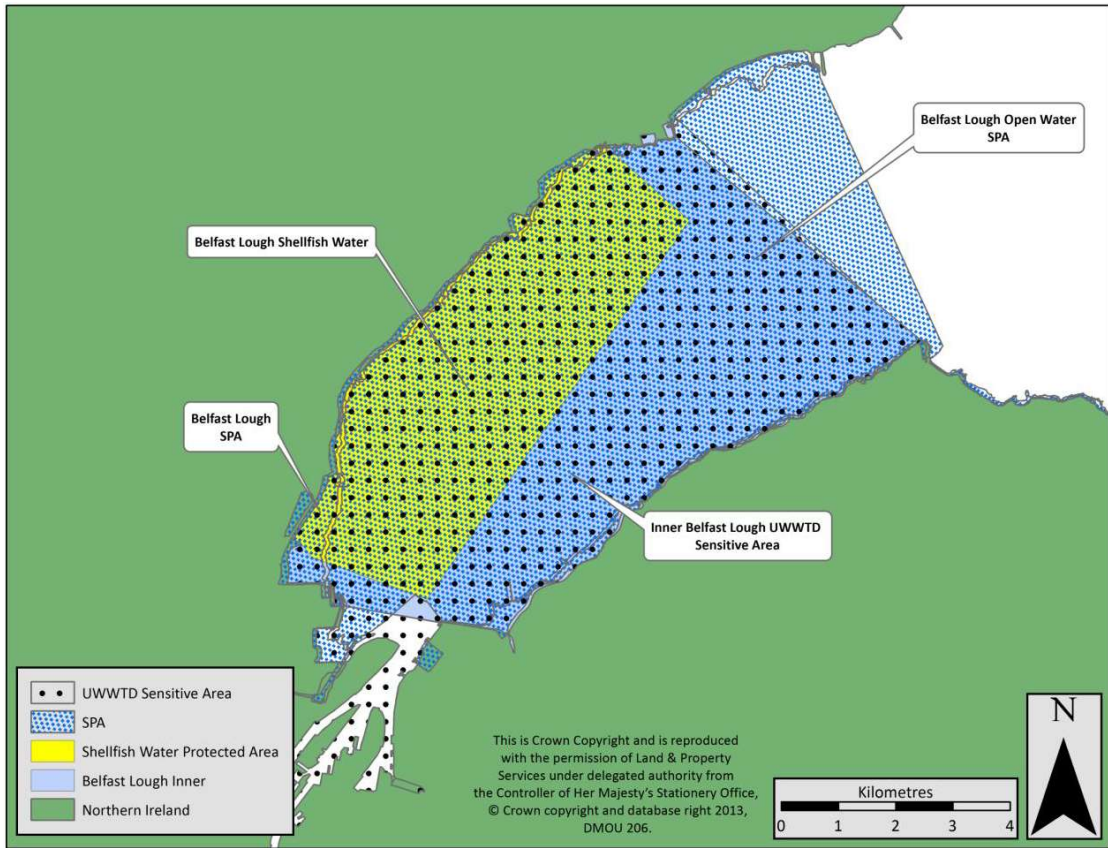
The report by Browne in 1903 contributed to the Royal Commission on Sewage Disposal, which had been established by the British government in 1898 to report on:

- The methods of treating and disposing of sewage that may be adopted for the protection of the public health; and
- How the method of treatment and disposal should be determined for each location.

The commission published nine reports. The seventh report was published in 1911 and dealt with the proliferation of green seaweed in polluted estuaries, and particularly Belfast Lough. This is of historical significance because it first established the link between the proliferation of green algae and sewage pollution.

The findings of these reports will have been factors that supported investment in the long sea outfall that serves Belfast WwTW, the construction of which commenced in 1913.

Today around 40% of the area of Inner Belfast Lough is a designated 'Shellfish Water Protected Area' (SWPA) under the Water Framework Directive (WFD), as illustrated in Figure 8 below.



**Figure 8: Belfast Lough Designations and Shellfish Water Protected Area**

This designation is meant to provide special protection of water quality for the shellfish industry, with the target being that they meet at least Class B criteria<sup>7</sup> in accordance with the EU Hygiene Regulations. Within Belfast Lough there are over 20 leased shellfish beds as illustrated in Figure 9 below.

<sup>7</sup> Class A permits mussels to be collected for direct human consumption. Class B requires that mussels are only sold for human consumption after purification treatment or relaying for one month in a Class A area. C permits requires that mussels are only sold for human consumption after relaying for two months in a Class A or Class B area, with the latter requiring additional purification.



**Figure 9: Classification of Shellfish Beds in Belfast Lough (Sept 2024)**

**Figure 9** illustrates that water quality in most of the designated area is failing to meet the target B classification, with most beds at Class C or Class B/C. In 2024 DAERA advised NI Water that the sample analysis statistics continue to show decline. This deterioration is making it uneconomic to continue to be farm, as the contamination of shellfish require expensive relaying or purification treatment before sale for human consumption.

Whilst the levels of nutrients in Belfast Lough are elevated at ‘moderate status’ and deteriorating further, analysis carried out by AFBI to inform the LWWP has confirmed that the presence of farmed mussels act as a natural nutrient filter to keep chlorophyll (blue green algae) levels under control, with the status of chlorophyll being assessed as ‘good’ due to the shellfish. It is predicted that without the shellfish the levels of chlorophyll will increase and push this category into ‘moderate’, so demonstrating the helpful sustainable ‘ecosystem service’ provided by the shellfish.

However, a key difficulty for future viability of the Belfast Lough shellfish industry is that the quality of shellfish waters is deteriorating, as confirmed by the DAERA 2019 Sensitive Area Review and Belfast Lough Action Plan. DAERA has since advised that, during 2024, the phytoplankton species *Dinophysis* has been detected, which is associated with Diarrhetic Shellfish Poisoning (DSP), and shellfish closures. Consequently, DAERA have advised DfI that additional sensitive area designations will be made for Belfast Lough to ensure further protections are added to the waterbody due to its deteriorating condition. The industry is concerned at this deterioration, the risk of poisoning, and about the quantity of sewage related debris (SRD) that is caught in its bottom dredge nets.

When the lower classification beds stop being farmed, the ecosystem service provided by shellfish will reduce, this will mean that the level of bacteria and chlorophyll in rest of Belfast Lough will increase, leading to a negative spiral. To address this would require significantly less sustainable investment be made in wastewater treatment, over and above that already included in the LWWP Belfast Plan.

## 5. Land Reclamation

### 5.1 Overview

Between the town of Holywood and the Abbey Shopping Centre much of the land between the railway lines and the sea has been reclaimed, making it low lying and flat. This can be seen from viewpoints around the city, such as Cave Hill.



**Figure 10: Belfast Harbour viewed from Cave Hill**

This land reclamation has been for transport infrastructure, the extension of Belfast Harbour, commercial developments and waste disposal. Because the necessary aligned investments in wastewater and drainage infrastructure have been deferred, this land reclamation has detrimentally impacted the ability of nature to dilute and disperse discharges from NI Water's WwTW and CSOs. This has resulted in bacteria laden discharges flowing across beaches, blocked sea outfalls, and the wildlife lagoons created becoming septic resulting in odours. Three examples are provided below to illustrate this.

### 5.2 Land Reclamation Impact on Belfast WwTW Sea Outfall

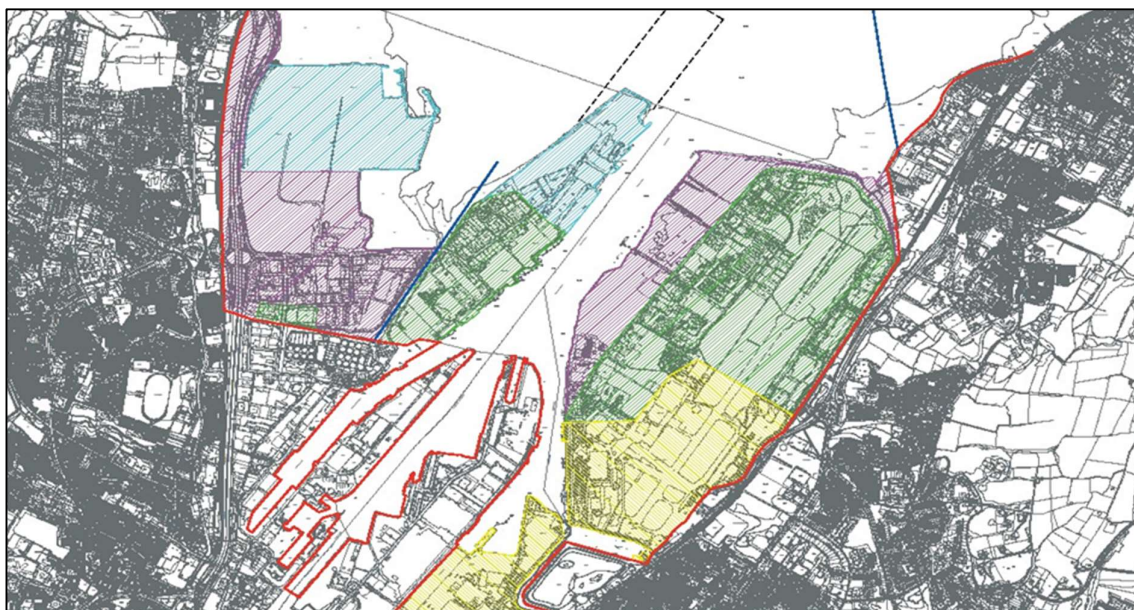


**Figure 11: Belfast WwTW Sea Outfall During Construction (1913 to 1933)**  
*Photo sourced by NI Water from National Museums Northern Ireland (NMNI)*

Belfast WwTW sea outfall is 1.6km long and was constructed between 1913 and 1933, parts of this asset are now over 100 years old. This photo in Figure 11 shows the temporary frame within which the circa 7m wide x 2m deep concrete culvert structure was built. This outfall was originally constructed in an open area of the sea and discharging well beyond the current shoreline.



**Figure 12: Seaward end of the 7m wide Belfast WwTW Sea Outfall Culvert**



**Figure 13: Belfast Land Reclamation Since 1901**

The map in **Figure 13** shows the sea outfall as the dark blue line that now discharges into a small, enclosed bay between Giant's Park and Belfast Harbour's Victoria Terminal (the other blue line is the outfall from Kinnegar WwTW, near Holywood). The coloured areas between the sea and the red line have been reclaimed since around 1901. This land reclamation has resulted in the level of the seabed at the end of the outfall increasing due to siltation, with a new stable equilibrium not yet reached.

As a result of this the seaward end of the outfall has become partially blocked by around 5,000 tons of silt. The partial blockage now means most of the discharge is now through openings in the top slab up to 500m from the end, openings that were designed to provide access for inspection and were originally sealed. There is however little point in removing this silt as this would cost in excess of £1m and would quickly re-block. Until then there is a visible plume of effluent, and a risk that the outfall will become further constrained resulting in flooding. A permanent solution must be implemented under the LWWP Belfast SDIP.

Belfast Harbour has developed Victoria Terminal 4 to the East of the outfall and intends to further invest by extending Victoria Terminal 4 to the north-east by around 800m, meaning that the bay in which the outfall is located will become further enclosed.

### **5.3 Land Reclamation Impact on Whitehouse WwTW Sea Outfall**

Whitehouse WwTW is located near the Abbey Centre in Newtownabbey and recycles the wastewater for over 100,000 people and businesses in the Newtownabbey and Mallusk areas. The treated effluent and storm water from this is discharged to the sea via a headwall at the top of a small beach on the shore of Belfast Lough, where it flows over the beach before reaching the water.



**Figure 14: Whitehouse WwTW Location**

This headwall was built in 1977 when the adjacent M5 motorway was built on reclaimed land that covered the old sea outfall. The construction drawings state that it is 'temporary', intended to be in use only until a new long sea outfall was built. However, this essential investment was deferred.



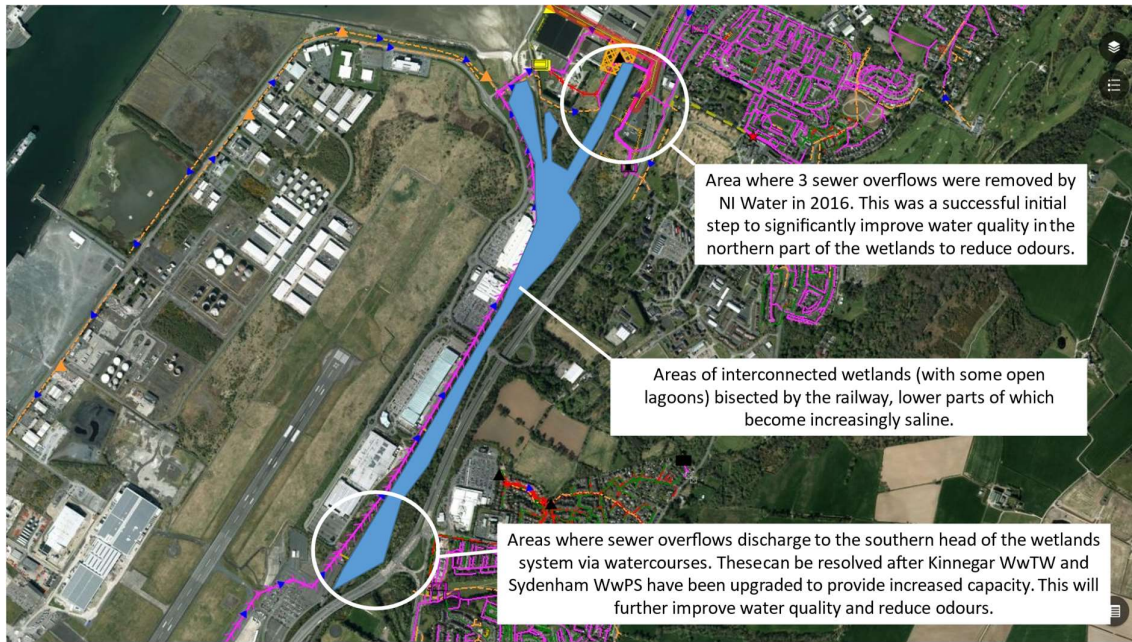
**Figure 15: Whitehouse WwTW Discharge Headwall (temporary in 1977)**

Nearly 50 years later this temporary headwall is still in use, a practice that is contrary to legislative requirements. The LWWP Belfast SDIP includes plans to build a long sea outfall to comply with environmental legislation.



### 5.4 Land Reclamation Impact on Holywood

Between Holywood and Knocknagoney land reclamation trapped an intertidal area between what used to be the shoreline and is now a retail estate and Belfast City Airport. This has since become a wetland haven for flora and fauna. However, at the time of this land reclamation, there was no investment made to divert the many combined sewer overflows discharged into the sea along this section of coast. As commercial and residential development continued in the area to the east, the discharges from these overflows have increased and progressively overcame nature's ability to break down the pollutants, resulting in septicity and severe odours.



**Figure 16: Kinnegar Lagoons and Odour**

In 2016 a small interim investment was completed to remove three of the sewer overflow discharges from the northern area. Until the LWWP Belfast SDIP is implemented these odours will not be permanently resolved, impacting on road users, train customers, shoppers and local residents.

## 6. Recreation

### 6.1 Overview

The lough is popular for a wide range of recreational activities, including walking through coastal parks and shoreline paths, swimming and sailing. However the recreational potential of the rivers that drain into Belfast Lough, and the Lough itself are being severely impacted by sewage related pollution.

This is illustrated in the following examples.

## 6.2 Impact on Coastal Walks - Whitehouse



**Figure 17: Sewage Related Debris and a Deceased Common Guillemot collected from Beach beside Whitehouse WwTW on 27 March 2024**

The over 200 unsatisfactory overflows in the LWWP catchment contain high levels of Sewage Related Debris (SRD), which is mostly plastic that does not biodegrade. The image above in **Figure 17** shows a sample of SRD collected from the beach beside Whitehouse WwTW on 27 March 2024. Previously NI Water removed over 100t of SRD from this beach and had to stop when the removal was changing the shape of the beach, threatening coastal erosion. This sample includes condoms, tampon applicators, sanitary towels, gloves, face masks, cotton bud cores, nursing home type incontinence pads, wet wipes, toilet fresheners, a toothbrush, a razor blade, a green pot scrubber, pharmaceutical tablet packaging and baby soothers. This is only a fraction of what will have found its way into the sea, becoming a hazard for flora and fauna. Whilst an autopsy was not carried out, this debris may have resulted in the death of the common guillemot found on the beach, as when seabirds ingest SRD it can block their digestive system. When this sample was being collected, a couple walking their dogs asked how such a mess could be allowed to happen anywhere so naturally beautiful in 2024.

In 2022 NI Water installed a storm screen to hold back SRD in part of the storm overflows that discharge to this beach. This was an interim upgrade, until the wastewater networks and WwTW have been upgraded under the LWWP. Although it has greatly reduced the amount of SRD that accumulates at the beach, the discharge of stormwater containing SRD can still occur during heavy rain. Most of this SRD should never have been flushed. NI Water's message to customers is clear; do not put rubbish down your toilet, flushing inappropriate items can block your sewers and end up on our beaches. Remember to only ever flush the three Ps: Pee, Pooh and Paper - for anything else, bag it and bin it.

### 6.3 Impact on Parks - Connswater Community Greenway and Victoria Park

The Connswater Community Greenway (CCG) is a 9km linear park through east Belfast. It follows the course of the Connswater, Knock and Loop Rivers, connecting open and green spaces and creating conditions in which a long-neglected and polluted ecosystem can revive and thrive. The CCG is connected to the Victoria Park through a path below the Sydenham Bypass, and from a new footbridge, across into the Titanic Quarter. The park includes wetlands that have become home to birds such as swans, geese, ducks, herons and migrant waders. There are two walking trails around the wetlands. The playing fields have soccer pitches, a bowling green and a cycling and BMX track.

CCG's most important purpose is to reconnect the communities of east Belfast and bring the area's rivers 'back to life' as focal points and community assets, by creating vibrant, attractive, safe and accessible parkland for leisure, recreation, events and activities. Construction and environmental work on the CCG was completed in April 2017. What was an underappreciated landscape has been transformed and people in east Belfast and beyond can now use and enjoy a valuable community asset.



Figure 18: Connswater Community Greenway

Over 5km of rivers flow through the CCG. Whilst the project to create it included a range of works to reduce flood risk, there was no funding made available to address the 10 unscreened unsatisfactory storm overflows that discharge into it, with these only able to be improved after Sydenham WwPS has been replaced under the LWWP as one of the 'Major Projects'. Sydenham WwPS is located beside where the CCG meets Victoria Park. Sydenham WwPS is the largest unsatisfactory storm overflow in NI, discharging virtually every time it rains. As a result of these unsatisfactory overflows, the rivers that flows though the CCG and the waters that surround Victoria Park become contaminated with bacteria and SRD after rainfall, resulting in odours. Whilst no one likes to look at used wet wipes, sanitary towels and condoms, it will be particularly unpleasant for parents walking their children to school to see these hanging from branches along the river. This diminishes the recreational value of these wonderful community assets.

### 6.4 Impact on Swimming

Designated Bathing Waters are sites that are popular for swimming and paddling and have been designated under the Bathing Water Regulations 2013. They have been put in place thanks to the EU Bathing Waters Directive that was first introduced in 1976. Within Belfast Lough there are designated bathing waters at Helen’s Bay, Crawfordsburn, Ballyholme, Groomsport, with Brompton being a candidate site. DAERA is responsible for monitoring and making sure that coastal waters are of high enough quality to bathe in. The figure below in Figure 19 illustrates recent quality assessments, and how there is a declining trend.

Bathing Water	2019	2020	2021	2022	2023
Helen’s Bay	Excellent	Excellent	Excellent	Good	Good
Crawfordsburn	Good	Excellent	Excellent	Excellent	Good
Ballyholme	Sufficient	Sufficient	Sufficient	Poor	Poor
Groomsport	Excellent	Excellent	Excellent	Excellent	Excellent

Key: ● Excellent ● Good ● Sufficient ● Poor

Figure 19: Bathing Water Compliance 2019 - 2023

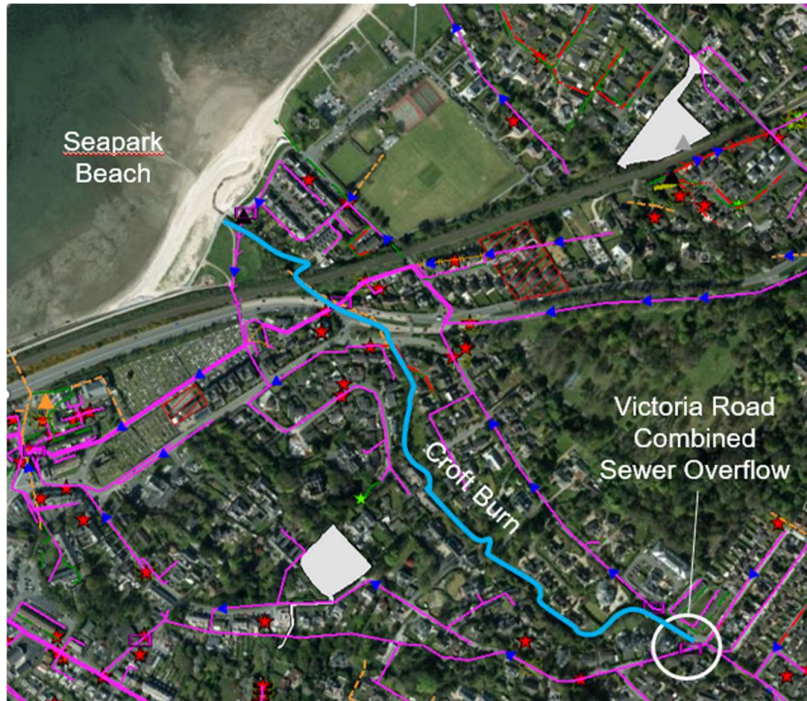


Figure 20: A swimming event in Belfast Harbour in 2017

Whilst Belfast harbour is not a designated bathing water, Belfast Harbour (BHC) used to promote that the swimming stage of triathlons was held in the harbour, with photos used in its annual reports. However, when NI Water received the water quality sampling data on the harbour and Inner Belfast Lough from the surveys commissioned to inform the LWWP, it identified that the water quality is frequently unsuitable for bathing and advised Belfast Harbour. Since then, BHC has ceased to permit access to the waters within the Belfast Harbour estate for swimming due to the risk that water quality poses to the health of swimmers. Although it is not intended that Belfast Harbour become a designated bathing water under the

LWWP, the scale of the investment that Paris put into holding the swimming stage of the 2024 Olympics triathlons in the River Seine illustrates how having improved water quality in rivers enhances the perception and appearance of a city to tourists, which have become an increasingly important part of the Northern Ireland economy.

**6.5 Impact on Recreational Beaches – Seapark, Holywood**



**Figure 21: Seapark Beach, Holywood**

On 14 March 2024 NI Water released data that the Victoria Road Combined Sewer Overflow is predicted to spill 153 times per annum (70,506 cubic meters). This discharges into the Croft Burn, which flows across Seapark Beach before it enters Belfast Lough. Whilst this is not a designated bathing water, visitors to the beach would expect a certain level of sanitation, and it is a popular beach for families to bring children to play during warm weather. NI Water has advised North Down and Ards Borough Council about the high level of spills from this UID, and that sampling carried out to inform the LWWP has found that the Croft Burn also appears to suffer from elevated levels of bacterial during dry weather from other upstream sources, such as cross connections from foul sources to surface water sewers and diffused pollution from agriculture. This pollution is greatly reducing the potential amenity value of this beach. The Local Council has a key role to play in advising the public about the risks to health.

### 6.6 Impact on Sailing – Holywood Yacht Club (HYC) and Royal North of Ireland Yacht Club (RNIYC)



**Figure 22: Children sailing at RNIYC**

These clubs are located near Holywood, and each has active programmes, supported by the Royal Yachting Association (RYA), aimed at introducing children and young people to sailing and watersports. They mostly sail in the waters around their clubs, which are not designated as bathing waters.

When NI Water received the water quality sampling data on Inner Belfast Lough from the surveys commissioned to inform the LWWP, it assessed that the water quality is frequently unsuitable for bathing and advised HYC, RNIYC and the RYA in late 2021. Officials from NI Water and DAERA subsequently met these organisations in early 2022 and provided data and a briefing on water quality, how it can rapidly vary due to many adjacent unsatisfactory storm overflows operating, and on the importance of assessing the risks posed by poor water quality when planning activities, particularly those involving children and swimming. Each organisation is concerned about how poor water quality is a risk to the health of their members and guests, and how this has the potential to adversely impact their ongoing activities.

In April 2024 the RYA has announced nationally that it and a number of other UK water related organisations have created the ‘Clean Water Sport Alliance’, which the RYA’s CEO stated ‘represents the interests of millions of recreational water users whose experiences are impacted by substandard water quality and pollution every day’ and that “they have joined forces to call for change to protect those they represent and the natural world in which they participate”.

### 7. Economy

The effective treatment and management of sewage is essential to support development of homes, schools, hospitals and businesses. However, new connections should not be made if it knowingly either increases the risk of properties being flooded internally by sewage or pollution.

In 2017 Belfast City Council (BCC) published The Belfast Agenda setting out a vision for Belfast in 2035 – “Belfast will be a city reimagined and resurgent. A great place to live and work for everyone.” To help achieve this, BCC has published growth plans for the city, with a growth aspiration of 66,000 additional population by 2035, targets to deliver 33,000 new homes, including 1,800 social housing units, 46,000 additional jobs, 1.5 million square feet of Grade A office accommodation and at least 3,000 new hotel bed spaces.

Today much of the drainage and wastewater infrastructure serving the greater Belfast area requires significant levels of investment to facilitate such future growth and development, which is evidenced by the high number of unsatisfactory overflows, the number of properties at risk of internal flooding, the rate of loss of load from the wastewater networks, that the WwTW are not currently having to comply with discharge standards based on environmental needs, and the deteriorating water quality in Inner Belfast Lough. NI Water has already had to provide negative responses to planning application consultations, and applications for new trade effluent discharges, due to these capacity related issues, and has indicated that this is likely to become more frequent without the necessary investment.

This is illustrated on the map in Figure 23 below.

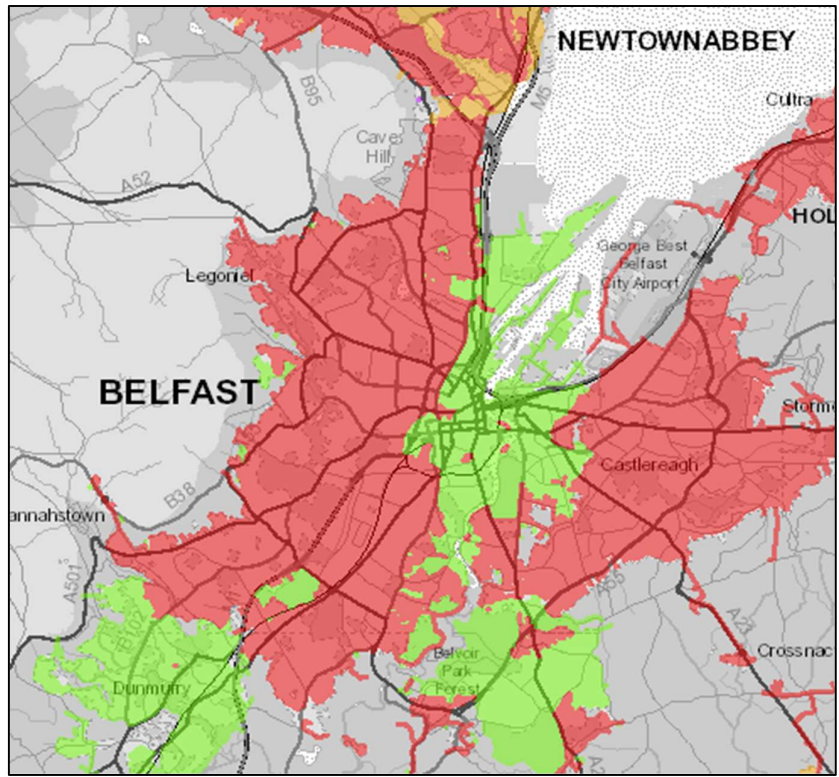


Figure 23: Development Constraints in Belfast

On this map, red areas have issues with wastewater capacity, green areas currently have some available capacity, and amber areas are close to reaching maximum capacity. The map shows that most of the area covered by the Belfast SDIP is currently red due to capacity issues in the sewage network. It should be noted that some new connections in the red area still can proceed on a “like for like” basis or through a zero-detriment developer funded solution such as storm water offsetting. Other new connections for greenfield developments will not be able to proceed if they are close to extremely high polluting assets which are not suitable for developer funded solutions and require a full capital upgrade.

The extent of capacity constraints across the LWWP area will significantly increase if NIEA determines that Belfast WwTW, Kinnegar WwTW and Whitehouse WwTW will be deemed to be non-compliant from 2027 if they have not been upgraded to achieve their new environmental needs-based discharge standards.

The Utility Regulators PC21 Final Determination allowed for the connection of a total of 44,400 domestic and non-domestic properties across Northern Ireland during the PC21 period covering 2021-22 to 2026-27.

In July 2024, based upon enquiries from its customers and discussions with stakeholders, NI Water was aware of approximately 37,000 units across Northern Ireland that may want to connect to the wastewater system over the next number of years. It had completed an assessment of the 37,000 units and estimated that approaching 18,000 units may still be able to connect to the wastewater system, with the majority requiring a developer funded zero detriment solution such as storm water offsetting, as long as this option remains viable. The remaining 19,000 units were constrained by existing NI Water assets that are currently highly polluting. These units are also currently outside the scope of developer funded solutions and would require a full capital upgrade before further new connections can be made to the wastewater system. These units include homes in private and social ownership schemes, commercial and public buildings. NI Water advised Local Councils that the current budget allocation means that, at July 2024, NI Water is not able to make the necessary investments to enable connections for these units. In a scenario where NI Water’s Price Control 2021 (PC21) programme was fully funded, it would still only be possible to address 4,500 of these 19,000 units, as the solution to the capacity constraints will take several fully funded Price Control periods to resolve.

NI Water has advised that across NI it will continue to work closely with the Council Planning and LDP teams to provide the councils with as much information as possible regarding these constraints and the effect on proposed investments.



## 8. Legislation and Compliance

### 8.1 EU Water Framework Directive

The Water Framework Directive (2000/60/EC) was established in law in Northern Ireland on 22 December 2003 through the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003 (SR 2003 No. 544) and later revised by the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 (WFD).<sup>8</sup> This legislation sets environmental objectives for surface water bodies to prevent deterioration of the body's status, restore each surface water body to good ecological and chemical status, progressively reduce pollution from priority substances, and other objectives that are necessary to protect the shellfish water protected area, article 13. The deadline for environmental objectives can be extended for reasons of technical feasibility, disproportionate cost, or the natural conditions do not allow timely improvement, article 16.

The Water Framework Directive (Priority Substances and Classification) (Amendment) Regulations (Northern Ireland) 2015<sup>9</sup> transposed the existing shellfish waters into Shellfish Water Protected Areas (SWPA). This was for the protection of economically significant aquatic species and created three objectives for the improvement, and for the prevention of deterioration of, individual water bodies:

- SWPAs must be managed to ensure they meet the objectives assigned to the water body under the WFD (through the RBMP process).<sup>10</sup>
- SWPAs must meet the faecal indicator standard that ensures that they meet at least Class B criterion as per the EU Hygiene Regulations.
- Must endeavour to meet guideline microbiological standards
- Where sampling does not comply, the department shall adopt measures to prevent deterioration, article 3.

Additionally, the Water (Amendment) (Northern Ireland) (EU Exit) Regulations 2019, ensures that the requirements of this legislation was carried over once the UK left the EU.

On 3 September 2024 the Office for Environmental Protection (OEP) issued a report<sup>11</sup> that found that the WDF River Basin Management Plan, the critical plan designed to protect and improve Northern Ireland's waters, needs to be strengthened and implemented without further delay. The OEP report makes 16 recommendations to the Northern Ireland Executive, Northern Ireland Assembly and DAERA, designed to increase the prospects of protecting and improving the water environment. These include recommendations in relation to DAERA's 2027 objectives, and to strengthen the legislative framework and its governance and application in the longer term. The Northern Ireland Executive and Northern Ireland Assembly have, within its response to the OEP report, and opportunity to set out how the LWWP will play a key role in next chapters of the story of Belfast Lough.

---

<sup>8</sup> [The Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017 \(legislation.gov.uk\)](#) accessed 24 August 2022.

<sup>9</sup> [The Water Framework Directive \(Priority Substances and Classification\) \(Amendment\) Regulations \(Northern Ireland\) 2015 \(legislation.gov.uk\)](#) accessed 24 August 2022.

<sup>10</sup> Regulation 13(4) of the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017.

<sup>11</sup> OEP Report 'A review of implementation of the Water Framework Directive Regulations and River Basin Management Planning in Northern Ireland', 3 Sept 2024

## 8.2 Water Quality Compliance

The WFD water quality objective is to achieve overall 'Good Status' by 2027. However, the current overall status of the Inner Lough is 'Moderate Status', and is deteriorating.

Surveys progressed to inform development of the LWWP Belfast Strategic Drainage Infrastructure Plan (Belfast SDIP) have confirmed that diffused pollution from a range of sources and discharges from sewerage network overflows and wastewater treatment works (WwTW) are significant contributory factors for Inner Belfast Lough failing to achieve the necessary EU Water Framework Directive 'Good Status' for nutrients and bacteria. In 2022 the LWWP Integrated Environmental Modelling (IEM) confirmed that NI Water assets are a significant bacterial contributor (over 90%) and that these loads are detrimentally impacting bacterial water quality within areas of the SWPA that are closest to Belfast WwTW and Whitehouse WwTW.

In 2016, NIEA defined that NI Water's investments necessary to achieve Water Framework Directive 'Good Status' for Inner Belfast Lough should be completed in February 2025. In 2017 this date was deferred by 2 years to Feb 2027 to allow increased time for modelling and investment appraisal to drive down the implementation costs and develop more sustainable solutions.

In 2018, DAERA advised the Belfast Lough shellfish industry that it had assessed that water quality within the Belfast Lough SWPA had deteriorated in recent years, and that unsatisfactory combined sewer overflows were the primary source of Sewage Related Debris (SRD) that is being reported in watercourses, the River Lagan, the SWPA and along the coastline of Belfast Lough.

In 2019 DAERA published the Belfast Lough Shellfish Action Plan<sup>12</sup>. This states on page 4 'In 2019 a statistical assessment confirmed an increase in *E. coli* in shellfish flesh, which indicates a decline in water quality in the SWPA in Belfast Lough Inner'. The DAERA action plan explains how implementation of the LWWP Belfast SDIP will help address this decline. In 2024 DAERA advised that analysis of the most recent shellfish quality samples to 2023 shows a sustained deterioration of quality in the Inner Lough.

DAERA has advised that, as well as failing to meet good status, nutrients have been increasing throughout the Lough (deteriorating further). This is most dramatic in the inner Lough area and less dramatic moving seaward. High levels of nutrients cause harmful algal blooms, as has been seen in Lough Neagh. During 2024, the phytoplankton species *Dinophysis* has been detected, which is associated with Diarrhoetic Shellfish Poisoning (DSP), and shellfish closures. There have also been concerns in other elements of the ecology, with increased siltiness impacting both plants and benthic habitats intermittently in recent years, particularly in the inner lough.

That water quality is declining is a significant concern as the Water Framework Directive, and the implementing legislation in Northern Ireland (WFD),<sup>13</sup> does not permit any deterioration in water quality classification. NIEA has advised NI Water that no decision has been made to permit NI Water to adhere to less stringent standards, nor has any extension of time given beyond 2027 to facilitate that an alternative plan is put in place to meet these objectives.

---

<sup>12</sup> DAERA Belfast Lough Shellfish Action Plan, December 2019

<sup>13</sup> The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003.

### 8.3 The Urban Waste Water Treatment Regulations (Northern Ireland) 2007

These were designed to reduce the pollution of freshwater, estuarine and coastal waters by domestic sewage and industrial wastewater collectively known as urban wastewater. They set minimum standards for the collection, treatment, and discharge of urban wastewater according to the population served by the WwTW and the sensitivity of receiving waters. Additionally, Member States must assess and identify sensitive areas where further treatment over and above secondary treatment is required to reduce nutrient levels or to meet other EC Directives such as the bathing directive. The Inner Belfast Lough was designated as a 'Sensitive Area (Eutrophic)' under this directive in 2001<sup>14</sup> which resulted in those WwTW over defined size categories that discharge into the area having to comply with Total Nitrogen (TN) discharge standards.

As the latest Sensitive Area Review (SAR) completed by DAERA in 2019 identified a deterioration in water quality, and this has continued, in 2024 the Minister for Agriculture Environment and Rural Affairs instructed DAERA's Water Policy Teams to proceed with a further designation under a Sensitive Area Review (SAR), under Annex 2(a)(c), and to meet other directives. This will result in additional discharge standard parameters being included within NI Water's discharge consents, which will require investment to achieve.

In 2023/2024 NIEA wrote to DfI<sup>15</sup> and advised:

- that if the LWWP Belfast SDIP is not delivered, NI Water and DfI will not meet statutory objectives;
- DAERA / NIEA has accepted the LWWP as being a mechanism to achieve obligations under the WFD and UWWTD; and
- any further delays to LWWP outputs related to these obligations would not be acceptable.

## 9. Key Published Government Documents Relating to Belfast Lough Water Quality

### 9.1 2020 New Decade New Approach

In January 2020 the 'New Decade New Approach' document was published. It set out the deal which the UK Government and Irish Government endorsed as a basis for restoring the NI Executive. It stated<sup>16</sup> 'Infrastructure funding will enable the Executive to invest in a range of potential capital projects', with the Living With Water Programme being first on the list.

### 9.2 2021 Living With Water in Belfast

This document 'Living With Water in Belfast' (An Integrated Plan for Drainage and Wastewater Management in Greater Belfast) was published by DfI in November 2021, after having been endorsed by the NI Executive. This set out how the LWWP plan would protect against flood risk, enhance water quality in rivers and Belfast Lough, and provide the increased capacity needed for economic growth.

### 9.3 2021 Draft 3<sup>rd</sup> Cycle NI River Basin Management Plan 2021 to 2027

---

<sup>14</sup> DAERA, 'Shellfish Action Plan: Belfast Lough' (DAERA, 2019) <[Belfast Lough \(qub.ac.uk\)](http://BelfastLough.qub.ac.uk)> page 4 accessed 24 August 2022.

<sup>15</sup> Letter to DfI in relation to the LWWP Review

<sup>16</sup> Page 52 under 'Turbocharging infrastructure.'

Northern Ireland's water resources are managed and protected using a catchment-based approach which includes rivers, lakes and groundwater as well as coastal and transitional water bodies. The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 requires the production and implementation of a River Basin Management Plan (RBMP) in six yearly cycles. The River Basin Management Plan takes an integrated approach, identifying those water bodies which can be classified as being at 'good or better' status. It also sets the objectives and a programme of measures for the next six-year cycle to help improve those water bodies which are classified as below 'good' status. These include programmes of measures designed to achieve regulatory targets.

In 2021 DAERA published the draft 3rd Cycle River Basin Management Plan 2021 to 2027 for consultation. This references the moderate quality in Inner Belfast Lough and declining water quality in the SWPA and, in a number of locations, states how investment by NI Water under the Price Controls and the LWWP is planned to address this, including;

- **Page 21:** 'Price Control is the process through which NI Water reaches agreement with the Utility Regulator on the organisation's priorities and plans for the period of the Price Control. The next price control process is PC21 which will make a significant contribution to the success of this RBMP. PC21 covers the period 2021 to 2027 and includes both clean water and wastewater services. The PC21 plan shows how £2.2bn of capital funding could be allocated over a period of six years. It also identifies ways to prioritise the investment needed in the Living with Water Programme for the Greater Belfast area. The PC21 Business Plan should provide the opportunity to halt and reverse some of the impacts of underinvestment and assist with the general aim of improving water quality'
- **Page 94:** 'NI Water is the sole provider of water and sewerage services in Northern Ireland and despite major improvements both in capital investment and operating techniques significant investment is still required to make the difference on the delivery of 'Good Status' and the protection of sensitive waters. Underfunding of the PC15 business plan 2015-21 has resulted in capacity issues in over 100 locations across Northern Ireland with the sewage network and Wastewater Treatment Works at or near their full capacity. This increases the risk of flooding from sewers, especially during storm events'.
- **Page 117:** 'Diffuse and point source pollution, summary of supplementary measures to address diffuse and point source pollution of surface and groundwater from sewage during the 3rd cycle RBMP:
  - Upgrades of Wastewater Treatment Works and infrastructure as set out in the price control period PC21 (2021-2027).
  - Implement the Integrated Plan for Drainage and Wastewater Management in Greater Belfast'. (Living with Water Programme as committed in New Decade New Approach)'

#### **9.4 2023 UK Government Secretary of State for Environment, Food and Rural Affairs**

On 11 December 2023 the UK Government Secretary of State for Environment, Food and Rural Affairs wrote to water companies requesting accelerated maintenance work at sewer networks to tackle high spilling storm overflows, with the letter published on the DEFRA website<sup>17</sup>. The first paragraph of this letter states: 'Tackling storm overflow sewage discharges is a key priority for both the Prime Minister, myself and, most importantly, the public. The environmental and public health impacts of these discharges to our precious waterways, the water sector's failure to act and, in some cases, criminal behaviour, are unacceptable'. Funding implementation of the LWWP Belfast SDIP is fully aligned to the Prime Ministers key priority to addressing pollution from storm overflow sewage discharges.

<sup>17</sup> [Water industry: letter to water companies on accelerating action on storm overflows - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/water-industry-letter-to-water-companies-on-accelerating-action-on-storm-overflows).

**9.5 2024 Office of Environmental Protection Report on the draft River Basin Management Plan**

As part of its role to monitor how environmental laws are working in practice the Office of Environmental Protection (OEP) carried out a review of the key legislation regarding water quality – the Water Framework Directive (WFD) Northern Ireland (NI) Regulations – and how they are being implemented by the Department of Agriculture, Environment and Rural Affairs (DAERA) and the Northern Ireland Environment Agency (NIEA) through River Basin Management Planning.

On 3 September 2024 the OEP issued its report ‘A review of implementation of the Water Framework Directive Regulations and River Basin Management Planning in Northern Ireland’. The report states that this critical plan designed to protect and improve Northern Ireland’s waters needs to be strengthened and implemented without further delay.

The OEP website<sup>18</sup> states:

Natalie Prosser, OEP Chief Executive Officer (CEO), said: “Our report finds that although the approach of the WFD NI Regulations is broadly sound, it is not being implemented or delivering as it should for Northern Ireland’s lakes, rivers and coastal waters. This paints a very worrying picture. “Our report identifies the urgent need for DAERA to publish the latest RBMP and put it into action. These plans are important because they set out the objectives and measures needed to protect and improve waters in Northern Ireland.”

According to the latest data some things are getting worse rather than better with just 31% of surface water bodies in Northern Ireland in a good ecological condition.

Ms Prosser said: “As things stand, we assess that the 2027 target is likely to be missed by a considerable margin. We also assess that Northern Ireland is not on track to meet the Environmental Objectives in the WFD NI Regulations.

“This failure to meet the 2027 target will then have a detrimental knock-on effect on the Northern Ireland Executive’s other environmental aims, such as the ‘excellent water quality’ goal in the draft Environment Strategy and ‘thriving, resilient and connected nature and wildlife’ goal.”

She added: “There needs to be stronger leadership from the Northern Ireland Executive in implementing the WFD NI Regulations. It must speed up and scale up its efforts to protect and improve its waters.”

The OEP makes 16 recommendations to the Northern Ireland Executive, Northern Ireland Assembly and DAERA, designed to increase the prospects of protecting and improving the water environment.

DAERA has until 3 December 2024 to lay its response to the report before the Northern Ireland Assembly.

<sup>18</sup> [The Office for Environmental Protection Urges DAERA to Implement Overdue Plan to Help Improve Water Quality | Office for Environmental Protection \(theoep.org.uk\)](https://www.theoep.org.uk/water-quality)

## 9.6 2024 OFWAT Proposal to Issue Enforcement Orders and Financial Penalties

In 2021 OFWAT and the English Environment Agency launched investigations into all water and wastewater companies in England and Wales. This was after several water companies explained that they might not be treating as much sewage at their wastewater treatment works as they should be, and that this could be resulting in sewage discharges into the environment at times when this should not be happening. It now has enforcement activities underway against all 11 water and wastewater companies in England and Wales in relation to the operation of their wastewater businesses.

On 6 August 2024<sup>19</sup> set out its proposed decision to impose a financial penalty on Northumbrian Water, Thames Water and Yorkshire Water as a result of its contraventions of the Urban Waste Water Treatment (England and Wales) Regulations 1994, section 94 of the Water Industry Act 1991 and Condition P of the company's Licences. The proposed penalties total £168m. Whilst the cases against the other companies are at an earlier stage, it is thought likely that OFWAT will propose that similarly large penalties be imposed on several other companies.

In summary, the proposed enforcement order sets out that the severe penalties (ranging from 5 to 9% of turnover) relate to each company:

- contravening its duties under Regulation 4(4) UWWTR and Regulation 4(2) and Schedule 2 UWWTR. The UWWTR supplement the duty imposed on every sewerage undertaker by obliging companies to meet certain minimum standards for its WWTW and collecting systems.
- contravening its general duty by systematically breaching its UWWTR duties and thereby failing to effectually provide drainage and deal with the contents of its sewers
- contravening its Licence in relation to the adequacy of its resources and systems of planning and internal control to enable it to carry out its regulated activities

OFWAT is concerned that investment that it permitted under previous Price Reviews\* (in NI the equivalent process is called 'Price Controls') was not efficiently invested in asset maintenance, in upgrades to provide increased drainage and wastewater treatment capacity, and in collecting flow data to facilitate the effective operation of assets.

That water companies in one part of the UK are receiving financial penalties for not adequately investing in drainage and wastewater treatment illustrates the importance that the UK Government attributes to legislative compliance.

\*The situation is very different in NI. For each of the Price Controls since 2010 NI Water identified investment needs for asset maintenance, for upgrades to provide increased drainage and wastewater treatment capacity, and to collect flow data to facilitate the effective operation of assets which were much higher than public expenditure constraints would allow and so addressing the scale of the backlog in Greater Belfast was one of the key reasons that the LWWP was created in 2015. The investment necessary to implement the LWWP's major projects has been identified but the funding has not yet been committed to allow delivery to commence.

---

<sup>19</sup> [Thames, Yorkshire and Northumbrian Water face £168 million penalty following sewage investigation - Ofwat](#)

### 10. Conclusion

The story of Belfast Lough is one of how economic development and investment in infrastructure have shaped how it can be used and enjoyed.

A significant backlog of investment in drainage and wastewater treatment has arisen over the past 20 years, which has contributed to water quality declining. This is a significant concern as the Water Framework Directive does not permit any deterioration in water quality classification. NIEA has advised NI Water that no decision has been made to permit NI Water to adhere to less stringent standards, nor has any extension of time given beyond 2027 to facilitate that an alternative plan is put in place to meet these objectives.

The Living With Water in Belfast Plan was created to address this to define the scope of projects necessary to protect against flooding, enhance the environment and to facilitate economic growth. Following endorsement by the NI Executive, the Plan was published in November 2021 and places a key focus on addressing the historic underinvestment in our water and wastewater infrastructure as a critical foundation for resilient economic and social development. It will also contribute to our environmental, sustainability and decarbonisation goals. Under it, NI Water will invest around £1.9bn in the Greater Belfast area over a period of at least 12 years. If the Plan is implemented Belfast Lough will be restored to being a beautiful resource for all.



**Figure 24: The benefits of investment: one of the wetland lagoons near Holywood before and after investment to remove three sewage overflows**

The next chapter of Belfast Lough’s story will depend on investment decisions made today.



**Figure 25: Rainbow Over Belfast Lough on 27 March 2024**

Unclassified

416

**ITEM 8****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 November 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	18 October 2024
File Reference	
Legislation	The Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input checked="" type="checkbox"/> If other, please add comment below: N/A
Subject	First Quarter 2024/25 Statistical Bulletin
Attachments	First Quarter 2024/25 Statistical Bulletin

**Background**

The Department's Analysis, Statistics and Research Branch published provisional statistics for Planning activity on 03 October 2024 for Quarter 1 (April – June) of 2024/25.

The Statistical Bulletin is attached to this report.

Members can view the full statistical tables at <https://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-april-june-2024>



Not Applicable

417

**Detail****Local Applications**

The Council determined 164 residential applications in Quarter 1 of 2024/25 compared to 248 such applications in the same period of the year before. The majority of applications received in Quarter 1 were in the residential category at 73% (133 out of 183).

The average processing time for applications in the local category of development in Quarter 1 was 14.9 weeks, in line with the statutory performance indicator of 15 weeks.

**Major Applications**

Recorded in the statistics is one application determined in the major category of development with an average processing time of 76.6 weeks against the statutory performance target of 30 weeks.

The detail of the application is set out below.

Application No:	LA06/2022/1072/F
Proposal:	Erection of new post-primary school with car park, bus drop-off area and playing pitches with floodlighting
Site Location:	Former Redburn Primary School Site, Old Hollywood Road, Hollywood

The application was submitted in October 2022 on a site within the settlement limit of Hollywood within an area designated as Open Space. The site is also within a proposed Local Landscape Policy Area for Hollywood. Extensive Consultations were required with many requesting submission of further detailed information in order to be able to provide substantive responses.

Further to receipt of the requested information, further re-advertisement neighbour notified was required, in addition to assessing submitted objections to the proposal.

Processing time was ultimately hindered by lack of response from DFI Roads to its initial consultation request issued 12 January 2023, whereby DFI Roads did not respond until 19 March 2024 stating the proposal was unacceptable. When raised with DFI Roads it was advised that the consultation had been delayed in the system between the various sections within DFI Roads, as unfortunately other sections, such as Traffic, had their own priorities which don't always align with Development Management.

DFI Roads issued its final response on the application on 20 June 2024, and the application was presented to Planning Committee on 02 July 2024 with a recommendation of approval.

Not Applicable

418

There has been an improvement in the processing time of major applications of 93.2 from Quarter 1 of last year, where in the case of an application requiring re-consultation to address consultee queries was not going to be in a position to meet a 30 -week target - rather planning officers worked with the Education Authority, statutory consultees and agent to deliver this much need educational facility for Hollywood and beyond. All parties worked together to a point where statutory consultees were content and the Planning Service could write up its assessment and present its professional recommendation to the Planning Committee.

Further information on majors and locals is contained in Tables 3.1 and 4.1 respectively of the Statistical Tables.

### Enforcement

The Planning Service opened 79 new enforcement cases in the first quarter of 2024/2025, whilst 77 cases were concluded resulting in a conclusion time of 89.6% against the target of 70%.

84 cases were closed with the reasons as follows:

Closure Reason	Number
Remedied/Resolved	30
Planning permission granted	8
Not expedient	10
No breach	31
Immune from enforcement action	4
Enforcement appeal upheld – i.e planning permission granted under ground (a) appeal	1

### Householder Applications

During Quarter 1 the Planning Service processed 78 applications within the householder category of development.

25 of these were processed within the internal performance target of 8 weeks (32.5%), with 63 being processed within the 15-week statutory performance indicator (80.7%).

### Additional Activity

Additional activity details the "non-application" workload of the Planning Service, and includes Discharge of conditions, Certificates of Lawfulness (Proposed & Existing), and applications for Non-Material Changes.

Not Applicable

419

<b>Type</b>	<b>No. Received</b>	<b>No. Processed</b>
Discharge of Conditions	27	24
Certificates of Lawfulness (Existing/Proposed)	20	18
Non-Material Changes	16	13
Pre-Application Discussions (PADs)	8	12
Proposal of Application Notice (PANs)	0	0
Consent to carry out tree works	18	8

### **RECOMMENDATION**

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



Northern Ireland  
Statistics and Research Agency  
Gníomhaireacht Thuaisceart Éireann  
um Staitisticí agus Taighde



Department for  
**Infrastructure**

An Roinn  
**Bonneagair 420**

Department für  
**Infrastruktur**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

# NORTHERN IRELAND PLANNING STATISTICS

## First Quarter 2024/25 Statistical Bulletin

### April to June 2024: Provisional Figures



Theme: People and Places  
Coverage: Northern Ireland  
Frequency: Quarterly  
Date of Publication: 3 October 2024

Published by: Analysis, Statistics & Research  
Branch  
Department for Infrastructure  
1<sup>st</sup> Floor, James House, Gasworks Site,  
2-4 Cromac Avenue, Belfast, BT7 2JA

Statistician: Suzanne Napier  
Telephone: 028 90540390  
Email: [ASRB@nisra.gov.uk](mailto:ASRB@nisra.gov.uk)



# Contents

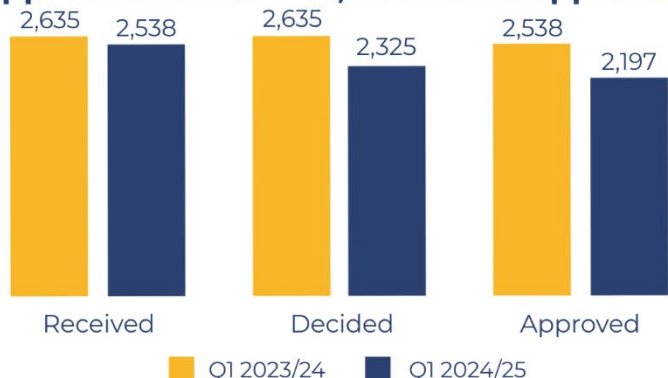
Key points	3
Infographic	4
Introduction	5
Chapter 1: Overall NI planning activity	6
Chapter 2: Major development	10
Chapter 3: Local development	12
Chapter 4: Enforcement activity	14

## Key points

- There were 2,538 planning applications received in Northern Ireland (NI) during the first quarter of 2024/25; an increase of one percent on the previous quarter and down by four percent on the same period a year earlier. This comprised of 2,500 local and 38 major applications.
- In the first quarter of 2024/25, 2,325 planning applications were decided, a decrease of three percent from the previous quarter and down by twelve percent from the same period a year earlier. Decisions were issued on 2,271 local and 54 major applications during the most recent quarter.
- The average processing time for local applications brought to a decision or withdrawal during the first three months of 2024/25 was 19.0 weeks across all councils. This exceeds the 15 week target and is the same as the average processing time reported for the same period a year earlier. Five of the 11 councils were within the 15 week target after the first three months of 2024/25.
- The average processing time for major applications brought to a decision or withdrawal during the first three months of 2024/25 was 38.6 weeks across all councils. While exceeding the 30 week target, this represents a decrease of 21.0 weeks compared with the same period a year earlier.
- Across councils 69.7% of enforcement cases were concluded within 39 weeks during the first three months of 2024/25. This represents a decrease from the rate recorded in 2023/24 (77.2%). Individually, seven of the 11 councils were meeting the 70% target in after the first three months of 2024/25.

## Overall planning applications

### Applications received, decided & approved

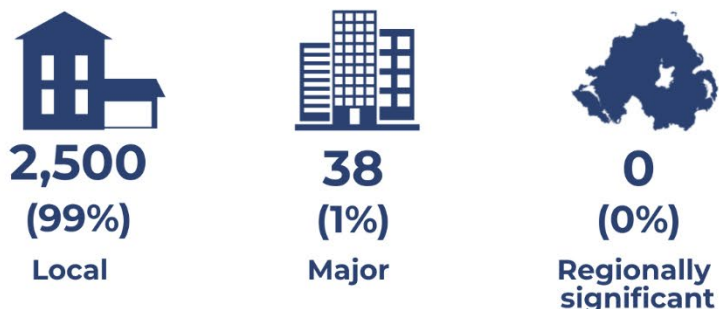


### Comparing Q1 2024/25 with Q1 2023/24:

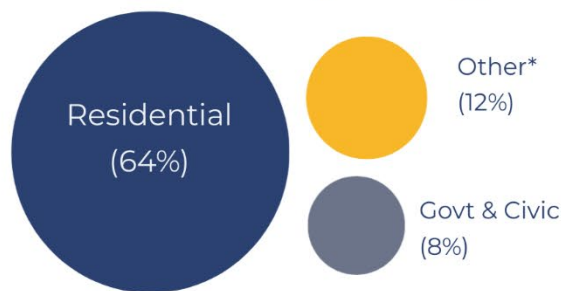


## Applications received

A total of 2,538 planning applications were received during Q1 2024/25:



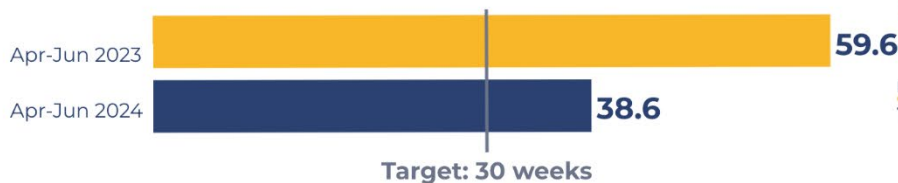
### 3 largest development types



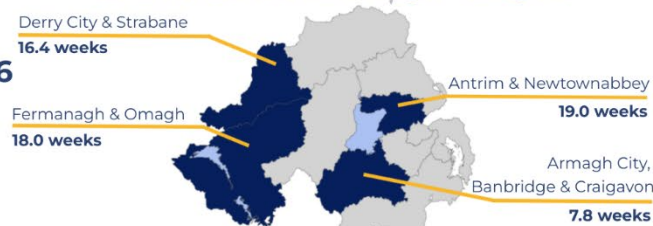
\*Other includes work to facilitate disabled persons, signs/advertisements & listed buildings

## Planning statutory targets - April to June 2023 & 2024

### Average processing times (weeks) - major



### Councils within major target



### Average processing times (weeks) - local



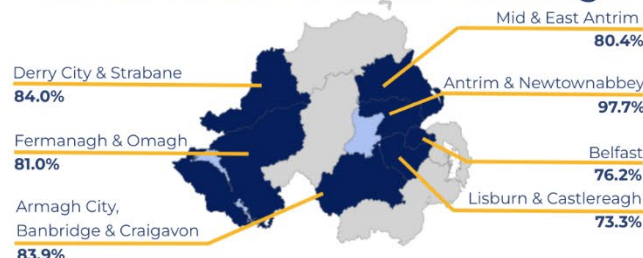
### Councils within local target



### % of enforcement cases concluded within 39 weeks



### Councils within enforcement target



# Northern Ireland Planning Statistics: First Quarter 2024/25 Statistical Bulletin

## Introduction

This statistical bulletin presents a summary of Northern Ireland (NI) planning volumes and processing performance for councils and the Department for Infrastructure during the first quarter of 2024/25.

Quarterly figures for 2024/25 are provisional and will be subject to scheduled revisions ahead of finalised annual figures, to be published in July 2025.

The records of all planning applications from 1 April to 30 June 2024 were transferred in August 2024 from live databases. This included all live planning applications in the Northern Ireland and Mid Ulster Planning Portals. The data were validated by Analysis, Statistics and Research Branch (ASRB). Local councils and the Department were provided with their own headline planning statistics as part of the quality assurance process. Once validations were complete, a final extract was taken in September 2024.

Detailed notes on the background of NI Planning Statistics and user guidance for this publication can be found [here](#).

## Future releases

The next report will be a quarterly report covering the period 1 July to 30 September 2024. This quarterly report is planned for release in December 2024. The next annual report covering 2024/25 is planned for release in July 2025. See [GOV.UK Release Calendar and upcoming statistical releases](#) on the Department's website for future publication dates.

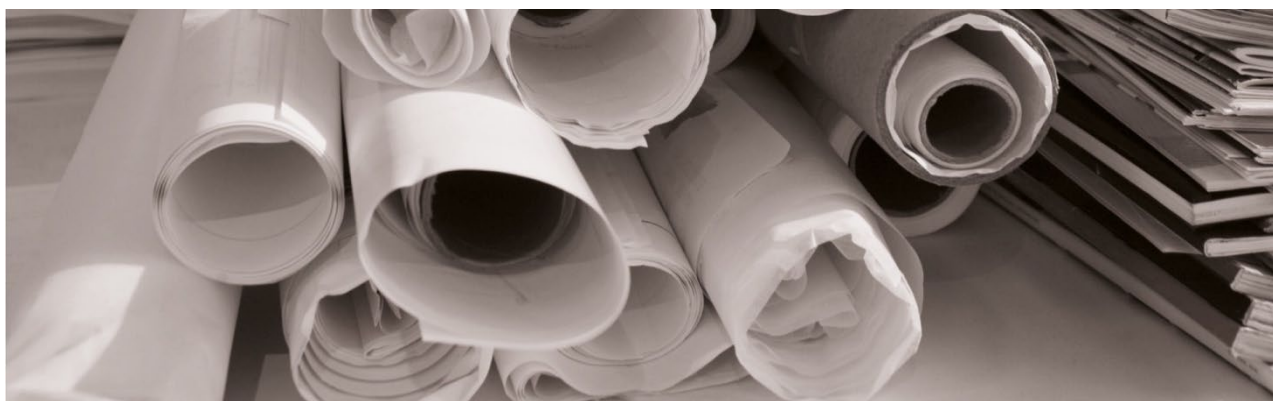
## Northern Ireland regional planning IT systems

In 2022, two new planning portals were introduced; the [Northern Ireland Planning Portal](#) for 10 councils and the Department for Infrastructure, and the [Mid Ulster planning portal](#). The transfer to the new planning portals will have impacted on planning activity and processing performance; this should be borne in mind when making comparisons with other time periods.

## Alternative formats

This document may be made available in alternative formats, please contact us to discuss your requirements. Contact details are available on the cover page of this report.





## Chapter 1: Overall Northern Ireland planning activity

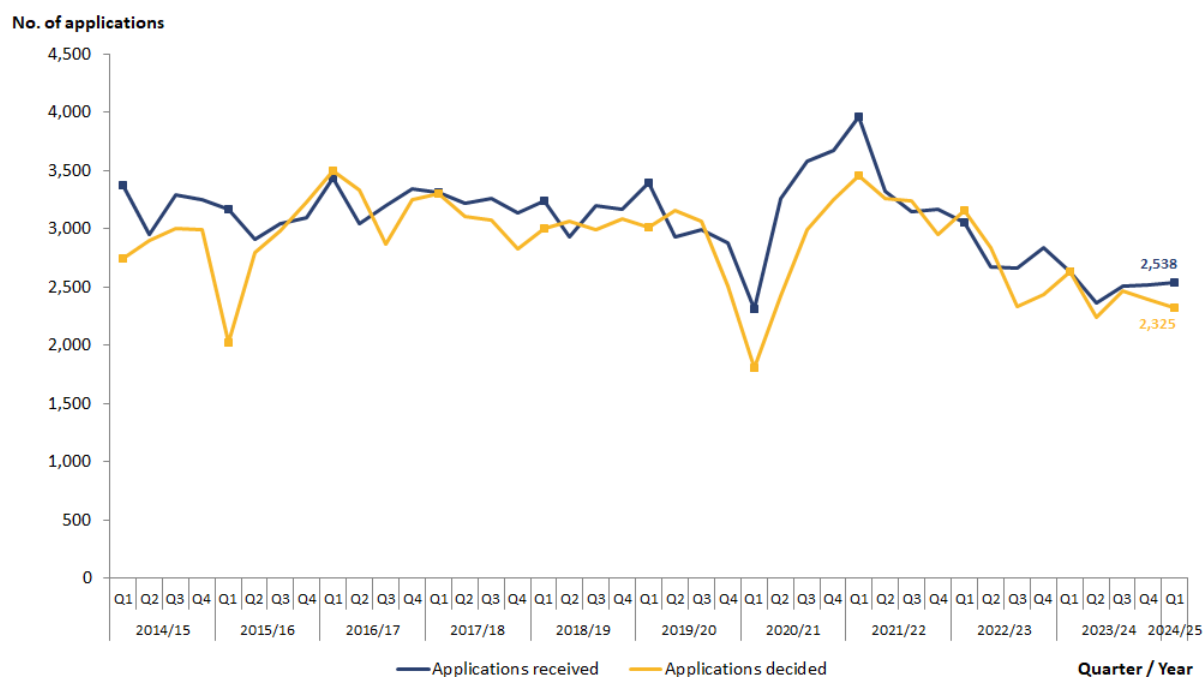
The volume of planning applications received in the first quarter of 2024/25 has increased from the previous quarter and decreased from the level recorded in the first quarter of 2023/24. For applications processed (i.e. decided or withdrawn) the volume processed has decreased from both the previous quarter and the same period a year earlier. The number of enforcement cases opened in the first quarter of 2024/25 was lower than both the previous quarter and the same period a year earlier, whereas the number of enforcement cases closed was higher than the previous quarter but lower than Q1 last year.

There have been some key events in recent years that will have impacted on planning activity and processing performance. These were the coronavirus pandemic with varying restrictions in place up until February 2022; the accessibility of the planning system for some users for a period during January and February 2022, and a significant change in IT planning systems with the development and implementation of two new planning systems in June and December 2022. All these factors should be borne in mind when interpreting these figures and when making comparisons with other time periods.

### **Applications received**

The number of planning applications received in Northern Ireland (NI) by councils and the Department in Q1 2024/25 was 2,538; an increase of 0.7% on the previous quarter (2,521) and a decrease of 3.7% on the same period a year earlier (2,635) (Figure 1.1). [Refer to Tables 1.1, 1.2.](#)

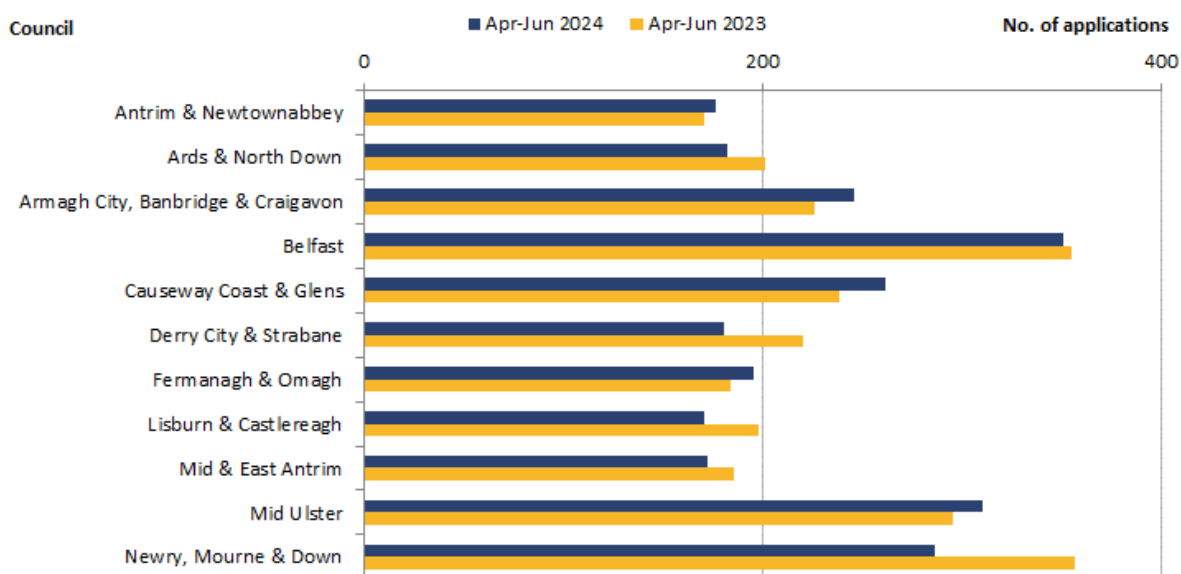
Fig 1.1 NI planning applications, quarterly, April 2014 to June 2024



Six councils reported an increase in the number of planning applications received in Q1 2024/25 compared with the previous quarter, with the greatest increase in Fermanagh and Omagh (21.0%). Five councils reported a decrease over the quarter, with the decrease greatest in Ards and North Down (-16.4%).

Comparing Q1 in 2024/25 with the same period in 2023/24, six of the eleven councils reported a decrease in the number of applications received, with the greatest decrease reported by Newry, Mourne and Down (-19.6%). Five councils reported an increase over the year, with the increase greatest in Causeway, Coast and Glens (9.6%) (Figure 1.2).

Fig 1.2 Applications received by council, April – June 2023 & 2024

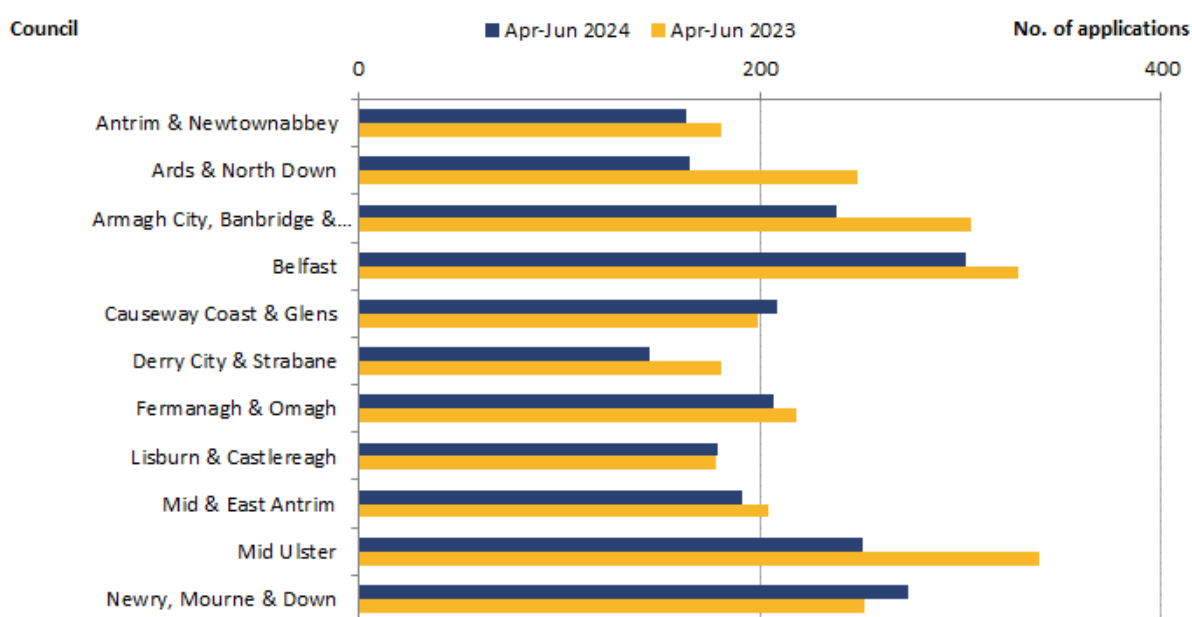


### Applications decided

The number of planning decisions issued during Q1 2024/25 was 2,325; a decrease of 2.9% on Q4 2023/24 (2,395) and down by 11.8% when compared with the same period a year earlier (2,635). [Refer to Tables 1.1, 1.2.](#)

Comparing Q1 in 2024/25 with the same period in 2023/24, eight of the eleven councils reported a decrease in the number of applications decided, with the largest percentage decrease recorded in Ards and North Down (-33.7%). The remaining councils reported an increase over the year, with the greatest increase in Newry, Mourne and Down (8.7%) (Figure 1.3).

Fig 1.3 Applications decided by council, April to June 2023 & 2024



In Q1 2024/25, 135 applications were withdrawn: a decrease from both the previous quarter (156) and Q1 2023/24 (137).

### Approval rates

The overall Northern Ireland approval rate for all planning applications was 94.5% in Q1 2024/25. This was like the previous quarter (94.6%) and lower than the same period a year earlier (96.3%). [Refer to Table 1.1.](#)

Approval rates varied across councils during Q1 2024/25, from 90.1% in Newry, Mourne and Down to 100.0% in Mid Ulster. These rates are dependent on many factors and care should be taken in making any comparisons. [Refer to Table 1.2.](#)

## Live applications

There were 7,951 live applications in the planning system across NI at the end of June 2024, up from the end of March 2024 (7,869), and down from the count at the end of the June 2023 (8,010).

Three out of every ten live applications at the end of June 2024 were over one year old (31.1%); an increase from the proportions reported at the end of March 2024 (30.3%) and the end of June 2023 (26.9%). [Refer to Table 1.3.](#)

## Departmental activity

No departmental applications were received, decided or withdrawn during Q1 2024/25. There was one application received in the previous quarter, none were received during the same period last year. The latest decisions taken by the Department were in Q3 2023/24. No departmental applications have been withdrawn since Q1 2022/23.

At the end of June 2024 there were 22 live Departmental applications; 15 of the 22 were in the planning system for over a year.



**It is a target for the Department to contribute to sustainable economic growth by processing regionally significant planning applications from date valid to a ministerial recommendation or withdrawal within an average of 30 weeks.**

Of the five RSD applications live in the planning system at the end of June 2024, three have been progressed to ministerial recommendation but the 30 week period for recommendation/withdrawal has been exceeded. Of the remaining two awaiting ministerial recommendation, the 30 week period has been exceeded.

## Development type

Most planning applications received and decided in NI are for residential development. Residential applications accounted for over three-fifths (1,619; 63.8%) of applications received in Q1 2024/25, followed by 'Other' (312; 12.3%) and 'Government and Civic' (203; 8.0%). The top three development types decided in Q1 2024/25 were 'Residential' (1,528), 'Other' (253) and 'Government and Civic' (183). [Refer to Tables 5.1, 5.2.](#)

## Renewable energy activity

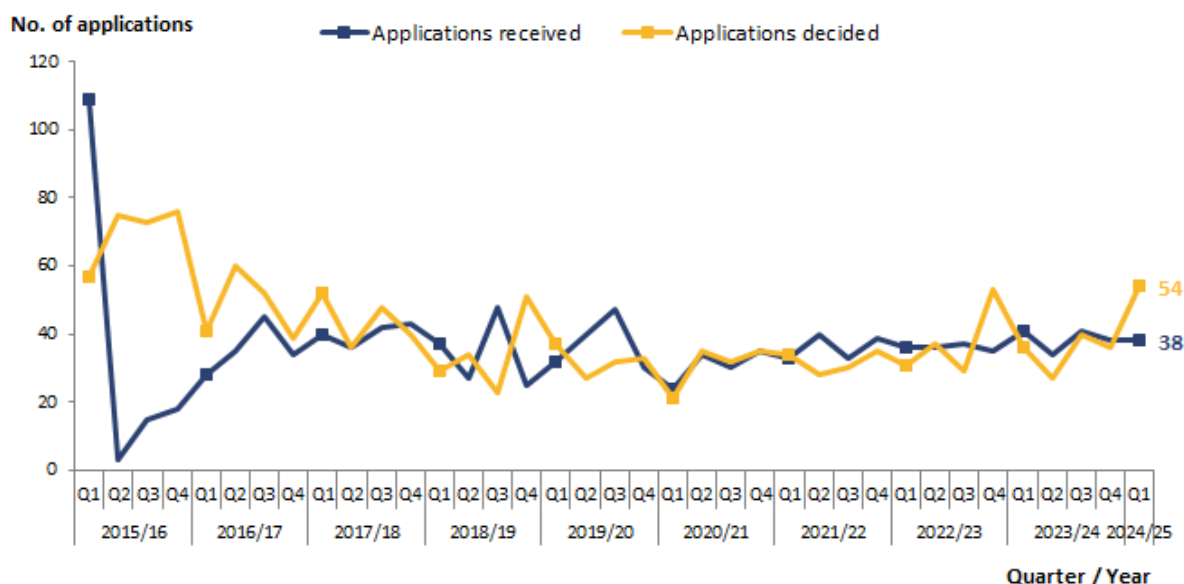
Twenty-four renewable energy applications were received in Q1 2024/25; down from the previous quarter (39) and like the number received during the same period last year (25). Twenty-seven renewable energy applications were decided during Q1 2024/25; this compares to 32 in the previous quarter and 20 in the same period last year.



## Chapter 2: Major development planning applications

Major Developments have important economic, social, and environmental implications. Most major applications are multiple housing, commercial, and government and civic types of development. A total of 38 major planning applications were received in NI during Q1 2024/25, the same number as received in the previous quarter (38) and down from the same period a year earlier (41). [Refer to Table 3.1.](#)

Fig 3.1 Major development applications, quarterly, April 2015 to June 2024



During Q1 2024/25, 54 major planning applications were decided; up from 36 decided in the previous quarter and from the 36 decided during the first quarter of 2023/24 (Figure 3.1). The approval rate for major applications decided upon in NI during Q1 2024/25 was 96.3%. [Refer to Tables 3.1, 3.2.](#)

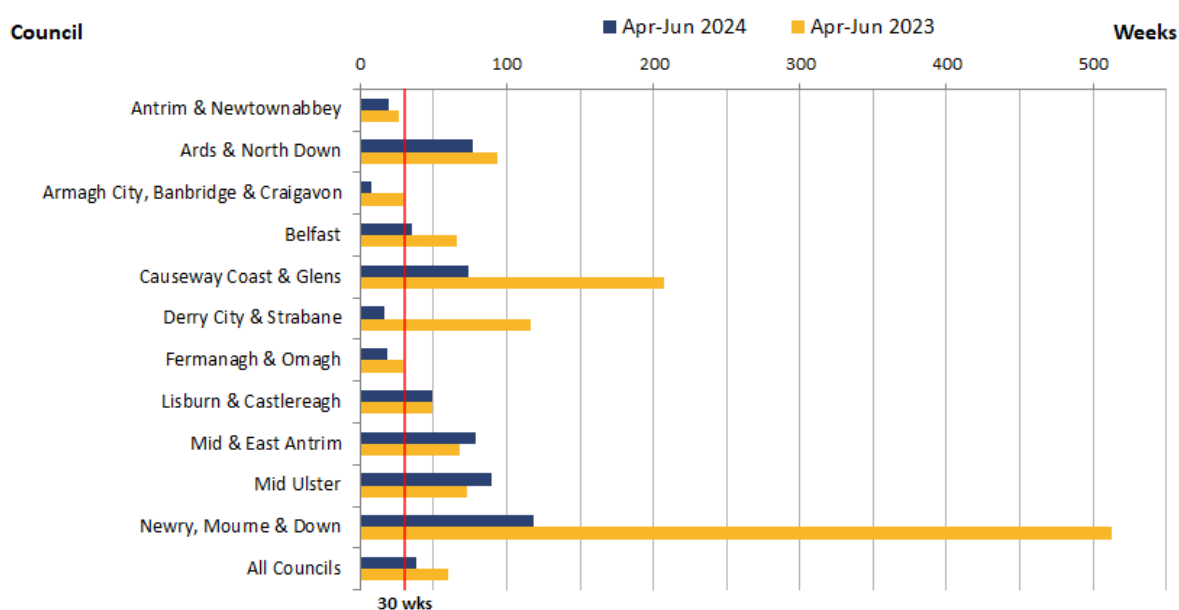
### Major planning applications statutory target



It is a statutory target for each council that major development planning applications will be processed from the date valid to decision issued or withdrawal date within an average of 30 weeks.

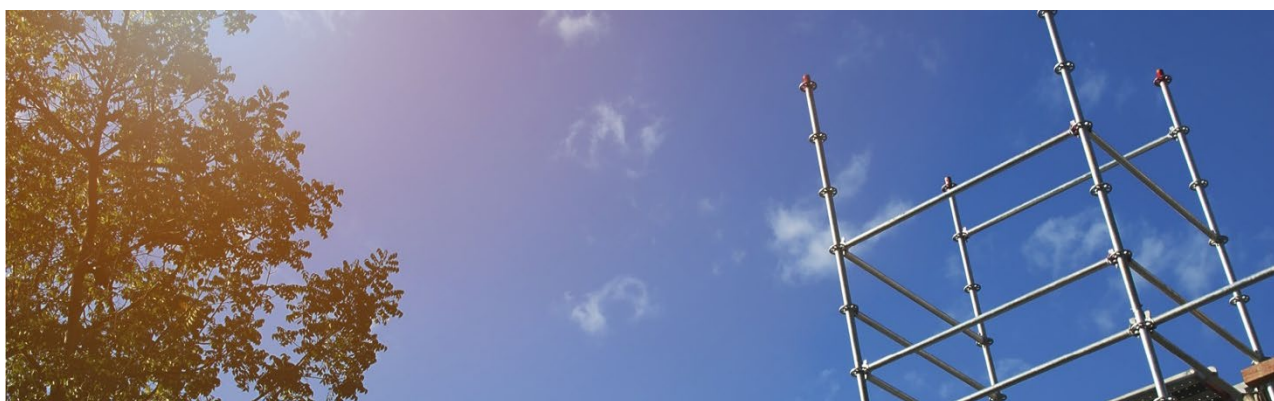
Figure 3.2 presents annual average processing times for major applications. The average processing time for major applications brought to a decision or withdrawal during the first three months of 2024/25 was 38.6 weeks across all councils. While exceeding the 30 week target, this represents a decrease of 21.0 weeks compared with the same period in 2023/24 (59.6 weeks).

Fig 3.2 Major development average processing times by council, April to June 2023 & 2024



Note: Whilst Figure 3.2 has been provided for completeness, across councils there may be an insufficient number of major applications processed during the period reported to allow any meaningful assessment of their individual performance.

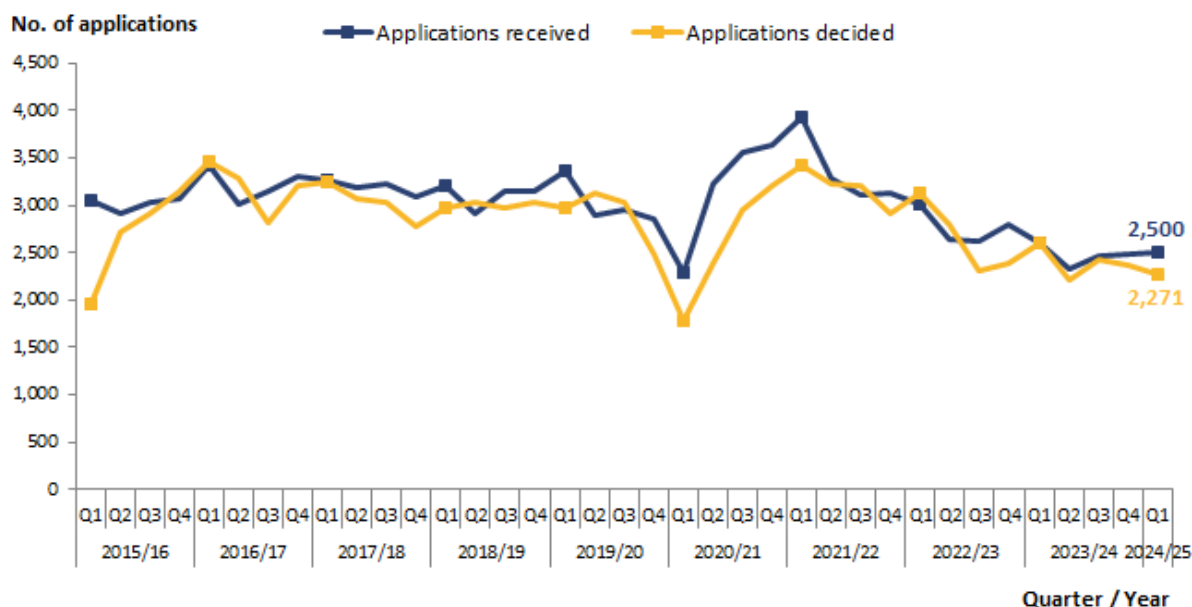
[Refer to Table 3.2 for further information.](#)



## Chapter 3: Local development planning applications

Local Development planning applications are mostly residential and minor commercial applications and are largely determined by the councils. The number of local applications received in NI during Q1 2024/25 was 2,500; an increase of 0.7% on the previous quarter (2,483) and down by 3.6% on the same the same period a year earlier (2,594). [Refer to Table 4.1.](#)

Fig 4.1 Local development applications, quarterly, April 2015 to June 2024



The number of local applications decided in Q1 2024/25 was 2,271; down by 3.7% on Q4 2023/24 (2,359) and down by 12.6% when compared with the same period a year earlier (2,599); [refer to Table 4.1.](#) The overall Northern Ireland approval rate for local applications was 94.5% in Q1 2024/25; the same as the rate reported for the previous quarter and down from the rate for the same period a year earlier (96.3%).

### Local planning applications statutory target

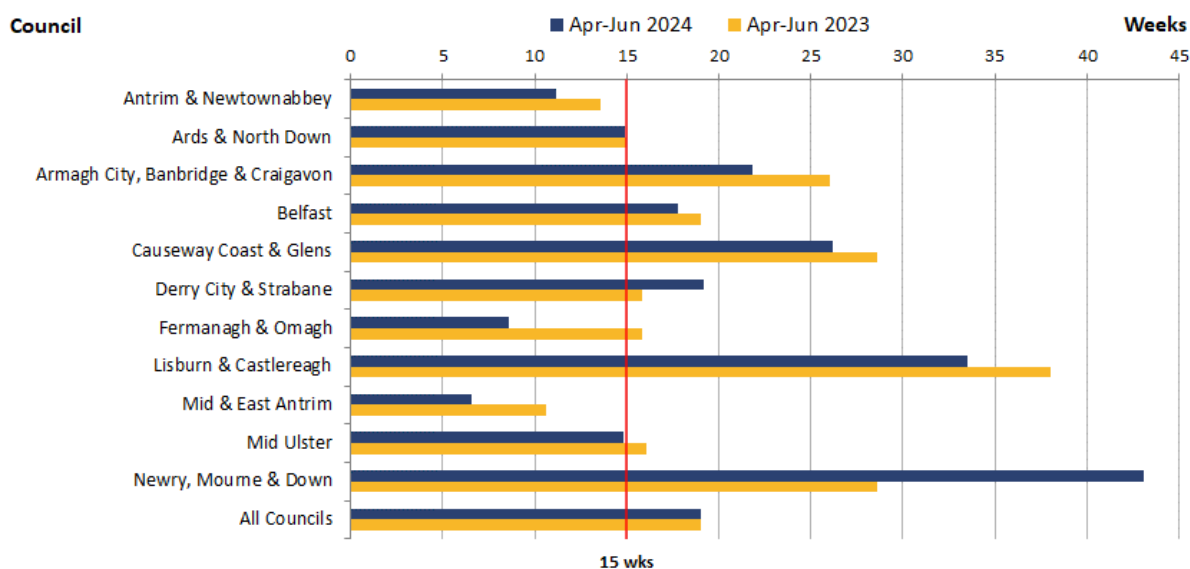


It is a statutory target for each council that local development planning applications will be processed from the date valid to decision issued or withdrawal date within an average of 15 weeks.

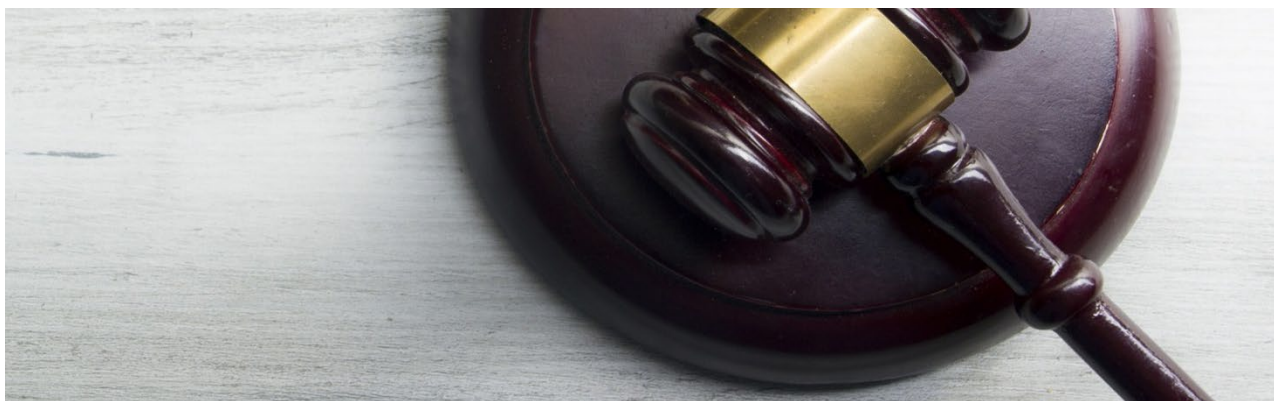
The average processing time for local applications brought to a decision or withdrawal during the first three months of 2024/25 was 19.0 weeks; this is the same time as recorded for the same period a year earlier. This exceeds the statutory target of 15 weeks.

Five of the 11 councils were within the 15 week target after the first three months of 2024/25: Mid and East Antrim (6.6 weeks), Fermanagh and Omagh (8.6 weeks), Antrim and Newtownabbey (11.2 weeks), Mid Ulster (14.8 weeks) and Ards and North Down (14.9 weeks) (Figure 4.1). [Refer to Table 4.2.](#)

Fig 4.2 Local development average processing times by council, April to June 2023 & 2024



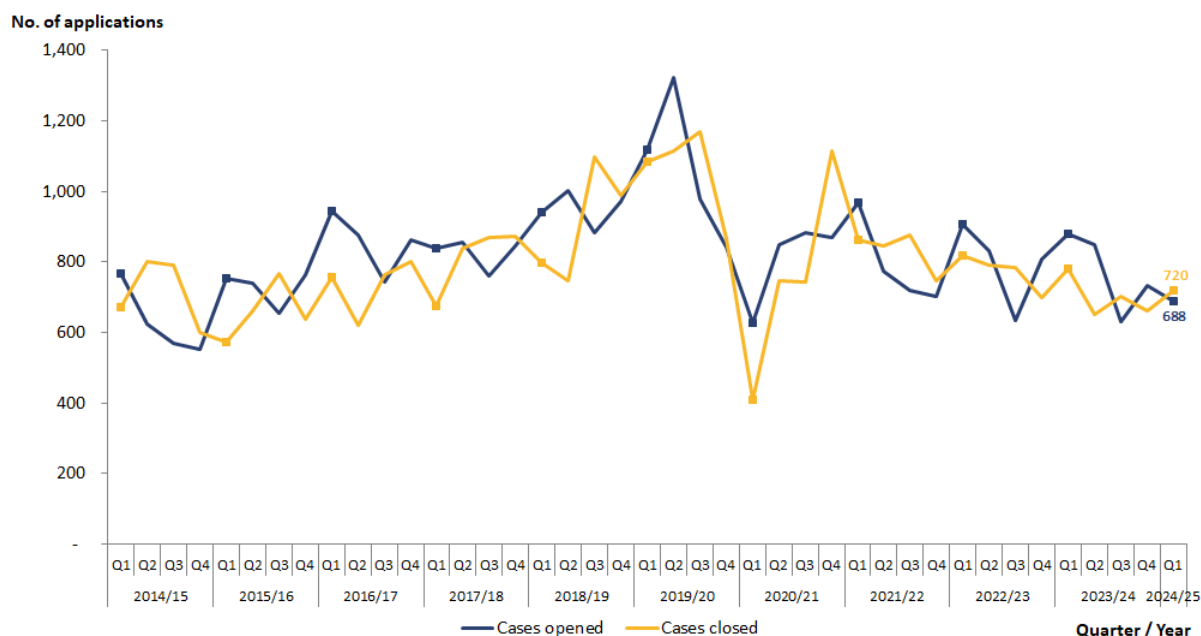




## Chapter 4: Enforcement activity

The number of enforcement cases opened in NI during the first quarter of 2024/25 was 688; down by 6.0% over the quarter (732) and down by 21.8% when compared to the same period a year earlier (880). The number of cases closed during Q1 2024/25 was 720; up by 8.9% over the quarter (661) and down by 7.8% from the same period a year earlier (781) (Figure 6.1). [Refer to Table 6.1.](#)

Fig 6.1 Enforcement cases opened & closed, quarterly from April 2014 to June 2024



The number of enforcement cases over two years old stood at 1,520 at the end of June 2024, accounting for 38.0% of all live cases. This compared with 36.6% of live cases at the end of March 2024 and 36.3% at the end of June 2023. [Refer to Table 6.4.](#)

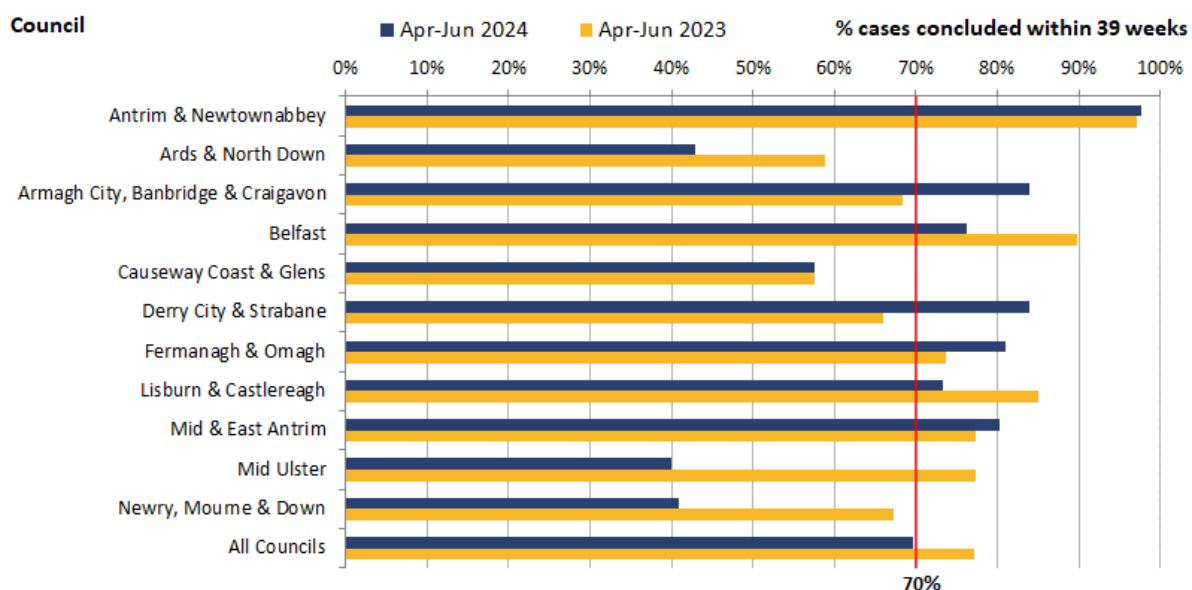
### Enforcement cases statutory target



It is a statutory target that 70% of all enforcement cases dealt with by councils are progressed to target conclusion within 39 weeks of receipt of complaint.

Across all councils, 69.7% of enforcement cases were concluded within 39 weeks during the first quarter of 2024/25. This represents a decrease from the rate reported for the same period last year (77.2%).

Fig 6.2 Percentage of cases concluded within 39 weeks by council, April to June 2023 & 2024



Seven of the 11 councils were individually meeting the statutory target at the end of the first quarter in 2024/25.

Antrim and Newtownabbey recorded the highest percentage of cases processed with 97.7% of all cases processed within 39 weeks during the first quarter of 2024/25. See Figure 6.2 and [Refer to Table 6.2.](#)



© Crown copyright 2024

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence v.3. To view this licence visit the [national archives website](#) or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk). Where we have identified any third-party copyright information, you will need to obtain permission from the copyright holders concerned. This publication is also available on the [Department for Infrastructure website](#). Any enquiries regarding this document should be sent to us at [ASRB@nisra.gov.uk](mailto:ASRB@nisra.gov.uk).

### Accredited Official Statistics

The Northern Ireland Planning Statistics were accredited in December 2020, following an independent review by the Office for Statistics Regulation (OSR). This means that the statistics comply with the standards of trustworthiness, quality and value in the [Code of Practice for Statistics](#) and should be labelled '[accredited official statistics](#)'<sup>1</sup>.

Our statistical practice is regulated by the OSR who sets the standards of trustworthiness, quality and value in the [Code of Practice for Statistics](#) that all producers of official statistics should adhere to. You are welcome to contact us directly with any comments about how we meet these standards. Alternatively, you can contact OSR by emailing [regulation@statistics.gov.uk](mailto:regulation@statistics.gov.uk) or via the OSR website.

---

<sup>1</sup> National Statistics are [accredited official statistics](#).

Unclassified

436

**ITEM 9****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 November 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	15 October 2024
File Reference	N/A
Legislation	
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	Decision Notice by NI Local Government Commissioner for Standards
Attachments	a) Decision Notice by NI Local Government Commissioner for Standards (NILGCS) b) Press Release by NIGCS c) LCCC's Report on Lessons Learned d) Protocol for Operation of the Planning Committee

**Purpose of Report**

1. The purpose of this report is to advise members of the findings of a Report by the Assistant Commissioner of the NI Local Government Commissioner for Standards against a former Councillor within Lisburn and Castlereagh City Council (LCCC).
2. This Committee Report coincides with the updated information on the adjudication procedures and sanctions guidelines related to the NI Local

Not Applicable

437

Government Code of Conduct, as recently advised by the NI Local Government Commissioner for Standards.

## Background

3. Members will be aware that a key element of The Local Government (Northern Ireland) Act 2014 is an ethical framework for local government in Northern Ireland which includes a mandatory code of conduct for councillors. As a result, The Northern Ireland Local Government Code of Conduct for Councillors was subsequently introduced on 28 May 2014. Part 9 of that Code (planning) was implemented from 1 April 2015. The Act imposes a requirement on councillors to observe the Code.
4. The Report by the Assistant Commission came about as result of an investigation into various complaints made against a former LCCC Councillor in 2017 where it was found that the former councillor had breached seven paragraphs within the Code of Conduct for Councillors. The individual concerned was suspended from being a Councillor for a period of four years from the date of the written decision in February 2024.
5. As a consequence of the Report, the Chief Executive of LCCC prepared a 'Lessons Learned' Report for that Council (copy attached), the purpose of which was to identify any learnings from the Assistant Commissioner's findings with a view to minimising the risk and reputational damage to LCCC in the future.
6. It is prudent for ANDBC Members to review the Assistant Commissioner's Report in the context of operation of its Planning Committee.
7. Within LCCC's Report on Lessons Learned, Part 9 details a table of Actions, Guidance and Recommendations. Officers have set out below those elements of that table considered relevant, with the final column setting out the position within ANDBC. For clarity those actions numbered as A4, A5, A12, and A13 in LCCC's report are not considered relevant to ANDBC.

No.	Action	Members or Officers	Action Complete
A1	Issue Conflict of Interest Form to all Councillors each year, after the Annual Meeting	Officer	Yes – Ongoing  Development of online form to be developed for Members to update as and when required
A2	Councillors must complete and return Conflict of Interest Forms annually	Members	As above

## Not Applicable

438

A3	Publish combined Elected Member Conflict of Interest register annually	Officers	Yes – published on Council website under Home/ Council / Your Councillors  Declaration of interest made at meetings recorded in Council/Committee minutes
A6	Update declaration of interest form to capture relevant guidance on what is a significant private or personal non-pecuniary interest, including the expected action by those who declare an interest.	Officers	To be undertaken for 2025
A7	Amend the Protocol for the Operation of the Planning Committee to note that, where a Councillor declares an interest and does not leave the room without providing valid justification, the matter should be challenged by the Chair of the Committee, or other Councillors	Officers	ANDBC's Protocol states at paragraph 40 that when a Member declares an interest, they must leave the Council Chamber (including the Public Gallery)
A8	Member Services to have present at any Council, Committee, or sub group meeting, details of the declared conflicts of interest of all Members with voting rights	Officers	Considered that Democratic Services and Director attending Committee has access to Register on website accordingly
A9	Amend the Protocol for the Operation of the Planning Committee to report annually for noting, all declarations of interest made relating to the work of the Planning Committee	Officers	Considered that all Conflicts of Interest are recorded in the minutes of Committee accordingly
A10	Where the Council's legal adviser has concerns about the action of a Councillor following declaration of interest, the legal adviser should bring those concerns to the attention of the CEO/Director.	Officers	ANDBC does not have its legal adviser present at all Planning Committee meetings. Considered that current Protocol is clear at paragraph 40 on need for Member declaring an interest to leave the Chamber. Director can raise any concerns as appropriate with CEO.
A11	Include the NIAO guidance as part of the prescribed training in order	Officers	Propose that this is implemented for any new

Not Applicable

439

	for a Member to sit on Planning Committee		Members to ANDBC Planning Committee into training as provided by legal advisers
<b>No.</b>	<b>Guidance</b>	<b>Members or Officers</b>	<b>Action Complete</b>
G1	For circumstances where a Member on the Planning Committee works for an MLA or MP who wishes to make representation on a planning application under consideration, a pecuniary interest should be declared and the member should leave the room. There are no exceptions to this because there is a pecuniary interest.	Members	Ongoing
G2	For circumstances where a Councillor on the Planning Committee is related to an MLA or MP who wishes to make representation on a planning application under consideration, a significant non-pecuniary interest should be declared and the member should leave the room. The member could remain if they have been given dispensation by DFC to remain or where they believe it would be to the Council's benefit for the Member to remain. Any members deciding on this latter course of action should be prepared to be challenged by other Members of the Committee and/or by the CEO/Director either during or following the meeting, recognising an increased risk of the report potentially coming under greater scrutiny through the declaration of interest.	Members	Considered that the current Protocol deals with this matter and Members have been appropriately trained by legal advisers prior to coming onto Planning Committee. Additionally, paragraphs 11 and 12 of the current Protocol deal with situation whereby Committee becomes inquorate due to declarations of interest.
<b>No.</b>	<b>Reminder</b>	<b>Members or Officers</b>	<b>Action Complete</b>
R1	Regularly reflect on their conduct as part of their role as an Elected	Members	Ongoing

## Not Applicable

440

	Member to avoid bringing themselves or the Council into disrepute		
R2	Refresh conflicts of interest declared during the course of the year should new pecuniary or nonpecuniary interests arise	Members	Ongoing
R3	Note the requirement in law to comply with a Commissioner's request in connection with an investigation, even following the end of their term as a Councillor	Members	Commission's report to be included as part of ongoing training for new Members of Planning Committee and available to all Members
R4	Declare any significant private or personal nonpecuniary interest arising at a Council, committee or sub group meeting	Members	Ongoing
R5	A requirement to withdraw from the relevant meeting when the matter to which an Elected Member has a significant private or personal interest is being discussed	Members	Ongoing
R6	Continue to reflect on the 12 requirements of Section 8.1 of the Code in reaching decisions regarding the business of the Council	Members	Ongoing
R7	Councillors on the Planning Committee to continually reflect on their role in relation to the planning process.	Members	Ongoing
R8	The risks related to planning decision outcomes increase significantly where the Planning Committee overturns the recommendation of professional planning officers, more notably for single houses in the countryside	Members	Considered that the current Protocol deals with such matters, specifically at paragraphs 53 to 60 which had been inserted previously further to legal advice, entitled ' <i>Decisions Contrary to Officer Recommendation</i> '
R9	Be aware of options that exist to the Council to allow for quick and effective engagement with Elected Members where a declaration of a pecuniary or significant non-pecuniary interest has not been made. Early intervention in such circumstances is crucial.	Members	Ongoing
R10	Being a councillor requires the highest standards of probity and integrity. In submitting a planning	Members	Ongoing



Not Applicable

441

	<p>application for land within the Council's boundary, councillors should ensure appropriate declaration of any interest, by them (and of their wider family), in the land.</p>		
--	---	--	--

**RECOMMENDATION**

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



## **DECISION**

**of the Assistant Northern Ireland Local Government Commissioner for Standards following an Adjudication Hearing held on 15 November 2023 and 15 February 2024**

**Case References: C00196, C00287, C00292, C00396, C00397  
Local Government Act (Northern Ireland) 2014**

**In the matter of former Councillor Luke Poots (the Respondent/Councillor Poots)**

**Lisburn & Castlereagh City Council.**

### **INTRODUCTION**

The Northern Ireland Local Government Commissioner for Standards, Ms Margaret Kelly, has appointed Mr Ian Gordon, OBE, QPM, as Assistant Local Government Commissioner (the Assistant Commissioner) in relation to the Adjudication Hearing process in respect of this complaint against former Councillor Poots (also referred to as the Respondent). Mr Gordon was assisted by Mr Michael Wilson, Solicitor, Legal Assessor.

The Adjudication Hearing opened on the 15 November 2023 and was held in public at the office of the Northern Ireland Local Government Commissioner for Standards in Belfast and details of the arrangements for the Hearing had been published on its website.

### **THE COMPLAINT PROCESS**

Part 9 of the Local Government Act (Northern Ireland) 2014 (the Act) introduced the Ethical Standards framework for local government, based on a mandatory Northern Ireland Local Government Code of Conduct for Councillors (the Code) which came into effect on 28 May 2014.

1. On 27 March 2018 the Northern Ireland Local Government Commissioner for Standards (the Commissioner) received a complaint from Mr Steven Agnew MLA alleging that Councillor Poots had, or may have, failed to comply with the Code.

2. On 9 May 2018 the Commissioner received a complaint from Mr & Mrs Carson & Diane McMullan alleging that Councillor Poots had, or may have, failed to comply with the Code.
3. On 30 May 2018 the Commissioner received a complaint from Mr Brian Connolly alleging that Councillor Poots had, or may have, failed to comply with the Code.
4. On 11 April 2018 the Chief Executive of Lisburn and Castlereagh City Council forwarded to the Deputy Commissioner an anonymous complaint which had been received on 22 March 2018 and which raised concerns relating to six planning applications.

The Respondent and the complainants were informed that an investigation would take place.

### The Complaints:

#### 1. From Mr Agnew :

Mr Agnew stated in this complaint that on 4 December 2017 Councillor Luke Poots, as Chair of the Planning Committee, voted on four planning applications on which his father, Edwin Poots MLA had made oral submissions. The applications in question were LA05/2015/0342<sup>1</sup> LA05/2017/0633/0, LA05/2015/0345/F and LA05/2017/0552/F. Mr Agnew stated that Councillor Poots had advised his father would be speaking on the applications at the beginning of the meeting, when declarations of interest were being sought. Mr Agnew stated that by making this declaration Councillor Poots *'demonstrated that he was aware that there was a conflict of interest or at least the possibility of a perceived conflict of interest.'*

Councillor Poots' father, Mr Edwin Poots MLA, made oral submissions at the meeting on each of these applications, and Mr Agnew stated that Councillor Poots voted on each occasion *'in accordance with his father's submission'*. Mr Agnew highlighted that there were divisions in relation to three of the applications, two of which had a margin of one vote and one in which resulted in tied votes, which were on each occasion decided by the casting vote of Councillor Poots as Chair of the Planning Committee. Mr Agnew stated that Councillor Poots should have *'clearly and unambiguously declared an interest in these four planning applications and excused himself from the meeting while they were being discussed and voted on.'* He also commented that *'it could reasonably be believed that Cllr Poots gave preferential treatment to his father.'*

Mr Agnew alleged that Councillor Poots may have breached Paragraphs 4.3, 4.16, 4.17, 6.4 and 8.1 of the Code of Conduct.

#### 2. From Mr & Mrs McMullan:

Mr & Mrs McMullan also referred to the Planning Committee meeting of 4 December 2017, specifically regarding planning application LA05/2017/0633/0 which had been recommended for refusal by the planning officer. Mr & Mrs McMullan, who objected to the application, stated that at the meeting Councillor Poots advised that his father would be speaking on this application and a number of other applications. Councillor Poots subsequently voted on this

---

<sup>1</sup> Referred to in committee minutes and planning file as LA05/2015/0342/O

matter. Mr & Mrs McMullan stated that, given that Mr Edwin Poots spoke in support of the application, *'it is highly debatable whether Councillor Luke Poots can remain impartial given the family connection and the political influence of a senior DUP personality. Where there is doubt, for the sake of clarity and the good name of the Planning Committee, Luke Poots should have excused himself'*.

### **3. From Mr Connolly:**

Mr Connolly referred to planning application LA05/2015/0342/O, which came before the Planning Committee on 4 December 2017 with a recommendation to refuse planning permission. Mr Connolly stated that Mr Edwin Poots spoke in favour of the application, while Councillor Poots voted in favour of same. Mr Connolly highlighted that the committee narrowly voted in favour of the application. Mr Connolly stated that this may be a conflict of interest on the part of Councillor Poots.

### **4. An anonymous complaint:**

This was received by Ms Theresa Donaldson, former Chief Executive of Lisburn & Castlereagh Council on 22 March 2018. Ms Donaldson subsequently provided the Deputy Commissioner with a copy of this complaint on 11 April 2018. The complainant referred to six planning applications namely:

LA05/2016/0676/F, LA05/2015/0815/F, LA05/2016/0627/F, A05/2015/0178/F,  
LA05/2016/0513/F and LA05/2017/0500/O

The applications were discussed across four different planning committee meetings on 3 April 2017, 8 May 2017, 5 June 2017 & 4 September 2017. The complainant stated that *'It is with some concern that after Mr Edwin Poots MLA has spoken in support of an application that his son Councillor Luke Poots, who is a Committee Member, proposes that the applications be approved'*. The complainant referred specifically to the Planning Committee Meeting of 4 September 2017 when Councillor Poots was chairman. The complainant highlighted that *'Mr L. Poots after his father had spoken then proposed and had seconded that he agreed that the reasons cited for the approval of the application would be the reasons stated in the minutes. There is a clear conflict of interest by Mr L Poots.'*

The Deputy Commissioner submitted an Investigation Report to the Commissioner on 7 March 2022 in accordance with sections 55 and 56 of Part 9 of the Local Government Act (Northern Ireland) 2014, and it was accepted for Adjudication by the Assistant Commissioner on 20 April 2022.

The alleged breaches of the Code are:

### **POTENTIAL BREACH 1:**

#### **Rules relating to the Declaration of Non-Pecuniary Interests**

##### **Paragraph 6.3:**

*'You must also declare any significant private or personal non-pecuniary interest in a matter arising at a council meeting. In addition to those areas set out in paragraph 5.2, an interest will also be significant where you anticipate a decision on the matter might reasonably be deemed to benefit or disadvantage yourself to a greater extent than other council constituents. Any sensitive information mentioned in paragraphs 5.4 to 5.6 is not to be given.'*

**Paragraph 6.4:**

*'You must declare any significant private or personal non-pecuniary interests in a matter as soon as it becomes apparent. You must then withdraw from any council meeting (including committee or sub-committee meeting) when the matter is being discussed. It is your own personal responsibility to determine, having regard to council advice and guidance, whether you have any such interest.'*

**Paragraph 4.3:**

*'You must review regularly (at least annually and when your particular circumstances change) your personal circumstances and take steps to mitigate any conflict of interest in relation to your functions as a councillor. Such conflict may arise as a result of circumstances such as a change of business interests, a change in direct or indirect pecuniary interest required to be declared under section 28 of the 1972 Act or involvement on a new committee.'*

**Paragraph 4.16:**

*You must not:*

- a. Use, or attempt to use, your position improperly to confer on, or secure, an advantage for yourself or any other person.*
- b. Use, or attempt to use, your position improperly to seek preferential treatment for yourself or any other person; or*
- c. Use, or attempt to use, your position improperly to avoid a disadvantage for yourself or any other person, or to create a disadvantage for any other person.*

**POTENTIAL BREACH 2:**

**Rules Relating to Decision Making**

**Paragraph 8.1:**

*When participating in meetings or reaching decisions regarding the business of your council, you must:*

*(a) Do so objectively, on the basis of the merits of the circumstances involved, and in the public interest.*

*(f) Act fairly and be seen to act fairly.*

*(g) Ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows)*

*(h) Not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision.*

**Paragraph 9.3 of the Code states:**

*'Your role as a Councillor is to represent the views and aspirations of your community through development of the local development plan, discussions with developers and council planning officers or deciding on planning applications. The Code (and any associated guidance) is intended to assist you in balancing the interests of developers and interest groups with taking planning decisions, by applying your local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community. This Code applies to Councillors at all times when involving themselves in the planning process, including taking part in the decision-making meetings of the council or when involved in less formal occasions, such as meetings with officers or the public. It applies equally to local plan development and planning enforcement as it does to planning applications.'*

**POTENTIAL BREACH 3:****Disrepute****Paragraph 4.2**

*'You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.'*

**POTENTIAL BREACH 4:****Compliance with the Commissioner's requests****Paragraph 4.6:**

*'You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.'*

**Principles of Conduct:**

The Deputy Commissioner's Investigation Report also included in its consideration of the complaints against the Respondent:

- i. The Commissioner's Guidance on the Code
- ii. The Principles of Conduct contained in the Code.

The allegations were investigated by the then Acting Deputy Commissioner for the Local Government Ethical Standards (LGES) Directorate of the Northern Ireland Ombudsman's Office.

**ADJUDICATION HEARING ON WEDNESDAY 15 NOVEMBER 2023**

The Assistant Commissioner opened the Hearing and said its purpose was to determine whether the Respondent, had failed to comply with the Code. The allegations could only be upheld if the Deputy Commissioner established to the satisfaction of the Assistant Commissioner that, on the balance of probabilities, the Respondent had failed to comply with the Code.

The Deputy Commissioner was represented by Peter Coll KC and Dr. Gordon Anthony BL (instructed by Arthur Cox, Solicitors), and the Respondent was represented by Peter Canavan BL (instructed by Donnelly and Wall, Solicitors). Although the Respondent was not present, Mr Canavan BL informed the Assistant Commissioner that there would not be any application to adjourn because of this, and that he was content to continue, noting that the Respondent remained in contact with his legal advisors.

The Assistant Commissioner stated that the Hearing was to be initially in two stages:

**Stage 1:** was to establish the facts of the case.

**Stage 2:** would then determine, on the basis of the established facts, whether or not the Respondent had breached the provisions of the Code in the manner alleged.

If the Respondent was found to have breached the Code, then a further stage (**Stage 3**) would be held to determine sanction.

## **PRELIMINARY ISSUE**

The Respondent raised a preliminary issue relating to the admissibility of the evidence of a witness, Kate McCusker a Solicitor who had provided a written Statement of Evidence dated 9 December 2019 (and an accompanying attendance note) which included advice given by her to the Respondent regarding his participation on the Council's Planning Committee when his father (Edwin Poots) spoke either for or against a planning application. The Assistant Commissioner considered this matter in private session.

### **Private hearing**

The central issue was whether legal advice privilege attached to any part of the evidence of Ms McCusker, and, if so, whether that privilege had been waived in consequence of what the Respondent had said to Mr Jeffrey McWatters, a Senior Investigating Officer in the LGES Directorate. In the event that privilege existed and had not been waived, the Assistant Commissioner would also have to bear in mind that the evidence of any other witness should not reference the advice provided.

A secondary issue was whether or not anything said by the Respondent's father, Edwin Poots MLA, when he was interviewed for the purposes of the investigation on 5 July 2019, could evidence the waiver of privilege.

It was common case that Ms McCusker, who was a solicitor and an external legal advisor to the Council, provided legal advice to councillors and Council officers on planning matters. It was also common case that Ms McCusker had provided advice to the Respondent, which was relevant to the matters under enquiry, and that her advice attracted legal advice privilege. The question to be determined therefore was whether the Respondent had waived this privilege.

Mr Canavan BL asserted that the Respondent had never waived this privilege and that Ms. McCusker's statement, and her attendance note, should not be admitted in evidence, and that to do so would be unfair, unjust and in breach of the Respondent's Article 6 ECHR rights.

Mr Canavan BL submitted as the legal advice was privileged, it was for the Deputy Commissioner to prove on the balance of probabilities that privilege had been waived. This, he said would involve a finding of fact by the Assistant Commissioner. He stated that the test to be applied was an objective one and referenced the authority of *Re Konigsberg [1989] 1 WLR 1257*.

Mr Canavan BL also submitted that Edwin Poots could not waive privilege on behalf of the Respondent.

Mr Coll KC confirmed that Mr McWatters was available to give evidence.

Having taken into account the Respondent's submissions and having heard from Mr Coll KC, the Assistant Commissioner concluded that he should hear from Mr McWatters in relation to his conversations with the Respondent on 9 April 2018 and 10 January 2019 and his record of those conversations so that he could satisfy himself as to the factual accuracy, or otherwise, of his evidence.

Mr Canavan BL acknowledged that he was inviting the Assistant Commissioner to determine this issue, in the full knowledge that the Respondent was not present to give evidence on the matter.

Mr McWatters gave sworn evidence and was questioned by Counsel for both parties. He confirmed that at the relevant time he was the Senior Investigating Officer involved in the investigation of the complaints made against the Respondent. He referred to his telephone conversations with the Respondent on 9 April 2018 and 10 January 2019, and his handwritten and typed notes of those conversations.

He stated that his practice was to make a handwritten note during a phone call and to make the typed record straightaway afterwards. He explained that the purpose of his handwritten note was to try and make a record of what he was being told during a phone call, so that his typed note would be as comprehensive as possible. He also stated that some parts of his handwritten note were a verbatim record and in other parts he would jot down a word, or a couple of words. He concluded his evidence saying that he used the handwritten version as a prompt to enable him to recall the content of the phone conversation in more detail as he was typing it, to make a more complete record for the system.

In his typed note of the conversation with the Respondent on 9 April 2018, Mr McWatters records:

*' Luke Poots says he has done nothing wrong, and he has been told by Cleaver Fulton Rankin (Kate McCusker) and Stewarty Beattie QC that his actions are in order.'*



The Assistant Commissioner adjourned the Hearing and retired with the Legal Advisor to consider the preliminary issue raised. The Assistant Commissioner was reminded by the Legal Assessor that his consideration of the evidence given by Mr McWatters was solely restricted to his determination of the legal advice privilege issue, and that he was not concerned with how it might relate to any of the wider issues in the Adjudication. In the absence of the Respondent, the Assistant Commissioner was also reminded to take into account the content of the Respondent's response to the Investigation Report set out in his Councillor Response Form (dated 25 November 2022) ('CRF') and his Statement of Evidence (dated 10 November 2023).

On his return, the Assistant Commissioner, having noted the comments of the Respondent's Counsel at the commencement of the Hearing, confirmed that it was appropriate to proceed in the absence of the Respondent to deal with the issue of privilege.

The preliminary matter, on legal privilege, related to the written statement and attendance note of Ms McCusker, and it was common case that the legal advice that she gave to the Respondent was privileged. The question for the Assistant Commissioner was whether the Respondent had waived this privilege when he spoke with Mr McWatters.

In his CRF, the Respondent referenced the legal advice privilege attaching to his conversation with Ms McCusker and stated that her attendance note was not a full and accurate note of their discussion. Although Mr McWatters' written Statement of Evidence was included within the Investigation Report, the Respondent's Statement of Evidence did not make any reference to it.

The Assistant Commissioner carefully observed and listened to the evidence of Mr. McWatters.

The Assistant Commissioner was satisfied that

- the evidence from Mr. McWatters was given honestly, and that the content of his handwritten notes had informed the detail recorded in his typed notes;
- these notes were an accurate and reliable record of his discussions with the Respondent
- in his typed notes of their conversation on 9 April 2018, the witness had recorded that the Respondent had said he had done nothing wrong, and that he had been told by Ms McCusker and Mr Beattie (now KC), that his actions were in order; and
- that the Respondent had freely volunteered this information to the witness.

The Respondent had offered no evidence other than a broad denial in his Statement of Evidence of the allegations set out in the Investigation Report. His Statement of Evidence dated 10 November 2023 did not address the evidence of Mr McWatters. Accordingly, the CRF and the Respondent's Statement of Evidence were of very limited assistance to the Assistant Commissioner in his consideration of whether privilege had been waived.

The Assistant Commissioner had reminded himself that the test to determine a waiver of privilege was an objective one, and that he had to analyse objectively what the Respondent had done.

The Assistant Commissioner was satisfied that the conduct of the Respondent, when he informed Mr. McWatters on 9 April 2018 of the advice he had received - that he had done nothing wrong and that his actions were in order - amounted to a waiver of privilege, and that this conduct was inconsistent with the maintenance of confidentiality in the privileged advice.

It was clear to the Assistant Commissioner that the Respondent was not merely referring to the fact that he had received legal advice, but that he had also relied upon the content of the advice.

Accordingly, the Assistant Commissioner concluded that to ensure the fairness of the Adjudication process he should receive, in evidence, Ms. McCusker's full statement and her attendance note, so that the Respondent's actions could be considered in the context of that advice.

In coming to this conclusion the Assistant Commissioner had also carefully considered the submissions from the parties, and the helpful legal authorities referred to, including Re Konigsberg (1989) (above), Mohammed -v- MOD [2013] EWHC 4478 (QB), and Great Atlantic Insurance Co -v- Home Insurance Co [1981] WLR 529. In addition, the Assistant Commissioner was satisfied that his conclusion on the waiver of privilege issue was not inconsistent with the Respondent's Article 6 ECHR rights.

As the Adjudication Hearing had not yet proceeded to consider the Facts of the matter, the Respondent remained entitled to challenge and/or comment on the evidential value of all of the evidence presented by the Deputy Commissioner in due course at Stage 1 of the Adjudication. This included the evidence of Ms. McCusker and Mr. McWatters.

In summary, the Assistant Commissioner concluded that privilege had been waived by virtue of the Respondent's conversations with Mr. McWatters. For this reason, it was not necessary for the Assistant Commissioner to consider whether the evidence from Mr. Edwin Poots, at interview, amounted to a sufficient disclosure to be a waiver of privilege.

### **Resumption of Public Hearing**

On the resumption of the public hearing, Mr Coll KC briefly outlined the nature of the Deputy Commissioner's referral of his Investigation Report for Adjudication.

When invited to respond, Mr Canavan BL said that he had been instructed by the Respondent (during the lunch period prior to the resumption of the public hearing) to withdraw from representing him at the Adjudication Hearing. In a statement, provided through his solicitors, the Respondent asserted that:

*"It was a privilege to represent and serve the people of Lisburn & Castlereagh City Council"*.

*"At all stages I acted in the best interests of all constituents. At no time did I breach the code of conduct for councillors. These proceedings are a politically motivated attack on myself and my family. I have been denied a fair and proper hearing and my Article 6 rights have been breached. Representing the people of Lisburn and Castlereagh Council has been the greatest honour of my life."*

In response to a query from the Legal Assessor about the reference to an alleged breach of Article 6, Mr Canavan BL clarified that the statement was that of the Respondent and not of his legal representatives.

The Legal Assessor advised the Assistant Commissioner to retire to consider the appropriateness of proceeding in the absence of the Respondent. After doing so, the Assistant Commissioner adjourned the Hearing for the remainder of the day, stating that he would hold an administrative review in private the following day (16 November 2023) to determine the arrangements for the continuation of the Adjudication.

At the direction of the Assistant Commissioner an email was sent to the Respondent's solicitor Mr Patrick Higgins, at 15.36 on Wednesday 15 November 2023, advising him that the Assistant Commissioner would hold a Pre-Hearing Review (PHR) at 9.30am on Thursday 16 November 2023. The email noted the Assistant Commissioner's request to the Respondent to attend the PHR either in person at the offices of the Local Government Commissioner for Standards or, if he was unable to attend in person, by a WebEx link that was provided to the Respondent and his solicitor in a separate email to each of them.

At 19.18 on Wednesday 15 November 2023, Mr Higgins responded by email:

*"I have spoken to Mr Poots (the Respondent) by telephone this evening and made him aware of the contents of your email. Mr Poots has instructed me to advise the Assistant Commissioner that he will not be attending tomorrow morning either in person or remotely. He will also not be attending any future hearings".*

Given the content of this email, the Assistant Commissioner then considered whether he should exercise his discretion to conduct Stages 1 and 2 of the Adjudication process (the findings of Fact and the Determination of any Breach of the Code) on paper in accordance with the provisions of Paragraph 25 and 25b of the Adjudication Procedures:<sup>2</sup>

*Paragraph 25. The Commissioner has the discretion to adjudicate to determine whether there has been a breach without an Adjudication Hearing if he considers that he requires no further evidence and any one of the following circumstances apply;*

*Paragraph 25b. If the Respondent states that he does not intend to attend or wish to be represented at the Adjudication Hearing.*

---

<sup>2</sup> Paragraph 10 of the Adjudication Procedures also provides that that the procedure for an Adjudication Hearing shall be such as the Commissioner considers appropriate in the circumstances of the case.

The Assistant Commissioner noted the position adopted by the Respondent and considered that he required no further evidence. Accordingly, at the PHR held on 16 November 2023, which the Respondent did not attend, the Assistant Commissioner decided that it was appropriate and a proportionate use of his resources to proceed to conduct Stages 1 and 2 in accordance with the procedures of paragraphs 25 to 27 of the Adjudication Procedures. The Assistant Commissioner also considered that, given his stated position, this would not be unfair or cause prejudice to the Respondent.

Although the Respondent had expressed the intention not to engage any further with the Adjudication, the Assistant Commissioner decided that he should send the Respondent a list of the facts, together with the other supporting evidence that he intended to take into account in reaching his decision, in order to afford the Respondent the further opportunity to submit written representations, should he choose to do so.

The Assistant Commissioner issued Directions on 16 November 2023 confirming the arrangements for the further conduct of the Adjudication, and that the Adjudication Hearing would reconvene on 9 January 2024. These Directions were sent to the Respondent's solicitors who replied on 21 November 2023 stating that the Respondent:

*'has been advised of the notice and instructs that he will no longer be engaging with the Assistant Commissioner and will not be attending in January 2024 nor at any dates in the future.'*

## **STAGE 1 - FINDINGS OF FACT**

On 21 November 2023, the Assistant Commissioner sent the Respondent a List of Facts (and the other supporting evidence) that he intended to take into account in reaching his Decision, and the Respondent was given until 4pm on 13 December 2023 to submit any written representations. No representations were received from the Respondent. The same information was sent to the Deputy Commissioner who provided clarification in relation to the number of non-declarations and declarations made by the Respondent at the meetings of the Planning Committee referred to at paragraph 12 below.

Having considered:

1. The Investigation Report dated December 2021
2. Councillor Poots' Response Form dated 25 November 2022
3. Councillor Poots' Statement of Evidence dated 10 November 2023
  
4. Witness Statements:
  1. Ian Wilson: Former Lead Head of Planning at Lisburn and Castlereagh City Council
  2. Kate McCusker: Solicitor
  3. Andrew Weir: Process server
  4. Patrick Johnston: Planning consultant with PJ Design

5. Raymond Law: Resident of Comber Road, Hillsborough, County Down
6. David Young: Neighbour of Raymond Law
7. Jeffrey McWatters: Senior Investigating Officer with the Local Government Commissioner for Standards;

the Assistant Commissioner determined the Facts as follows:

1. Councillor Poots was elected in the local government elections held on 22 May 2014 as a representative of the Democratic Unionist Party (“DUP”).
2. Initially, he served in Lisburn City Council in shadow form until April 2015, when Lisburn and Castlereagh Councils merged as part of local government reforms. Thereafter he was a member of Lisburn & Castlereagh City Council (“the Council”). He did not stand for re-election at the local government elections held on 2 May 2019.
3. Councillor Poots signed an undertaking on 6 June 2014 that he had read and would observe the Local Government Code of Conduct for Councillors (“the Code”).
4. At all relevant times the Code applied to Councillor Poots.
5. Councillor Poots is the son of Edwin Poots MLA (DUP).
6. On appointment to the Council, the Respondent completed Declaration of Interest Forms on 20 June 2014, 22 March 2016 and 10 April 2018. In the Form for 10 April 2018, the Respondent recorded his employment by his father Mr Edwin Poots.
7. Councillor Poots was a member of the Council’s Planning Committee from 1 April 2015 to 2 May 2019; and served as Chair of the Committee between 19 June 2017 and 6 June 2018.
8. The Council has a Protocol for the operation of the Planning Committee. Paragraph 33 states that

*‘At the beginning of **every** meeting, Members will be asked to declare whether they have a pecuniary and/or significant private or personal non-pecuniary interest in any item on the agenda. Should a Member declare such an interest they must leave the meeting room for the duration of that item. Members will then be invited to return to the meeting room and notified of the Committee’s decision before the meeting reconvenes.’*

In addition, paragraph 70 of the Protocol states that

*'The Lisburn & Castlereagh City Council Planning Committee will have access to legal advice on planning matters at each of its meetings.'*

9. The records of the Council disclose that on 35 occasions between February 2016 and February 2018 Edwin Poots MLA spoke either in support of or against a planning application at a meeting of the Council's Planning Committee. The relevant date and planning numbers, together with the action taken by Councillor Poots (declaration/non-declaration), is set out in **Appendix A**. (These do not include meetings of the Planning Committee not attended by Councillor Poots.)
10. Edwin Poots MLA was interviewed on 5 July 2019 by Robert Bannon, an Investigator with LGES, in the course of which he stated that when his son (the Respondent) became a member of the Planning Committee he (Edwin Poots) was aware of a potential conflict of interest regarding the representations he made to the Planning Committee. Therefore, he asked his son to get clarity as to what his position would be. Edwin Poots stated that his son then spoke to the Director of Planning, Ian Wilson, who in turn spoke with the Council's Legal Advisor.
11. Edwin Poots also stated at his interview that the advice received, which was communicated to him by his son, was that he and his son were not to discuss the relevant planning issues, that his son was to make this clear at the meetings, and it was up to his son to decide on each application based on the merits of each case. Edwin Poots said that the legal advice was that *'it was entirely reasonable for his son to adjudicate on decisions that I am an advocate of provided there has been no interaction in the period before it.'*
12. On the 35 occasions when Edwin Poots MLA spoke either in support of or against a planning application, Councillor Poots did the following:
  1. On 20 occasions, he did not make any declaration with regard to his father's speaking on planning applications. He also remained in the Planning Committee and participated in decision making regarding the applications.
  2. On 15 occasions Councillor Poots made a declaration that his father would be speaking on a planning application, but he (Councillor Poots) did not believe this constituted a conflict of interest, as he had not pre-determined the outcome. He therefore stayed in the Planning Committee when the applications were discussed and participated in decision making regarding same.

3. On 4 occasions Councillor Poots declared that his father would be speaking on planning applications but that he (Councillor Poots) had not pre-determined the outcome. Councillor Poots then completed a declaration of interest form. He then stayed in the meeting when these applications were discussed and took part in decision making regarding same.
  4. On 3 occasions Councillor Poots used his casting vote on an application as Chairman of the planning Committee.
  5. On 2 occasions Councillor Poots requested speaking rights on behalf of his father.
  6. On 13 occasions Councillor Poots voted on an application in line with his father's representations. On the remaining 22 occasions Councillor Poots vote was not recorded.
  7. On 16 occasions Councillor Poots either proposed or seconded the material planning considerations to be recorded in the minutes of the Planning Committee.
13. Between April 2015 and March 2018, Kate McCusker, then a solicitor with Cleaver Fulton Rankin, Solicitors, was the main external legal adviser. A part of her role was to attend the meetings of the Planning Committee, and to provide advice on planning matters to councillors and to Council officials as and when required.
14. The evidence of Ms McCusker is that she spoke with Councillor Poots at a Planning Committee in 2017, and that she did so in the knowledge that he had been participating in the Planning Committees on a number of occasions when his father was speaking, either for or against, applications. She said she was also becoming more concerned as it was happening more frequently.
15. Ms McCusker spoke with Councillor Poots during a break in the Planning Committee meeting. She informed him that there could be an appearance of bias due to the fact that his father was speaking on specific planning applications at the same meeting, and that, for this reason, a reasonable member of the public might also conclude that he was approaching the matter with a closed mind. She also discussed pre-determination with Councillor Poots and provided advice to Councillor Poots in accordance with the Code and the document 'Application of the Councillor's Code of Conduct with regard to Planning Matters'. This latter document states at paragraph 35 *'that if a member has made up their mind on a planning application in advance of*

*the planning committee meeting they must not take part in the debate and vote and they must leave the room.*' This was the only occasion when Ms McCusker provided advice to Councillor Poots.

16. According to Ms McCusker, Councillor Poots stated that

1. he did not know when his father would be attending a Planning Committee meeting to speak on an application;
2. they did not discuss planning applications with each other;
3. he had not and would not pre-determine a planning application;
4. on this basis he did not think that he had a declarable interest that would prevent him from taking part and voting on the application;
5. he would declare on each occasion when his father was scheduled to speak on an application;
6. he had not predetermined any such application
7. he would determine the applications on the relevant facts.

17. In a telephone conversation on 9 April 2018 with Jeffrey McWatters, a Senior Investigating Officer in the Northern Ireland Public Service Ombudsman's Local Government Ethical Standards Directorate, Councillor Poots stated that he had done no wrong and that he had been told by Kate McCusker that his actions were *'in order'*.

18. Ms McCusker denies that she told Councillor Poots, at any time, that his actions were in order.

19. In a subsequent telephone conversation with Mr McWatters on 10 January 2019, Councillor Poots stated that he had been told that he had done nothing wrong and that Ian Wilson had told him that *'he had done everything 100% right'*.

20. Ian Wilson has no recollection of saying this to Councillor Poots. Mr Wilson held the position of Transition Programme Manager in the Council from late 2013/early 2014 until December 2015 when he became the Council's Lead Head of Planning (until March 2018). In his role, he developed the Council protocol on planning matters and organised training on this as well as the Code. According to Mr Wilson, Councillors were reminded of the protocol on declaring interests at the start of every meeting of the Planning Committee.

21. Allegations of a possible conflict of interest between Edwin Poots MLA and the Respondent in relation to planning matters were the subject of a report in the Belfast Telegraph on 26 April 2018. The report noted that Edwin Poots was a DUP MLA and former Health Minister, and that the Respondent was chair of the Council's Planning



Committee. It further reported that both persons denied any wrongdoing and stated that independent legal advice was taken on the matter which had at all times been followed.

22. Patrick Johnson, a planning consultant with PJ Design, and his son, were employed by Luke Poots to prepare and submit a planning application in respect of the property at 59 Comber Road, Hillsborough, County Down, which was owned by Councillor Poots and Edwin Poots.
23. Prior to the submission of a planning application, Patrick Johnson and Aidan Johnson met with Councillor Poots and Edwin Poots at 59 Comber Road, Hillsborough, County Down to discuss the application.
24. On 7 December 2017 the Council received planning application LA05/2017/1301/O (Form P1) from PJ Design which was for

*“Proposed 3 no dwellings to replace existing and conversion to existing stone outbuilding at 59 Comber Road, Hillsborough”.*

The applicant’s name was listed as Rachel M Gracey and the applicant’s address as 135 Hillsborough Road, Lisburn. PJ Design was recorded as the agent for the application. In Section 26 of the form, the person completing the form is asked:

*‘Are you/the applicant/the applicant’s spouse or partner, a relative of a member of staff in the council or an elected member of the council or their spouse or partner?’*

The response on the form was ‘yes’ and the entry ‘Luke Poots son’ was made on the form.

25. Section 42 of the Planning Act (NI) 2011 requires a planning application to be accompanied by an ownership certificate stating the current ownership of the land to which the application refers. In Form P1 at Section 27, Certificate A was initially completed and submitted with the application. Certificate C (likewise set out in Section 27) was not completed.

The relevant government website describes **Certificate A as follows – Sole Ownership and no agricultural tenants** - This should only be completed if the applicant is the sole owner of the land to which the application relates and there are no agricultural tenants.

**Certificate C is described on the same website as follows – Shared Ownership (Some other owners/agricultural tenants known)** - This should be completed if the applicant does not own all of the land to which the application relates and does not know the name and address of all of the owners and/or agricultural tenants.

26. Councillor Poots had instructed PJ Design that the planning application LA05/2017/1301/O was not to be made in his name and that it was to be made in his mother's maiden name, Rachel Gracey. He had also instructed PJ Design that neither his own address nor that of his parents was to be used in the application. The address used (135 Hillsborough Road) was a property owned by Patrick Johnson.
27. A P2 challenge (which related to the ownership of part of the land in question) was received in respect of application LA05/2017/1301/O by a third party.
28. The P2 challenge concerned the ownership of a lane leading to the land at 59 Comber Road, Hillsborough.
29. On 5 July 2018, the BBC reported that Councillor Poots had approached a neighbouring landowner to propose a deal to sell him an access strip to the land at 59 Comber Road, Hillsborough.
30. Raymond Law was the neighbouring owner of part of the lane leading to the land at 59 Comber Road, Hillsborough. In late 2017 or early 2018, Edwin Poots called to his home and offered him £8,000 for a strip of land so that Councillor Poots could build his own lane to access the land at 59 Comber Road, Hillsborough. Mr Law did not inform Edwin Poots if he would sell or not.
31. Approximately, one week later Councillor Poots called to Mr Law's home and gave him a pre-prepared handwritten note which stated as follows:  
  
*'Land: £100 per acre grass silage land  
Land: All hedges and drainage done  
Land: £8,000 for strip of land to make lane same size as current lane  
Active Farming: Active Farmer status to allow PPS21 building site for Mr Raymond Law worth £150,000-£200,000'*
32. Councillor Poots asked him to look at the note. There was no conversation about the contents of the note, but Councillor Poots asked that when he had made up his mind Mr Law should leave word at his mother and father's house.

33. Mr Law only read the note after Councillor Poots left. He interpreted the note as an offer:
- i. of £100 per acre for Councillor Poots to rent his land to cut silage;
  - ii. to trim the hedges on his land and put in drains to help stop flooding;
  - iii. of £8,000 to buy a strip of land from him; and
  - iv. of a site as an *'active farmer'*.
34. Mr Law was not an active farmer.
35. Shortly afterwards, Mr Law spoke with a neighbour, David Young, who part owned the lane and rented some of his land for silage. He gave Mr Young the handwritten note, telling him that he did not want to sell the land.
36. A number of weeks later Councillor Poots called to Mr Law's house and asked where the handwritten note was. Mr Law told him he had given it to Mr Young.
37. Mr Law decided not to sell his land but never informed Councillor Poots or Edwin Poots of this.
38. Edwin Poots MLA met with representatives of the Council, namely: Conor Hughes, Head of Planning and Capital Development and Donal Rogan, Director of Service Transformation, on 9 August 2018 to discuss application LA05/2017/1301/O.
39. An amended application was received by the Council from PJ Design on 31 August 2018. The description of the application had been changed to
- 'Proposed 2 no dwellings to replace existing at 59 Comber Road, Hillsborough'*.
- At his request, Councillor Poots was also added as an applicant alongside his mother and the applicants' address was changed to the home address of Ms Gracey and her husband Edwin Poots MLA. Section 26 of Form P1 identified Luke Poots as the son of Mrs Gracey.
40. A further amended application was received by the Council from PJ Design on 7 September 2018. On Form P1 Edwin Poots MLA had been added as an applicant alongside his wife and Councillor Poots. The address of the applicants, and the description of the application, was the same as the 31 August 2018 application.
41. Councillor Poots attended training on Guidance on the Code in June 2015, and attended Code of Conduct training in February 2018.

42. Councillor Poots failed to attend for interview despite ten requests to do so made by or on behalf of the Deputy Commissioner.

## **STAGE 2 - DETERMINATION ON BREACH OF THE CODE**

### **Introduction**

The evidential test for consideration of the facts found in this matter is whether or not it has been established, on the 'Balance of Probabilities', that there had been a failure to comply with the Code. The Assistant Commissioner has applied that test to his determinations of breach and has considered all of the evidence.

Although the Respondent instructed his legal representatives to withdraw from the Adjudication Hearing after the conclusion of the preliminary issue, the Assistant Commissioner has fully taken into account the response by the Respondent to the allegations against him set out in his Councillor Response Form and in his Statement of Evidence dated 10 November 2023. As previously outlined, the Assistant Commissioner was satisfied that it was appropriate to deal with the determination of breach of the Code in the absence of the Respondent and/or his legal representatives.

### **Application of the Code**

The Assistant Commissioner has also taken into account the following general provisions of the Code in his determination of the alleged breaches:

1. The Code applies to all Councillors. Parts 1 to 8, which include Principles of Conduct, Rules of General Conduct, Rules relating to the Registration, Disclosure and Declaration of Interests, and Rules of General Conduct, came into force on 28 May 2014. The application of the Code with regard to Planning Matters came into effect on 1 April 2015 (1.1)<sup>3</sup>.
2. The Code is supplemented by detailed Guidance for Councillors published by the Commissioner in May 2017 (1.6).
3. The Code states that the public has the right to expect high standards of behaviour from Councillors who are obliged to ensure that their conduct complies with the Code (1.5).
4. The Code details the principles and rules of conduct that Councillors are required to observe when acting as a Councillor and in conducting council business, and states that a Councillor's behaviour will be judged against these standards of conduct (1.5).

---

<sup>3</sup> The bracketed references at paragraphs 1 to 7 are to the relevant paragraph of the Code.

5. Every Councillor, and in this case the Respondent, must complete a declaration of acceptance of office before they can act as a councillor, and this declaration includes an undertaking that the Councillor has read and will observe the Code (2.3).
6. The Code makes it clear that it is a Councillor's responsibility to ensure that they are familiar with the Code and that they comply with it (2.6).
7. Part 3 of the Code outlines 12 principles of conduct which underpin the rules of conduct (3.1). These include the principles of Integrity, Objectivity and Honesty.

## CONSIDERATION OF ALLEGED BREACHES OF THE CODE

### Application of Common Facts

Of the Facts established, those numbered 1,2,3,4,5,6,7 and 41 are common to the consideration of each alleged breach of the Code.

### 1. Rules Relating to the Declaration of Non-Pecuniary Interests (4.3, 6.3, 6.4 and 4.16)

#### Paragraph 4.3

The Assistant Commissioner considered that, in the context of his findings of Fact, it was appropriate to consider this provision first. The Assistant Commissioner determined that the Respondent had breached paragraph 4.3 of the Code.

#### Reasons for determination

The Respondent had been elected in the local government elections held on 22 May 2014 as a representative of the Democratic Unionist Party (DUP). Initially, he served in Lisburn City Council in shadow form until April 2015, when Lisburn and Castlereagh Councils merged as part of local government reforms. Thereafter he was a member of Lisburn & Castlereagh City Council.

The Respondent had signed an undertaking on 6 June 2014 that he had read and would observe the Local Government Code of Conduct for Councillors.

The Respondent attended training on Guidance on the Code of Conduct for Councillors in June 2015, and attended Code of Conduct training in February 2018.

In his Declaration of Interest Form dated 10 April 2018, the Respondent recorded his employment by his father Mr Edwin Poots.

Paragraph 4.3 states that:

*'You must review regularly (at least annually and when your particular circumstances change) your personal circumstances and take steps to mitigate any conflict of interest in relation to your functions as a councillor. Such conflict may arise as a result of circumstances such as a change of business interests, a change in direct or indirect pecuniary interest required to be declared under section 28 of the 1972 Act or involvement on a new committee.'*

The Assistant Commissioner referred to the Northern Ireland Audit Office (NIAO) Good Practice Guide on Conflicts of Interest<sup>4</sup> which describes how a conflict of interest may be actual or perceived, and where a perception of a conflict of interest can be just as significant as an actual conflict of interest:

*'The key issue is whether there was a risk that a fair-minded outside observer, acting reasonably, would conclude that there was a real possibility of bias.'*

*'The interest... can also include the interests of close relatives or friends or associates who have the potential to influence the public official or Board member's behaviour.'*

The NIAO Guidance also states that a 'close relative' includes a parent.

The Guidance identifies that:

*'Actual, potential or perceived conflicts of interest can lead to doubt about the integrity of a public official or Board member and can impact on the reputation of the organisation itself. A conflict of interest that is concealed, even if unintentionally through ignorance of proper procedure, or managed poorly, created at best a risk of allegations or perceptions of misconduct.'*

In relation to a meeting with the Respondent, Ms McCusker, in her Statement of Evidence, referenced her attendance note, which recorded that:

- legal advice was provided to the Respondent when it became apparent his father would be speaking at Planning Committee meetings, either in support of, or against, specified planning applications;
- she informed the Respondent there could be an appearance of bias due to the fact his father was speaking on specific planning applications at the same meeting where he was a member of the planning committee;
- she had stated that the test under case law [*Porter v Magill*<sup>5</sup>] was whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility' of bias - "*Basically, would a reasonable member of the public conclude that there was a real possibility of bias and that Luke Poots was approaching the decision with a closed mind due to the fact his father was speaking on that application*";
- she had discussed pre-determination with the Respondent; and
- advice was provided to the Respondent in accordance with the Code of Conduct and the document 'Application of the Councillor's Code of Conduct with regard to Planning Matters', which stated that if a member has made up their mind on a planning

---

<sup>4</sup> The Northern Ireland Audit Office Good Practice Guide on Conflicts of Interest (paragraphs: 2.2, 2.3, 2.4, 2.5, 2.6 and 2.9) - [www.niauditoffice.gov.uk/](http://www.niauditoffice.gov.uk/)

<sup>5</sup> [2001] UKHL 67

application in advance of the planning committee meeting, they must not take part in the debate and vote and they must leave the room.

In his Declaration of Interest form dated 10 April 2018, the Respondent had listed his father, Edwin Poots, as his employer, but despite this, and the father son relationship, and the advices he received, the Respondent had failed to either regularly review his personal circumstances and or take steps to mitigate the clear conflict of interest that existed.

This was apparent from a consideration of the Respondent's actions on the 35 occasions when Edwin Poots MLA spoke at the Planning Committee. Applying the test in *Porter v Magill* to those meetings, the Assistant Commissioner found that there could be an appearance of bias on the part of the Respondent.

The Assistant Commissioner determined that the Respondent should have declared a conflict of interest, which arose from his father's involvement in the Planning Committee meetings, then left the Meeting without taking part in the decision making process. The Respondent's role as Chair of the Planning Committee from 19 June 2017 to 6 June 2018 heightened his responsibility in this regard. Further, the Respondent should have carefully considered whether he should continue to be a member of the Planning Committee where his father made regular appearances to speak on Planning Applications.

The Respondent had therefore breached paragraph 4.3 of the Code.

**Paragraphs 6.3 and 6.4:**

The Code is explicit in relation to how Councillors should manage their private and non-pecuniary interests in connection with their role. The Code contains separate and distinct requirements for (a) the registration of personal interests (both financial and otherwise) and (b) the declaration of any significant private or personal non-pecuniary interest in a matter arising at a council meeting and (if appropriate) withdrawal from the meeting. The alleged breaches in this part related to requirement (b).

Paragraph 6.3:

*"You must also declare any significant private or personal non-pecuniary interest in a matter arising at a council meeting".*

Paragraph 6.4:

*"You must declare any significant private or personal non-pecuniary interests in a matter as soon as it becomes apparent. You must then withdraw from any council meeting (including committee or sub-committee meeting) when the matter is being discussed. It is your own personal responsibility to determine, having regard to council advice and guidance, whether you have any such interest".*

The Assistant Commissioner also noted the provisions of paragraphs 4.13.10 to 4.13.14 of Guidance for Councillors and drew attention to paragraph 4.13.13 which states:

*“The requirements relating to disclosure and declaration of interests are complex. When deciding whether you are required to disclose or declare an interest you must consider whether there may be a perception that your interest may influence how you will vote or decide on the matter. **The key consideration is therefore not whether your decision would be influenced by your interest but whether a member of the public – if he or she knew all of the relevant facts - would perceive that the interest is such that it would be likely to influence your decision** (emphasis added).”*

The Respondent was a member of the Council’s Planning Committee from 1 April 2015 to 2 May 2019, and served as Chair of the Committee between 19 June 2017 and 6 June 2018. Over that time the Respondent had participated on 35 occasions when Edwin Poots MLA, the Respondent’s father, spoke either in support of or against a planning application. The Assistant Commissioner noted the breakdown of the Respondent’s actions during those Planning Committee Meetings (Appendix A sets out in detail the 35 occasions):

1. On 20 occasions, the Respondent did not make any declaration with regard to his father’s speaking on planning applications. He remained in the Planning Committee and participated in decision making regarding the applications.
2. On 15 occasions the Respondent made a declaration that his father would be speaking on a planning application. The Respondent, however, did not believe this constituted a conflict of interest, as he had not pre-determined the outcome. He therefore stayed in the Planning Committee when the applications were discussed and participated in the decision making.
3. On 4 occasions the Respondent declared that his father would be speaking on planning applications but that he had not pre-determined the outcome. The Respondent then completed a declaration of interest form and stayed in the meeting when these applications were discussed and took part in the decision making.
4. On 3 occasions the Respondent used his casting vote on an application as Chairman of the planning Committee.
5. On 2 occasions the Respondent requested speaking rights on behalf of his father.
6. On 13 occasions the Respondent voted on an application in line with his father’s representations. On the remaining 22 occasions the Respondent’s vote was not recorded.
7. On 16 occasions the Respondent either proposed or seconded the material planning considerations to be recorded in the minutes of the Planning Committee.

The Assistant Commissioner determined that:

- On 20 occasions, the Respondent had breached paragraphs 6.3 and 6.4 of the Code, where he had failed to declare an interest, had remained in the Planning Committee room and participated in decision making regarding the planning applications.
- On 15 occasions, the Respondent had breached paragraph 6.4 of the Code where he had made a declaration that his father would be speaking on a planning application, but he had remained in the Planning Committee room and participated in decision making regarding the planning applications.



## Reasons for determination

In relation to paragraphs 6.3 and 6.4, the Assistant Commissioner found that the father and son relationship, and one where both were elected representatives, was sufficient to create a 'significant private interest' and one that was particularly important in the context of the public interest in the integrity of the planning decision making process.

During a telephone call on 9 April 2018, with Mr McWatters (a Senior Investigating Officer), the Respondent said that he *"had done nothing wrong"* in relation to the allegations in the complaint, and that Ms McCusker, a solicitor retained by the Council to advise councillors on their role in committees, had told him he had done nothing wrong.

In her statement, Ms McCusker described being aware of the Respondent participating in the Planning Committee meetings when his father Mr Edwin Poots was speaking on an application. She stated:

*"Having been asked I spoke to him at a Planning Committee meeting in 2017, but I cannot be more specific than that. Prior to me speaking to Luke Poots I was aware that he had been participating in the Planning Committee on a number of occasions when his father was speaking on applications, and both Ian Wilson and I were becoming more concerned as it was happening more frequently. I spoke to Ian Wilson about this the evening I spoke to Luke Poots but I recall Ian Wilson and I discussed our concerns about this a number of times prior to me speaking to him, after Ian had asked me to do so. I provided advice to Luke Poots during a comfort break in the Chamber. It was just me and him in the conversation, given the nature of the matter I was discreet. Having been asked this is the only conversation I have ever had with Luke Poots about this issue".*

Ms McCusker refuted the Respondent's assertion that she had told him he had done nothing wrong:

*"I have been informed that Luke Poots told the LGES Directorate that I had previously told him his actions were "in order" regarding this issue. I never told Luke Poots this, at any time".*

The Assistant Commissioner noted that the Respondent had provided no facts or evidence to support his assertion about Ms McCusker and his denial of wrongdoing. The Assistant Commissioner accepted Ms McCusker's witness statement to be an accurate account of the conversations with the Respondent.

The Respondent had informed the Investigation Team that he had been told by Mr Ian Wilson (former Head of Planning for the Council) that he *"had done everything 100% right regarding declaring interests at meetings of the Planning Committee"*. In his statement to the Investigation, Mr Wilson said he had no recollection of ever saying this to the Respondent.

In short, the Respondent's position was that that he received advice to the effect that the decision whether to participate in Planning Committee Meetings, where his father was speaking on a planning application, was one for him to make based on the merits of the case, that he should not pre-determine the case, and that he had acted correctly. However, this is inconsistent with the evidence of Kate McCusker and Ian Wilson, and where there was any

difference as to the advice offered and the actions that the Respondent should have taken, the Assistant Commissioner preferred their evidence.

The Assistant Commissioner also noted that, whilst the Respondent had disputed the accuracy of the note made by Ms McCusker in his Councillor Response Form, he had not elaborated on this. In addition, he was invited on ten occasions to attend for interview, at which he could have provided his comments on this issue, but he did not avail of these opportunities.

The Assistant Commissioner considered that the Respondent's conduct at Planning Committee Meetings was unlikely to be seen by the public as the Respondent acting fairly in a significant decision making process.

Although there might be circumstances when the disclosure and declaration of interests, and the necessary action to be taken, could be complex, this was not the case here. In this case the facts spoke for themselves. The core point in all of the Planning Committee meetings was that the Respondent failed to make declarations of interest, or else declared an interest in some Planning Applications, and yet stayed to participate in the decision making process on the Applications where his father, Edwin Poots MLA, had spoken.

The Respondent had received training in the provisions of the Code, as well as advice specifically directed to his conduct at meetings of the Planning Committee, but he had, for whatever reason, chosen to ignore or disregard his obligations. It was the Respondent's personal responsibility to comply with the Code, and he had plainly failed to do so during Planning Committee meetings over a significant period of time, between February 2016 and April 2018.

The Assistant Commissioner concluded that these repetitive breaches of the Codes by the Respondent displayed, at the least, an indifference on the part of the Respondent to the requirements of the Code.

**Paragraph 4.16:**

*You must not:*

- a. *"Use, or attempt to use, your position improperly to confer on, or secure, an advantage for yourself or any other person".*
- b. *"Use, or attempt to use, your position improperly to seek preferential treatment for yourself or any other person; or*
- c. *Use, or attempt to use, your position improperly to avoid a disadvantage for yourself or any other person, or to create a disadvantage for any other person".*

The Assistant Commissioner made no determination.

**Reasons for no determination**

This alleged breach of the Code is also categorised within the rules relating to decision making, and the factual matrix which is relevant to the Assistant Commissioner's findings of breach of

paragraphs 6.3 and 6.4 of the Code also apply here. However, in view of those breaches, the Assistant Commissioner has determined that it is unnecessary to make a finding in respect of a breach of paragraph 4.16.

## 2. Rules Relating to Decision Making (8.1 and 9.3)

### Paragraph 8.1:

*When participating in meetings or reaching decisions regarding the business of your council, you must:*

- a. "Do so objectively, on the basis of the merits of the circumstances involved, and in the public interest.*
- b. Act fairly and be seen to act fairly.*
- c. Ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows).*
- d. Not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision".*

### Paragraph 9.3:

*"Your role as a Councillor is to represent the views and aspirations of your community through development of the local development plan, discussions with developers and council planning officers or deciding on planning applications. The Code (and any associated guidance) is intended to assist you in balancing the interests of developers and interest groups with taking planning decisions, by applying your local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community. This Code applies to Councillors at all times when involving themselves in the planning process, including taking part in the decision-making meetings of the council or when involved in less formal occasions, such as meetings with officers or the public. It applies equally to local plan development and planning enforcement as it does to planning applications".*

The Assistant Commissioner determined that the Respondent had breached paragraphs 8.1 and 9.3 of the Code.

### Reasons for determination

The Assistant Commissioner considered that it was appropriate to consider the Respondent's conduct in respect of alleged breaches of 8.1 and 9.3 of the Code in the context of his analysis of breaches 4.3, 6.3 and 6.4. Central to all of these alleged breaches was the Respondent's failure to make declarations and or to withdraw from meetings on those occasions noted at paragraph 12 of the Findings of Fact when his father, Edwin Poots MLA, attended and spoke in relation to planning applications.

The Assistant Commissioner again applied the test in *Porter v Magill* - "would a reasonable member of the public conclude that there was a real possibility of bias" on the part of the Respondent. He concluded there was adequate evidence to show a possibility of bias by the

Respondent, and or that that he had been making decisions in Planning Committee Meetings with a closed mind, due to the fact his father was speaking on planning applications. The Respondent had produced no evidence to the contrary.

Planning Application: LA05/2015/0342/O is an example of where a real possibility of bias existed. In that matter Edwin Poots MLA had made representations in support of this application contrary to the Planning Officer's recommendations. The Respondent remained in the meeting during his father's representations and participated in voting. The Respondent had chaired this meeting and had used his casting vote as Chair to support the application.

The Assistant Commissioner considered that it would be difficult, for such a member of the public, not to conclude the Respondent's conduct, in the Planning Committee meetings, showed that he was not acting fairly and showed a real possibility of bias.

The Assistant Commissioner stated that it was consistent with the reasoning set out in his determinations on breaches of 4.3, 6.3 and 6.4 of the Code, to find that the Respondent had breached paragraph 8.1 of the Code.

Paragraph 9.3 of the Code, which was within that part of the Code dealing directly with planning matters, also demanded the same adherence by the Respondent to act in a fair, impartial and transparent way. This had not been the case and the Assistant Commissioner found the Respondent had breached paragraph 9.3 of the Code.

### **3. Disrepute (4.2)**

*'You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.'*

The Assistant Commissioner determined that the Respondent had breached paragraph 4.2 of the Code.

#### **Reasons for determination**

In his consideration of this alleged breach, the Assistant Commissioner also had particular regard to his Findings of Fact 20 to 39.

In summary, these detail how a planning application in the name of Rachel M Gracey was made to the Council (LA05/2017/1301/O) relating to a property at 59 Comber Road, Hillsborough, which was owned by the Respondent and Edwin Poots MLA. The Respondent had engaged a planning consultant, PJ Design, to prepare and submit the planning application in his mother's maiden name, and he had instructed PJ Design that neither his own address nor that of his parents was to be used in the application. The address used (135 Hillsborough Road) was a property owned by Patrick Johnson.

The Application was, however, amended after a P2 challenge (which related to the ownership of part of the land in question – a lane leading to the lands at 59 Comber Road) was received.

An attempt was then made by the Respondent to purchase an access strip to the subject lands from a neighbour, Raymond Law, and that he gave Mr Law a handwritten note, which Mr Law read after the Respondent left. The note contained an offer of payment of £8,000 for the strip of land and referenced "*Active Farming: Active Farmer status to allow PPS21 building site for Mr Raymond Law worth £150,000-£200,000*".

Mr Law, who is not an active farmer, gave the note to David Young, another adjoining land-owner. The Respondent later asked Mr Law about the whereabouts of the note and was told that it had been given to Mr Young. Mr Law decided not to sell his land but did not inform either the Respondent or Edwin Poots MLA of his decision.

An amended planning application was received by the Council on 31 August 2018. The Respondent had been added as an applicant alongside his mother, and the applicants' address was changed to the home address of Ms Gracey and her husband Edwin Poots MLA. The Respondent was identified on the form as the son of Ms Gracey. A further amended application was received on 7 September 2018, which added Edwin Poots MLA as an applicant.

The Assistant Commissioner considered that this demonstrated that there had been at the outset of this application a conscious decision by the Respondent to conceal the identity of the actual applicant(s) for Planning Application. *The Assistant Commissioner agreed with the Deputy Commissioner that the onus on the Respondent to be open and transparent in the completion of the planning application was heightened given his role as a councillor, a member of the Planning Committee, and Chair of the Planning Committee at the time that the application was made.*

The Assistant Commissioner noted that the Respondent's conduct in relation to planning application LA05/2017/1301/O had been the subject of a report in the Belfast Telegraph on 26 April 2018 and was a matter of public interest.

In all the circumstances of this planning application, the Assistant Commissioner was satisfied that the Respondent had brought his position as a councillor, and the Council, into disrepute.

The Assistant Commissioner said the Respondent's breaches of the Code, as set out in his determination of the Respondent's breaches of paragraphs 4.3, 6.3 and 6.4 of the Code, also provided substantial evidence that the Respondent had conducted himself in a manner that could reasonably be regarded as bringing his position as a councillor, and his council, into disrepute. A crucial factor was the Respondent's deliberate and continued course of action, which ignored the requirements set out in the relevant sections of the Code and was contrary to the advice given to him by Ms McCusker and Mr Wilson.

Whilst Edwin Poots MLA was entitled to attend and make representations to the Planning Committee, it should have been self-evident to the Respondent that it was inappropriate for him to have any part in the determination of those planning applications about which his father had spoken.

#### 4. Failure to Comply with the Commissioner's Requests (4.6)

*'You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.'*

The Assistant Commissioner determined that the Respondent had breached paragraph 4.6 of the Code.

##### **Reasons for determination**

Despite ten requests to attend for interview in order to provide information to assist the Deputy Commissioner's investigation, the Respondent did not attend for interview.

The Assistant Commissioner considered the failure by the Respondent to comply with these numerous requests was self-evidently a breach by the Respondent of his obligations under paragraph 4.6 of the Code.

The Assistant Commissioner did not draw any adverse finding from the Respondent's decision to instruct his legal representatives to withdraw from further participation in the Adjudication Hearing after the determination of the preliminary issue, or from the fact that at no stage had the Respondent attended the hearing.

##### **TO SUMMARISE:**

The Respondent has breached the following sections of the Code:

- Paragraph 4.3
- Paragraph 6.3
- Paragraph 6.4
- Paragraph 8.1
- Paragraph 9.3
- Paragraph 4.2 and
- Paragraph 4.6

### **STAGE 3 - SANCTION**

The Sanction Hearing was held in public on 15 February 2024. The Respondent was not present nor represented.

When the Adjudication Hearing opened on 15 November 2023 the Respondent's legal representatives were present although he was not in attendance. As already outlined the Hearing was adjourned after the Respondent's legal representatives, acting on his instructions, withdrew. The Assistant Commissioner subsequently determined Stages 1 and 2 of the Adjudication on paper, and the determination of Facts and the Respondent's Breaches of the Code have already been set out.

Prior to the Sanction Hearing Councillor Poots had been informed of all relevant developments through his solicitors, who had acknowledged receipt of all correspondence on his behalf.

The Assistant Commissioner carefully considered if it was appropriate to continue the Hearing to deal with Sanction in the absence of the Respondent. He was satisfied that the Respondent was aware of the Hearing, and that, in all the circumstances, it was appropriate to do proceed, not least because the Respondent had expressly confirmed his decision not to participate. The Assistant Commissioner noted that although the Respondent withdrew his legal representatives from the Adjudication Hearing on 15 November 2023, his solicitors had continued to be the Assistant Commissioner's point of contact for the Respondent, and the Assistant Commissioner was satisfied that the Respondent has had both the benefit of, and the opportunity to access, legal advice. The Legal Assessor also confirmed to the Assistant Commissioner that it was appropriate to continue with the Sanction Hearing.

The Assistant Commissioner had sent a copy of his decision on the Facts and Breach of the Code to the Respondent's solicitors and to the Deputy Commissioner on 1 February 2024, with an invitation to make submissions on Sanction. The Assistant Commissioner received submissions for the Deputy Commissioner (these are set out at Appendix B), but none were received from the Respondent.

### **SUBMISSIONS ON SANCTION**

Mr Coll KC noted that there were no prior findings of breach of the Code against the Respondent, nor had there been any other investigation by the Deputy Commissioner into his conduct.

Mr Coll KC verbally supplemented his written submissions on the breaches of the Code which, he said, fell under four headings:

1. The non-declaration of non-pecuniary interests at paragraphs 4.3, 6.3 and 6.4 of the Code.
2. The rules relating to decision-making at paragraphs 8.1 and 9.3 of the Code.

3. Disrepute at paragraph 4.2 of the Code.
4. The failure to comply with the requests made on behalf of the Deputy Commissioner in the course of the investigation under paragraph 4.6 of the Code.

Mr Coll KC stated that the mitigating factors in the matter were limited by two inter-related factors, which meant that he denied himself an opportunity to present his perspective on the allegations, or to highlight other potentially mitigating factors.

First, the Respondent did not engage fully with the Deputy Commissioner during the investigation of this matter. Secondly, his decision not to participate fully in the Hearing of this matter and the related decision to withdraw his legal team from the Hearing on the first day.

He also noted the Respondent's apparent belief that his approach to declarations had been shaped by legal advice. However, the evidence from the person who provided that advice contradicted the Respondent's contention that the manner in which he conducted himself in the Planning Committee Meetings was in accordance with the Code and did not give rise to an appearance of bias.

Mr Coll KC drew attention to the fact that it appeared that not all of the 35 different planning committee matters referred to in the findings of Fact and Breach took place after the provision of the legal advice; approximately half occurred prior to the provision of the legal advice and half thereafter. In addition, Mr Coll KC suggested that, as a result of the advice that was provided, that there may have been a change in the Respondent's approach to the matters in the sense that declarations were then made although the Respondent remained at the meetings. However, it was difficult to be categorical about this and it was something that the Respondent could have addressed had he engaged with the Adjudication.

In relation to aggravating factors, Mr Coll KC contended that there were repeated failures to comply with the Code; multiple breaches of multiple provisions of the Code; and repeated breaches, in particular, of the rules relating to non-declaration of non-pecuniary interests. He also noted the finding that the Respondent's actions had brought the Council into disrepute, specifically in the context of planning application LA05/2017/1301/0.

Mr Coll KC said that the Respondent had intentionally failed to comply with the Code when approaching the issue of declaration and withdrawal at planning committee meetings, and that from the time he had received legal advice he was at the very least negligent in terms of his responsibilities under the Code. There also appeared to have been a willingness to deny the facts, despite clear evidence to the contrary. In addition, the Respondent had never accepted that he was in breach of his responsibilities under the Code. The Assistant Commissioner, he said, might also wish to consider if the Respondent had sought to unfairly blame other people, by asserting that he had relied on legal advice, although the Assistant Commissioner had determined that he did not receive advice to the effect that his actions were in accordance with the Code.



In considering sanction, Mr Coll KC said that this was somewhat of a unique case in terms of the number of breaches that had been determined, and those breaches had occurred over a sustained period of two years. Accordingly, he submitted that the appropriate and proportionate sanction must reflect the fact of multiple and wide-ranging breaches over that extended period of time. He referred to other decisions of the Commissioner set out in his submissions, noting that each case would turn on its own facts. Although there was no direct read across from these other decisions, they provided some parameters for consideration of the sanction in this case.

Mr Coll KC drew particular attention to the provisions of the Sanctions Guidelines relating to disqualification, which was the most severe option open to the Commissioner. Paragraph 19 stated that the factors which may lead to disqualification included one or more of the following:

*"The respondent having deliberately failed to abide by the Code" (19(c));*

*"Repeated failures to comply with the Code by the respondent..." (19(d)); and*

*"Bringing the council into disrepute" and "whether the extent of the reputational damage to the Council is so serious as to warrant a disqualification" (19(g)):*

Mr Coll KC also referred to the 'totality principle' which would allow the Assistant Commissioner to stand back and look at the overall seriousness and impact of the breaches, and take account of the public's concern, rather than looking at the seriousness and impact of each individual breach of the Code. Although the breaches in this matter were not coterminous, there was a large amount of overlap between them, and this should be taken into account.

Finally, although the Respondent was no longer a councillor, it was his submission that an appropriate period of time for disqualification to properly reflect the seriousness of this situation, the sustained period of time over which it occurred, the breadth of the breaches and the impact it has in terms of public concern and public confidence in the robustness of the return to local government level of planning processes in Northern Ireland, would be three and a half years.

With the Assistant Commissioner's permission, the Legal Assessor raised two points with Mr Coll KC relating to possible mitigations referred to in Appendix A of the Sanctions Guidelines. The Legal Assessor explained that although the Respondent had made the choice not to attend (and had had access to legal advice) he wanted to raise these points to ensure the fairness of the Hearing. Both points arose from a consideration of what the Respondent had said in his Councillor Response Form, his Written Statement, and comments to the Hearing made through his Counsel.

The first point arose from the Respondent's assertion that he acted at all times in the best interests of his constituents, and where one of the mitigating factors in Appendix A

encompassed a situation where the Respondent's actions may have involved a failure to comply with the Code but may have had some beneficial effect for the public interest.

In response Mr Coll KC stated that, whatever the Respondent thought, the Adjudication did not concern the merits or the outcome of the relevant planning decisions, but rather had to consider the process and perception of the Respondent's actions.

The second point arose from the fact that the Respondent was first elected in May 2014, and whether it could be that this fact, coupled with his chairship of the Planning Committee, could amount to mitigation by virtue of short service and inexperience.

Mr Coll KC stated that, whilst the Respondent was relatively fresh into elected office as a councillor, given the nature of the breaches and the overall circumstances the extent to which it may be relevant as a mitigating factor was somewhat limited.

## **DECISION ON SANCTION**

The Assistant Commissioner had considered the Sanction Guidelines. He noted that the principal purpose of a sanction was the preservation of public confidence in local government representatives, and that a decision on sanction should also support the following objectives: the public interest in good administration; upholding and improving the standard of conduct expected of councillors; and the fostering of public confidence in the ethical standards regime introduced by the 2014 Act. Thus, any sanction imposed will be justified in the wider public interest and will be designed to discourage or prevent the Respondent from any future failures to comply with the Code and to discourage similar conduct by others.

### **Mitigating factors**

The Assistant Commissioner agreed with Mr Coll's submission that it was difficult to determine any mitigating factors other than that the Respondent had no prior breaches of the Code. In coming to this conclusion, the Assistant Commissioner had fully considered the limited information provided by the Respondent, and the matters raised by the Legal Advisor, but he could not ascertain any additional mitigating factors.

The Assistant Commissioner had considered the length of service of the Respondent as a councillor and within the Planning Committee. Following election as a councillor, in May 2014, he had been appointed to the Council's Planning Committee in April 2015, after a year as a councillor. He became the Chair of that Committee in June 2017 after three years' service. The Assistant Commissioner believed the crux of the Respondent's conduct lay in his extensive failure to comply with the Code. He had read the Code, had received training on it, and had been given legal advice when performing his role in the Planning Committee. Further, at each meeting of the Planning Committee, the Council Protocol required the relevant rules on disclosure of interests and withdrawal from the proceedings to be read out. In spite of this, the Respondent had repeatedly not complied with the Code.

The Assistant Commissioner did not consider that 'length of time/experience' as a councillor was a mitigating factor in this case. The compliance with the Code was a fundamental

requirement for the Respondent to serve in the public office of a Councillor. It had been his personal responsibility to do so and he had failed in that regard.

The Assistant Commissioner reiterated Mr Coll's submission:

*"this is a personal responsibility matter, all persons elected to public office in local councils have that responsibility. It is theirs and theirs alone in the final analysis".*

The Assistant Commissioner found that the Respondent's conduct was not only a personal failure but was also a failure that brought his Council into disrepute. The Assistant Commissioner had considered and agreed with Mr Coll's submission:

*"It is further submitted that there appears to have been a willingness to deny the facts, despite clear evidence to the contrary. In addition, the Respondent has not at any stage accepted that he was in breach of his responsibilities under the Code of Conduct and indeed, he continued to deny any breach of the Code up to and including the moment in time when his legal team withdrew from the proceedings on 15th November 2023 on his instructions".*

These were multiple and wide-ranging breaches over an extended period. The Assistant Commissioner considered the evidence showed the Respondent's conduct to be deliberate and that short service or inexperience was not a mitigating factor.

The Respondent contended that he acted at all times in the best interests of his constituents. It was unnecessary to make a finding on this but, even assuming this to be true, the Assistant Commissioner did not accept that this would amount to a mitigating factor in the present case. Although the interests of some constituents may have been served by the Respondent's actions, that did not mean that his actions could be said to have been in the public interest. Rather his actions had to be viewed in the context of the findings of multiple breaches of the Code, and the impact that those breaches had on public confidence in local government.

### **Aggravating Factors**

The Assistant Commissioner noted Mr Coll's submissions and determined that the aggravating factors in this case were as follows:

- There were multiple breaches of the Code (acknowledging that some of the breaches were closely inter-related through common facts);
- The breaches occurred over a prolonged period;
- The breaches continued after and despite the legal advice that was given to the Respondent;
- The Respondent's actions were in breach of the Council's Protocol for the operation of the Planning Committee;
- The Respondent used his casting vote Chair of the Planning Committee on 3 occasions when his father made representations, and on one of these occasions it was to support an application that was contrary to the planning officer's recommendations;
- Planning is a matter of ongoing public interest;

- The Respondent's breaches of the Code had also brought the Council into disrepute;
- There had been substantial non-cooperation with the investigation;
- The Respondent continued to deny that he had done anything wrong despite the clear contrary evidence.

### **Sanction**

The Assistant Commissioner stressed that any sanction imposed must be justified in the wider public interest of preserving public confidence in local government representatives. The Assistant Commissioner had reminded himself that the purpose of Sanction was not to punish the Respondent, and that it should be designed to discourage or prevent future failings to comply with the Code or to discourage similar conduct by other Councillors.

The Assistant Commissioner had also considered the Commissioner's previous decisions involving disqualification including those outlined in the Deputy Commissioner's submissions on Sanction (Appendix B) which provided guidance on an appropriate sanction and which reflected the circumstances and seriousness of the breaches in the individual cases.

The Assistant Commissioner considered the available sanctions:

1. No action – this was not an appropriate sanction given the nature and extent of the Respondent's breaches.
2. Censure – likewise this was not an appropriate sanction in view of the findings of the Assistant Commissioner.
3. Because the Respondent was no longer a councillor, partial suspension and suspension were not available to the Assistant Commissioner.
4. Disqualification - this was the most severe option open to the Assistant Commissioner.

The Assistant Commissioner considered that the aggravating factors in this case so greatly outweighed any mitigating factors and, taking into account the extent and severity of the breaches of the Code, that disqualification was the only sanction that could be imposed in order to ensure the preservation of public confidence in local government. The imposition of this significant sanction and the length of the disqualification was intended to highlight the seriousness of his breaches of the Code and to discourage any similar conduct on the part of others.

The Assistant Commissioner disqualified the Respondent for a period of 4 years from being or becoming a Councillor and the disqualification is effective from the date of this written decision.

The Assistant Commissioner said this was unlike any previous Adjudications. An essential factor in this Adjudication had been the numerous breaches of the key provisions of the Code, which were fundamental to ensuring public confidence in the operation of Local Government and decision making, especially in the area of planning. The conduct by the Respondent had

been deliberate, it had flown in the face of legal advice and the Council's own Protocol, and had extended over a prolonged period. In those circumstances, the Assistant Commissioner considered that the length of disqualification had to reflect the seriousness of the matter, and in that respect, the period of disqualification had to be towards the upper end of what was permissible.

The Assistant Commissioner also drew attention to the statement from the Respondent following his withdrawal of legal representation at the Hearing on 15 November 2023:

*"It was a privilege to represent and serve the people of Lisburn & Castlereagh City Council".*

*"At all stages I acted in the best interests of all constituents. At no time did I breach the code of conduct for councillors. These proceedings are a politically motivated attack on myself and my family. I have been denied a fair and proper hearing and my Article 6 rights have been breached. Representing the people of Lisburn and Castlereagh Council has been the greatest honour of my life."*

The Assistant Commissioner said the Adjudication process had been impartial, open and transparent throughout, – there had been no political motivation to attack the Respondent or his family, nor had his Article 6 rights been breached. The Legal Assessor had ensured, in the absence of the Respondent, that the Hearing was conducted in a fair and efficient manner, and that it took account of his contribution to that process.

The Respondent had been legally represented until 15 November 2023. Following his withdrawal of his legal representation, he was kept informed of the further progress of the Adjudication and had been provided with the opportunity to attend and/or to provide representations to the Sanction Hearing. His response, however, had been that he did not intend to participate further in the Adjudication process.

The overriding obligation on the Assistant Commissioner was to conduct the Adjudication in a fair and efficient manner, and solely in accordance with the ethical standards framework based on the Code. That had been the Assistant Commissioner's sole consideration throughout the Adjudication.

## **COMMENT**

The Assistant Commissioner was concerned about the extent to which Lisburn & Castlereagh City Council had adequately monitored its Planning Committee, to ensure that it was being conducted with proper regard for the Code and in compliance with the Council's Planning Protocol, during the period that the Respondent was a member and, at times, the Chair of that Committee. From the witness evidence of Ms McCusker and Mr Wilson it was apparent there had been ongoing concern about the actions of the Respondent.

The Assistant Commissioner observed that this concern had been in existence over an extended period, and it was therefore surprising that the Council appeared not to have taken sufficient action to ensure compliance with the Code and its own Protocol. In this case the

Respondent's actions which had been found to be in breach of the Code and the Protocol had inevitably damaged public confidence in the work of local government.

#### **LEAVE TO APPEAL**

Pursuant to section 59 (14) of the Local Government Act (Northern Ireland) 2014 Councillor Poots may seek the permission of the High Court to appeal against a decision made by the Assistant Commissioner, which must be made within 21 days of the date that he receives written notice of the Assistant Commissioner's decision.

A handwritten signature in blue ink, appearing to read 'Ian A Gordon'.

Ian A Gordon  
Assistant Northern Ireland Local Government Commissioner for Standards  
4 March 2024

## APPENDIX A

## COUNCILLOR LUKE POOTS

Table of declarations (as referred to in paragraph 11 of the Findings of Fact)

Date and planning application no	Declaration / non-declaration
1. 5 March 2018 (LA05/2017/0682/O)	Declaration made
2. 1 February 2016 (S/2015/0008/O)	Declaration made
3. 4 April 2016 (LA05/2015/0696/O)	Declaration made
4. 4 April 2016 (LA05/17/0977/F)	Declaration made
5. 4 April 2016 (LA05/2015/0298/O)	Declaration made
6. 4 July 2016 (LA05/15/0750/O)	No declaration <sup>6</sup>
7. 1 August 2016 (LA05/15/0765/F)	No declaration
8. 3 October 2016 (S/2014/0910/F)	No declaration
9. 7 November 2016 (LA05/2015/0033/F)	No declaration

<sup>6</sup> The Committee Meeting minutes dated 4 July 2016 record that the Respondent advised “that he had attended meetings in respect of Application Number LA05/15/0750/O and had called the item in on behalf of another Councillor...” but no declaration, per se, was made.

10. 7 November 2016 (LA05/2016/0542/F) (also considered by PC on 8 May 2017)	No declaration
11. 5 December 2016 (LA05/2016/0648/F)	No declaration
12. 5 December 2016 (LA05/2016/0002/O)	No declaration
13. 6 February 2017 (LA05/2015/0570/O)	No declaration
14. 6 March 2017 (LA05/2015/0916/F)	No declaration
15. 3 April 2017 (LA/05/2015/0815/F)	No declaration
16. 3 April 2017 (LA/05/2016/0692/O)	No declaration
17. 3 April 2017 (LA05/2016/0676/F)	No declaration
18. 3 April 2017 (LA05/16/0627/F)	No declaration
19. 8 May 2017 (LA05/2015/0178/F)	No declaration
20. 8 May 2017 (LA05/2016/0518/F)	No declaration
21. 8 May 2017 (LA05/2016/0612/RM)	No declaration
22. 5 June 2017 (LA/05/2015/0568/F)	No declaration
23. 5 June 2017 (LA05/2016/0513/F)	No declaration



24. 7 August 2017 (S/2008/0537/RM)	Declaration made
25. 4 September 2017 (LA05/2017/0500/O)	Declaration made
26. 4 December 2017 (LA05/2017/0552/F)	Declaration made
27. 4 December 2017 (LA05/2015/0345/F)	Declaration made
28. 4 December 2017 (LA05/2017/0633/O)	Declaration made
29. 4 December 2017 (LA05/2015/0342/O)	Declaration made
30. 5 March 2018 (LA05/2017/0678/O)	Declaration made
31. 5 March 2018 (LA05/2017/1140/O)	Declaration made
32. 9 April 2018 and 4 June 2018 (LA05/2016/1050/F)	No declaration
33. 9 April 2018 and 4 June 2018 (LA05/2016/1050/F) This essentially reproduces entry 32, above.	See above
34. 6 August 2018 (LA05/2017/0097/F)	Declaration made
35. 3 September 2018 (LA05/2017/0977/F)	Declaration made

## APPENDIX B

CASE REFERENCES: C00196, C00287, C00292, C00396, C00397  
**LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 2014**  
**IN THE MATTER OF COUNCILLOR LUKE POOTS (THE RESPONDENT)**

---

### DEPUTY COMMISSIONER'S SUBMISSIONS ON SANCTION

---

#### Introduction

1. These submissions have been prepared by the Deputy Commissioner further to the Acting Commissioner's finding in this matter of a breach of seven provisions of the Code of Conduct for Councillors by the Respondent, Luke Poots. The provisions, which are listed in the order in they are found in the Acting Commissioner's findings, are:
  - i. Paragraph 4.3: *"You must review regularly (at least annually and when your particular circumstances change) your personal circumstances and take steps to mitigate any conflict of interest in relation to your functions as a councillor. Such conflict may arise as a result of circumstances such as a change of business interests, a change in direct or indirect pecuniary interest required to be declared under section 28 of the 1972 Act or involvement on a new committee"*.
  - ii. Paragraph 6.3: *"You must also declare any significant private or personal non-pecuniary interest in a matter arising at a council meeting"*.
  - iii. Paragraph 6.4: *"You must declare any significant private or personal non-pecuniary interests in a matter as soon as it becomes apparent. You must then withdraw from any council meeting (including committee or sub-committee meeting) when the matter is being discussed. It is your own personal responsibility to determine, having regard to council advice and guidance, whether you have any such interest"*.
  - iv. Paragraph 8.1: *"When participating in meetings or reaching decisions regarding the business of your council, you must: (a) "Do so objectively, on the basis of the merits of the circumstances involved, and in the public interest. (b) Act fairly and be seen to act fairly. (c) Ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making*

*process allows). (d) Not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision”.*

- v. Paragraph 9.3: *“Your role as a Councillor is to represent the views and aspirations of your community through development of the local development plan, discussions with developers and council planning officers or deciding on planning applications. The Code (and any associated guidance) is intended to assist you in balancing the interests of developers and interest groups with taking planning decisions, by applying your local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community. This Code applies to Councillors at all times when involving themselves in the planning process, including taking part in the decision-making meetings of the council or when involved in less formal occasions, such as meetings with officers or the public. It applies equally to local plan development and planning enforcement as it does to planning applications”.*
  - vi. Paragraph 4.2: *“You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute”.*
  - vii. Paragraph 4.6: *“You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner’s statutory powers”.*
2. The reasons for the Acting Commissioner’s findings on breach are noted at pages 20ff of his report, where they are presented under four headings: (i) rules relating to the non-declaration of non-pecuniary interests (paras 4.3, 6.3, and 6.4); (ii) rules relating to decision-making (paras 8.1 and 9.3); (iii) disrepute (para 4.2); and failure to comply with the Commissioner’s requests (and para 4.6).
  3. These submissions outline the Deputy Commissioner’s position on the sanctions that ought now to be imposed for the breaches in question. It is emphasised at the outset that the Deputy Commissioner considers that the breadth of the breaches (and, indeed, the proliferation of breaches in respect of non-declarations of interests) is such that disqualification for a period of time not exceeding three and a half years is merited.
  4. The Deputy Commissioner would confirm that these submissions have been prepared in the light of the Local Government Commissioner’s [Adjudication Procedures](#) (at paragraphs 67-68) and [Sanctions Guidelines](#). They are made on the understanding

that they may be augmented by oral submissions at the sanctions hearing in this matter that is to be held on 15 February 2024.

### The Adjudication Procedures

5. Paragraph 67 of the Adjudication Procedures requires that the Deputy Commissioner do the following:

- i. Provide information to the Acting Commissioner about any known previous breaches of the Code of Conduct by the Respondent.
- ii. Draw to the attention of the Acting Commissioner any mitigating factors. Factors that may be taken into account in this regard are noted at Appendix A of the Sanctions Guidelines.
- iii. Draw to the attention of the Acting Commissioner any aggravating factors. Factors that may be taken into account in this regard are also noted at Appendix A of the Sanctions Guidelines.

6. Paragraph 68 of the Adjudication Procedures references section 59(3) of the Local Government Act (Northern Ireland) 2014, which governs sanctions. That section reads:

*“59—(1) The Commissioner may make an adjudication on any matter by deciding whether or not any person to which that matter relates has failed to comply with the code of conduct.*

*...*

*(3) Where the Commissioner decides that a person has failed to comply with the code of conduct, the Commissioner must decide whether no action should be taken or whether the nature of the failure is such that the Commissioner should—*

*(a) censure the person;*

*(b) suspend or partially suspend the person from being a councillor;*

*or*

*(c) disqualify the person for being, or becoming (whether by election or*

*otherwise), a councillor.*

*...*

*(6) Where the Commissioner makes such a decision as is mentioned in subsection (3)(c), the Commissioner must disqualify the person for being,*

*or becoming (whether by election or otherwise), a councillor for such period as the Commissioner thinks appropriate but not exceeding five years”.*

## **The Respondent’s Circumstances**

### *Known previous breaches of the Code of Conduct*

7. The Deputy Commissioner can confirm that there were no prior breaches of the Code by the Respondent. This point is, however, to be read alongside the fact that the breaches in this case were sustained and occurred between 2016-2018. This is not, thus, a case of a “once-off”, time-limited breach.

### *Mitigating factors*

8. The scope for the Deputy Commissioner to outline mitigating factors in this matter is limited by reason of two, related factors.
9. The first is that Luke Poots did not engage fully with the Deputy Commissioner during the investigation in this matter – indeed, the Acting Commissioner has made a finding of breach of paragraph 4.6 of the Code of Conduct on this basis. In short, while there was some limited engagement from the Respondent at the outset of the investigation process, he did not attend for further interview despite ten requests that he do so. Such interviews would have given the Respondent an opportunity to present his side of the case and to highlight, what might now be regarded as, mitigating factors.
10. The second factor was the Respondent’s decision not to participate fully in the hearing of this matter and his related decision to withdraw his legal team from the hearing on its first morning. While the Acting Commissioner has stated at page 29 of this report that he did not draw any adverse finding from the Respondent’s decision to withdraw his legal team, the fact that the Respondent withdrew his legal team inevitably meant that he was unable to test and to present evidence at the hearing. In those circumstances, he again denied himself the chance to raise, what might now be regarded as, mitigating factors.
11. Without prejudice to the above points – and bearing in mind the content of Appendix A in the Sanctions Guidelines – the Deputy Commissioner would again note that there were no prior findings of a breach of the Code against the Respondent or, indeed, any investigation into him. The Deputy Commissioner would also note the Respondent’s apparent belief that his approach to declarations had been shaped by legal advice – albeit the evidence of, for instance, Kate McCusker contradicts the suggestion that he

had been advised that he would be acting in accordance with the Code by acting as he did.

Aggravating factors

12. The Deputy Commissioner would refer to Appendix A in the Sanctions Guidelines and would note the following:

- i. Repeated failures to comply with the Code. This is a case in which there have been multiple breaches of multiple provisions of the Code. There were repeated breaches, in particular, of rules relating to the non-declaration of non-pecuniary interests (paras 4.3, 6.3, and 6.4 of the Code).
- ii. Actions bringing the Council into disrepute. A finding to this effect was made in relation to paragraph 4.2 of the Code and planning application LA05/2017/1301/O.
- iii. An intentional failure to comply with the Code. The Deputy Commissioner is of the view that Luke Poots' intentionally failed to comply with the Code when approaching the issue of declaration and withdrawal. Given the evidence of Ms McCusker, he was at the very least negligent in terms of his responsibilities under the Code.
- iv. A willingness to deny the facts despite clear evidence to the contrary. The Respondent has not at any stage accepted that he was in breach of his responsibilities: indeed, he continued to deny any breach up to and including the moment that he instructed his legal team to withdraw from the hearing on 15 November 2024.
- v. Seeking unfairly to blame other people. This took form in the Respondent's reliance upon legal advice when the evidence indicates that he did not, in fact, receive advice that he would be acting in accordance with the Code.
- vi. Persisting with a pattern of behaviour that involves repeatedly failing to abide by the provisions of the Code. The evidence shows that Ms McCusker advised the Respondent about the potential difficulties associated with his participation in meetings of the planning committee. He wilfully continued to sit at meetings at which his father made representations and failed to make appropriate declarations on multiple occasions.

### Appropriate sanction

13. This is plainly a unique case in terms of the number of breaches that have been found by the Assistant Commissioner. Moreover, the breaches occurred over a period of some two years. This is, thus, a case in which the appropriate sanction must reflect the fact of multiple and wide-ranging breaches, whilst being proportionate in all the circumstances.
14. Pages 2-5 of the Sanctions Guidelines note the options that are open to the Acting Commissioner at this stage, namely: (a) no action; (b) censure in such terms as the Acting Commissioner thinks is appropriate; (c) partial suspension for such period of time as the Acting Commissioner thinks appropriate, but not exceeding one year; (d) suspension for such period of time as the Acting Commissioner thinks appropriate, but not exceeding one year; and (e) disqualification for such period as the Acting Commissioner thinks appropriate but not exceeding five years.
15. Sanctions have previously been imposed by the Acting Commissioner in a wide number of cases raising a diverse number of issues, which include:
  - i. [Brian Duffin](#). Conviction for sexual assault bringing Council in disrepute (para 4.2 of Code) resulting in five-year disqualification.
  - ii. [Ian Stevenson](#). Conviction for sexual assault bringing Council in disrepute (para 4.2 of Code) resulting in four-year disqualification.
  - iii. [Patrick Clarke](#). Convictions for fraud, and sexual assault (breach of paras 4.1 and 4.2 of Code) resulting in disqualification for three years.
  - iv. [Derek Hussey](#). Drink driving conviction (breach of para 4.2 of the Code) resulting in 15-months disqualification.
  - v. [Mervyn Rea](#). Failure to declare pecuniary interest when addressing planning committee in support of application (breach of paras 6.1, 6.2, 4.16(a) of the Code) resulting censure for reason that there had been an honestly held belief that no breach of the Code (Respondent also engaged in investigation process).
  - vi. [Alderman John Smyth](#). Case of non-declaration of non-pecuniary interest. Minor infraction found, resulting in partial suspension from planning committee for 3 months. The facts were that Mr Smyth had failed to make a declaration of interest at a meeting of his council's planning committee at

which his employer, Trevor Clarke MLA, had made representations in relation to (unsuccessful) planning applications. Mr Smyth had engaged with the investigation into the complaint against him.

- vii. [Declan Boyle](#). Failure to declare interests in relation to HMOs in the 'Holylands Area' of Belfast whilst sitting in meetings of Belfast City Council (breach of paras 5.2, 6.1, 6.2, 6.3, and 4.6 of the Code), resulting in censure. In this case, the Deputy Commissioner and Respondent had prepared a joint position paper for the Acting Commissioner in which Mr Boyle acknowledged that he had breached paras 5.2, 6.1, 6.2, 6.3, and 4.6 the Code, but not 4.2 on disrepute (the Deputy Commissioner did not pursue breach of that provision). The Acting Commissioner preferred censure as the preferred sanction, "with some hesitation", given the wider context to the case and the fact that, among other things, Mr Boyle had acknowledged his breaches of the Code.
- viii. [Jim Rodgers](#). Failure to declare interests in Belmont Bowling club and Ashfield school (breach of paras 5.2, 5.3, 6.3, 6.4 and 6.9) resulting in partial suspension for three months. In this instance, a sanction of partial suspension was imposed because of Mr Rodgers' exemplary record of public service, absent which a full suspension would have been imposed.
- ix. [Marc Collins](#). Tweet about John Finucane and his family (breach of paras 4.13(a), 4.2 and 4.6 of the Code) resulting in eight-month suspension.

16. The above, prior rulings provide some parameters for consideration of sanction in this case. In the first instance, it is of course apparent that this is not a case that overlaps with criminal convictions, and the Deputy Commissioner therefore submits that the fullest sanction of five years would not be appropriate. However, it is also true that this is not a case of a "once-off" breach or one in which the Respondent has acknowledged breach and engaged with the investigation process. The breaches in this case have multiple factual bases and the investigation into the complaints against the Respondent was faced with his obstruction/non-engagement. Comparisons with the other non-declaration cases are thereby imperfect. So, it is respectfully submitted, are comparisons with cases about social media commentary and other forms of expression.

17. The Deputy Commissioner would also refer to paragraph 19 of the Sanctions Guidelines, which relates to disqualification. This refers to disqualification in the context of, among other things, a Respondent "*having deliberately failed to abide by the Code*" (point (c)); "*Repeated failures to comply with the Code*" (point (d)); and



*“bringing the Council into disrepute”* (point (g)). In the Deputy Commissioner’s submission, the presence of such factors, allied to the aggravating factors that include a failure to engage with the investigation, point towards disqualification for a sustained period of time. As above, it is submitted that an appropriate period of time would be three and a half years.

Peter Coll KC  
Gordon Anthony BL  
9 February 2024



15 February 2024

## PRESS RELEASE

### Former councillor Luke Poots disqualified for 4 years

**Former councillor Luke Poots (Lisburn and Castlereagh City Council) has been disqualified from holding the office of councillor for 4 years following an Adjudication Hearing held today (15 February).**

The sanction was imposed after Assistant Commissioner for Standards Ian Gordon ruled that former councillor Poots had breached the Local Government Code of Conduct for Councillors by failing to declare a conflict of interest while sitting on the Council's Planning Committee between 2015 and 2019.

Assistant Commissioner Gordon also made reference to a planning application submitted originally in the maiden name of former councillor Poots' mother, and the lack of clarity in the original application that the former councillor was a joint owner of the land.

Between February 2016 and February 2018 there were 35 occasions when the former councillor was present that his father, Mr Edwin Poots MLA, spoke at the Planning Committee either in favour of or against a planning application.

On more than half of those occasions, the former councillor did not declare any conflict of interest. He also remained in the Planning Committee and participated in the decision-making process in relation to all 35 applications.

Assistant Commissioner Gordon found that the former councillor had received legal advice that his father speaking on specific planning applications at meetings when he was participating in the Committee could give the appearance of bias. He referred to the councillor's Code of Conduct, which states that if there are conflicts of interest councillors should make a declaration and withdraw from the meeting.

He considered that in not doing so members of the public could conclude that former councillor Poots had not acted fairly.

Assistant Commissioner Gordon highlighted it was the former councillor's personal responsibility to comply with the Code, finding that he was in breach of paragraphs 4.3, 6.3 and 6.4, which related to declaration of significant non-pecuniary interest and decision making.

He also found that he had breached paragraph 4.2 of the Code, which states that councillors must not bring their position of councillor, or the council, into disrepute.

Referring to the fact there were multiple breaches of the Code over a long period of time, and the former councillor's non-cooperation with the process, the Assistant Commissioner concluded that a disqualification of 4 years was an appropriate sanction.

**Notes:**

The Assistant Commissioner's full written decision will be made available shortly on the Commissioner's website at:

<https://www.nipso.org.uk/nlgcs/hearings>

Mr Poots may appeal to the High Court against this decision in accordance with the provisions of the Local Government Act (Northern Ireland) 2014.

**ENDS**

For further information contact Andrew Ruston on 07503640551 or [communications@nipso.org.uk](mailto:communications@nipso.org.uk)

## **Lessons Learned Following the Report of the Assistant Commissioner for Standards against a former LCCC Councillor**

### **1.0 Introduction & Report Purpose**

- 1.1 The Local Government (Northern Ireland) Act 2014 included a new ethical framework for local government in Northern Ireland. A key element of this was a mandatory code of conduct for councillors. The Northern Ireland Local Government Code of Conduct for Councillors was subsequently introduced on 28 May 2014. Part 9 of that Code (planning) was implemented from 1 April 2015. The Act imposes a requirement on councillors to observe the Code.
- 1.2 Given the change to the Code and the transfer of planning to local government, a comprehensive training plan was developed to ensure competency of those on the various Committees making decisions.
- 1.3 Following complaints against a former LCCC Councillor in 2017, the Assistant Commissioner for Standards issued a decision following investigation into the allegations. The hearing found that the former councillor had breached 7 paragraphs within the Code of Conduct for Councillors and subsequently suspended the individual from being a Councillor for a period of 4 years from the written decision in February 2024.
- 1.4 The purpose of this report is to identify any learnings from the Assistant Commissioner's findings with a view to minimising the risk and reputational damage to the Council in the future.

### **2.0 Summary of Issues**

- 2.1 A summary of the matters raised by the Assistant Commissioner and to be considered further in this review is as follows:
  - The action Councillors should take once they have declared a pecuniary or significant non-pecuniary interest regarding a matter to be considered by the Council, Committees or sub groups;
  - The action Councillors on the Planning Committee should take once a relative or employer indicates an intention to make representation on a planning application;
  - The steps Councillors should take where either they or their family submit a planning application where they have an interest in the land associated with the application;
  - Early intervention that could be taken by Members or Officers where concerns regarding declaration of interest exists; and
  - Increasing transparency in the declarations of interest held by the Council and in declarations of interest made during Planning Committee Meetings.

### **3.0 Terms of Reference**

- 3.1 Terms of Reference for this review were developed and agreed by the Corporate Management Team following a report presented to the Governance & Audit Committee on 20 March 2024. The key objectives of the review are to consider:
  - Any weaknesses identified by the Assistant Commissioner in this Council's processes relating to decision making;
  - Whether sufficient improvements have been made to the Council's Planning Protocol;

- Improvements made to policy, processes and training for Elected Members linked to their decision-making role;
- The role of officers in highlighting, reporting and recording of concerns or advice provided to Elected Members;
- What options exist to mitigate future reputational damage;
- The 35 cases referred to within the report and implications for the Council; and
- Whether recommendations need to be made to third party organisations or other councils relating to the Assistant Commissioner's findings.

#### 4.0 Breaches Identified by the Assistant Commissioner and Developing Actions

In reaching his decision, the Assistant Commissioner for Standards found the following paragraphs of the Code of Conduct for Councillors had been breached. Commentary has been added as appropriate in relation to proposed actions that could improve or refresh our compliance with the Code.

##### 4.1 Paragraph 4.2

*You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.*

- **Reminder 1 – Councillors to regularly reflect on their conduct as part of their role as an Elected Member to avoid bringing themselves or the council into disrepute.**

##### 4.2 Paragraph 4.3

*You must review regularly (at least annually and when your particular circumstances change) your personal circumstances and take steps to mitigate any conflict of interest in relation to your functions as a councillor. Such conflict may arise as a result of circumstances such as a change of business interests, a change in direct or indirect pecuniary interests required to be declared under section 28 of the 1972 Act or involvement on a new committee.*

An Internal Audit Report on conflict for interests for staff indicated that a nil return should not be assumed as no alteration to conflicts. As such, all officers must complete the conflict of interest form annually. For consistency in approach, rather than asking Members to advise of any new conflicts of interest annually, Members will be expected to complete and return a Conflict of Interest form. Note, a Conflict of Interest form was sent to all Councillors following the Local Government Election in May 2023. The annual request for updated circumstances was issued following the Annual Meeting, held on 7<sup>th</sup> June.

Furthermore, and to increase transparency to our citizens, stakeholders and interested parties, the Conflict of Interest register for all Members will be published on the Council's website and updated following the annual refresh.

- **Action 1 – Officers to issue Conflict of Interest Form to all Councillors each year, after the Annual Meeting**
- **Action 2 – Councillors must complete and return the conflict of interest form annually, or more frequently as and when required**
- **Action 3 – Publish annually a combined Elected Member Conflict of Interest Register**

- **Action 4 – advise Solace NI of the proposed requirement being adopted in LCCC with regards to the annual completion of a Conflict of Interest form by all Members.**
- **Reminder 2 – Councillors will refresh their conflicts of interest list during the course of the year should new pecuniary or non-pecuniary interests arise**

#### 4.3 Paragraph 4.6

You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.

- **Action 5 – Officers to recommend to NILGA that conflicts of interest and complying with the Commissioner for Standards/Ombudsman is strengthened in the standard Member induction training** (NB this could include case studies/examples to help Members ensure they recognise potential or actual conflicts; and that appropriate action is taken on a timely basis to protect themselves and the body corporate. This should also incorporate their responsibilities post term).
- **Reminder 3 - Councillors to note the requirement in law to comply with a Commissioner's request in connection with an investigation, even following the end of their term as a Councillor.**

#### 4.4 Paragraph 6.3

*You must declare any significant private or personal non-pecuniary interest in a matter arising at a council meeting. In addition to those areas set out in paragraph 5.2, an interest will also be significant where you anticipate that a decision on the matter might reasonably be deemed to benefit or disadvantage yourself to a greater extent than other council constituents. Any sensitive information mentioned in paragraphs 5.4 to 5.6 is not required to be given.*

- **Action 6 – Officers to update declaration of interest form to capture relevant guidance on what is a significant private or personal non-pecuniary interest, including the expected action by those who declare an interest.**
- **Action 7 - Amend the Protocol for Operation of the Planning Committee to note that, where a Councillor declares an interest and does not leave the room without providing valid justification, the matter should be challenged by the Chair of the Committee, or other Councillors. Similar principles to exist for all other Committees, Council and sub-groups.**
- **Action 8 – Member services officers to have immediate access at any Council, Committee, or sub-group meeting, details of the declared conflicts of interest of all Members with voting rights.**
- **Reminder 4 – Councillors to declare any significant private or personal non-pecuniary interest arising at a Council, committee or sub-group meeting**

#### 4.5 Paragraph 6.4

*You must declare any significant private or personal non-pecuniary interests in a matter as soon as it becomes apparent. You must then withdraw from any council meeting (including committee or sub-committee meeting) when the matter is being discussed. It is your own personal responsibility to determine, having regard to council advice and guidance, whether you have any such interest.*

- **Reminder 5 – Councillors should withdraw from the relevant meeting when the matter to which they have a significant private or personal non-pecuniary interest is being discussed**

#### 4.6 Paragraph 8.1

*When participating in meetings or reaching decisions regarding the business of your council, you must:*

- Do so objectively, on the basis of the merits of the circumstances involved, and in the public interest;\****
- Have regard to any particular advice provided by your council's officers, in particular, by the chief executive, the chief financial officer (where appropriate) or the council's legal advisers;*
- Take into account only relevant and material considerations and discount any irrelevant or immaterial considerations;*
- Give reasons for your decisions, when required to do so, in the interests of fairness, openness and accountability and in accordance with any statutory requirements;*
- Act in accordance with any relevant statutory criteria;*
- Act fairly and be seen to act fairly;\****
- Ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows);\****
- Not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision;\****
- Not organise support for, or opposing against, a particular recommendation on the matter being considered;*
- Not lobby other councillors on the matter being considered;*
- Not comply with political group discussions on the matter being considered, where these differ from your own views; and*
- Not act as an advocate to promote a particular recommendation in relation to the matter being considered.*

\*Paragraph 8.1 (the 4 bold statements) and 9.3 combined were the elements of the Code breached in relation to these 2 paragraphs.

- **Reminder 6 – Councillors to reflect on the 12 requirements in reaching decisions regarding the business of the Council.**

#### 4.7 Paragraph 9.3\*

Application of the Code of Conduct with regard to planning matters

*Your role as a councillor is to represent the views and aspirations of your community through development of the local development plan, discussions with developers and council planning officers or deciding on planning applications. This Code (and any associated guidance) is intended to assist you in balancing the interests of developers and interest groups with taking planning decisions, by applying your local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community. This Code applies to councillors at all times when involving themselves in the planning process, including taking part in the decision-making meetings of the council or when involved in less formal occasions, such as meetings with officers or the public. It applies equally to local plan development and planning enforcement as it does to planning applications.*

- **Reminder 7 – Councillors on the Planning Committee to continually reflect on their role in relation to the planning process.**

## 5.0 Declaration of Interests

5.1 Section 28 of the Local Government Act (Northern Ireland) 1972 requires members to declare any pecuniary interest, direct or indirect, that may be coming before the Council, Committee or Sub Committee. Pecuniary interests are your business interests (for example, your employment, trade, profession, contracts, or any company with which you are associated) and wider financial interests you may have (for example, investments, and assets such as land and property). In declaring a pecuniary interest, Members should verbally advise the Chair at the beginning of the meeting, record the pecuniary interest in the meeting register of interests and withdraw from the meeting for the duration of that report. Members should note that there are no exceptions for pecuniary interests and they must leave the room during the consideration of the relevant business.

5.2 The Code requires members to also declare any significant private or personal non-pecuniary interests. Non-pecuniary interests are those that do not involve business or financial matters and can include, for example, those interests that arise through a position of responsibility in, or membership of, a club, society or organisation. It is a member's responsibility to determine if they have a significant non-pecuniary interest in any matters being considered by the Council or its Committees. Where a significant non-pecuniary interest exists, members should verbally advise the Chair at the beginning of the meeting, record in the meeting register of interests and withdraw from the meeting. The only exceptions to withdrawing from the room for the duration of that discussion are as follows:

- If special dispensation has been granted by the Department under Section 29 of the 1972 Local Government Act (Northern Ireland) (this should be made available to the Council in advance of the meeting)
- On occasions, you may feel that it would be to your council's benefit if you were to remain in a council meeting when a matter in which you have a significant private or personal non-pecuniary interest is to be debated. Before doing so, you must consider whether your interest is so significant that it would be wrong in any circumstances for you to remain. If you remain in the room, you may only speak and vote on such a matter if :
  - **At least half of the council or committee would otherwise be required to withdraw from the debate due to their personal interests in the matter; or**
  - **Your withdrawal, together with that of other councillors of the council or committee who are required to withdraw due to their interests in the matter, would leave the council or committee without a quorum.**

**If you decide to remain in the meeting, you must declare that decision and your reasons for doing so.**

5.3 It would, however, be appropriate for you to remain at a council meeting and speak and vote on a matter in which you have declared a significant private or personal non-pecuniary interest if your interest arises because you are:

- A member of a public body; or



- A member or supporter of a charity, voluntary body or other organisation formed for a public purpose (ie not for the personal benefit of members)
- However, except where you have been appointed by your council as a representative on the organisation, you must not vote (although you may speak) on any matter directly affecting the finances or property of the organisation if you are a member of the organisation's management committee or governing body.
- **Guidance 1 – for circumstances where a Councillor on the Planning Committee works for an MLA or MP who wishes to make representation on a planning application under consideration, a pecuniary interest should be declared and the member should leave the room. There are no exceptions to this because there is a pecuniary interest.**
- **Guidance 2 – for circumstances where a Councillor on the Planning Committee is related to an MLA or MP who wishes to make representation on a planning application under consideration, a significant non-pecuniary interest should be declared and the member should leave the room. The member could remain in the room if they have been given dispensation by DFC to remain or where they believe it would be to the Council's benefit for the Member to remain. Any members deciding on this latter course of action should be prepared to be challenged by other Members of the Committee and/or by the CEO/Director either during or following the meeting, recognising an increased risk of the report potentially coming under greater scrutiny through the declaration of interest.**

## 6.0 Monitoring Declarations of Interest

- 6.1 The Assistant Commissioner was concerned about the extent to which Lisburn & Castlereagh City Council had adequately monitored its Planning Committee, to ensure that it was being conducted with proper regard for the Code and in compliance with the Council's Planning Protocol, during the period that the Respondent was a member and, at times, the Chair of that Committee. From the witness evidence...*"it was apparent there had been ongoing concerns about the actions of the Respondent"*.
- 6.2 The Assistant Commissioner observed that this concern had been in existence over an extended period, and it was therefore surprising that the Council appeared not to have taken sufficient action to ensure compliance with the Code and its own Protocol. The Assistant Commissioner indicated that the actions of the former councillor were found to be in breach of the Code and the Protocol and had inevitably damaged public confidence in the work of local government.
- 6.3 The Assistant Commissioner reiterated the Deputy Commissioner's submission.  
*"This is a personal responsibility matter, all persons elected to public office in local councils have that responsibility. It is theirs and theirs alone in the final analysis."*
- 6.4 Although this is a personal responsibility matter, it is worth considering the steps Council could take to action or intervene where non declaration of interests may occur. For the investigation carried out by the Deputy Commissioner for Standards, the complaints were first submitted to the Commissioner in December 2017 and a decision was issued to the Council on 8 March 2024, some 6 years later. Although the Commissioner's investigation will have been impacted by the Covid19 pandemic and the particular circumstances of the case, the Council needs to consider how such matters can be resolved quickly and effectively for the purposes of

minimising reputational damage, and minimising the cost to the public purse. In noting the Assistant Commissioner's comment about the adequacy of monitoring of the Council's planning committee, the Chief Executive wrote to the Assistant Commissioner for advice or guidance on what more the Council could have done to mitigate the ongoing concerns regarding conflict of interest.

- 6.5 In a response received on 11<sup>th</sup> June, the Assistant Commissioner indicated that the case was delayed significantly by the Covid19 pandemic however, it was clear that the solicitor had known for some time that behaviours of the former councillor could have been highlighted at an earlier stage. The Assistant Commissioner has referred this to the Ombudsman for consideration of what might be considered as best practice in such circumstances.
- 6.6 None of the officers involved in the case at that time remain in employment with the Council. Therefore, it is difficult to determine how long an awareness existed regarding non-declaration of interests by the former councillor. It may well be that the time taken to highlight the potential conflict of interest could reflect a new process embedding within the Council, as it had only transferred from Central Government in April 2015. Since that time, transparency in the decision-making process has improved significantly through the audio recording of all Planning Committee meetings and the voting preferences of Members being recorded where the decision is not unanimous.
- 6.7 The Head of Planning, supported by the legal advisor, insists and is assertive to ensure the Members engage with policy with appropriate reasoning in concluding a planning determination. The minute now only captures what the decision is but refers the reader back to the appropriate point in the audio recording where the full detail of the reasons for making the decision can be found. This removes the necessity for the reasons to be drafted into the minute as was our previous improved practice.
- 6.8 In the meantime, to improve transparency around declarations of interest made at the planning committee, and to increase monitoring of such, declarations of interest should be included as part of the annual performance monitoring reports submitted to the Planning Committee. To improve transparency across local government in Northern Ireland, it is recommended that this improvement be shared with Solace NI and NILGA.
- **Action 9 – Amend the Protocol for Operation of the Planning Committee to report annually for noting, all declarations of interest made relating to the work of the Planning Committee and to share this recommendation with Solace NI and NILGA.**
  - **Action 10 – Where the Council's legal advisor has concerns about the action of a Councillor following declaration of interest, the legal advisor should bring those concerns to the attention of the CEO/Director. Officers will confirm this position to the Council's solicitors appointed through the relevant framework.**

## 7.0 Planning Committee Decisions and Processes

### 7.1 Decisions

7.1.1 The Findings of Fact on Page 13, Section 12 of the Decision notice details 35 occasions (for 33 planning applications) where the former Councillor had a potential conflict of interest. However, the analysis below gives more nuanced description of the events and the outcomes of those application processes.

- 7.1.2 At page 2 of the Commissioner's report, Complainant 1 makes a complaint in respect of 4 applications and he stated that on 3 of the occasions the former councillor had a casting vote at the same meeting.
- 7.1.3 All decisions taken by the Planning Committee require a majority and in circumstances where the chamber is tied, the Chair has the casting vote. On review of the records we can only find on 2 occasions the former councillor, as Chair, used his casting vote. These were at separate meetings in December 2017 (LA05/2015/0345) and June 2018 (LA05/2016/1050). For the 31 other cases (we make a distinction between the number of occasions when the former councillor's father spoke, being 35 and the number of applications that the Commissioner reviewed which was 33), the vote of the former councillor alone did not have a direct impact on the outcome of the Committee's consideration on 24 of the 33 cases.
- 7.1.4 Details are outlined below of the outcome of the 2 applications that the former councillor used his casting vote:
- LA05/2015/0345 – 16 Dromore Road Hillsborough
- This application was for three dwellings inside the settlement limit of Hillsborough on previously developed land. It was recommended for refusal and approved contrary to the officer's recommendation with the Chair of the Committee using his casting vote following a tie. The dwellings are built and occupied.
- LA05/2016/1050 – Beanstown Road, Lisburn
- This application was for four dwellings inside the settlement limit of Lisburn on zoned housing land. It was recommended for approval and refused contrary to the officer's recommendation with the Chair using his casting vote following a tie. The application was subsequently approved at appeal and costs awarded against the council for bringing an unnecessary appeal. The dwellings are not built.
- 7.1.5 Of the 3 applications referenced at 7.1.2 by Complainant 1 where it is alleged the former councillor used his casting vote, in only 1 application did the former Councillor use his casting vote (this was application LA05/2015/0345). In the other 2 applications there was a majority vote of 5:4 against the officer recommendation to refuse.
- 7.1.6 Beyond the 2 applications referred to at 7.1.4, there are 7 other applications the former Councillor voted with his employer's (and father's) representation in a majority decision. The application references are LA05/2015/0342, LA05/2015/0765, LA05/2016/0542, LA05/2016/0676, LA05/2017/0633, LA05/2017/0097 and LA05/2017/0977. The latter application was a split decision but the casting vote was exercised by the new Chair for that year.
- 7.1.7 Consequently, there are 9 occasions where the former Councillor, exercising his vote, was critical to the outcome of the decision making process. The outcome of 2 of these 9 are highlighted above in paragraph 7.1.4. Of the other 7 applications:
- LA05/2015/0342 was withdrawn by the applicant and no further application was made
  - LA05/2015/0765 was approved and built
  - LA05/2016/0542 was withdrawn and the car park in Antrim Street was closed

- LA05/2016/0676 was approved and one of the dwellings was built
- LA05/2017/0633 was subject to judicial review proceedings remitted back to the council and subsequently refused and no further application has been submitted;
- LA05/2017/0097 was a retrospective development that was approved contrary to the officer's recommendation to refuse
- LA05/2017/0977 was withdrawn and then subsequently approved under delegated authority and is now built

7.1.8 The application subject to judicial review proceedings at 7.1.6 (LA05/2017/0633) and the application overturned at appeal at 7.1.4 (LA05/20165/1050) cost the council circa £110K in terms of legal costs and costs in bringing forward an unnecessary appeal.

7.1.9 More recently (March 2023), the NIAO issued updated guidance in respect of Planning fraud risk that highlights good practice standards for Elected Members based on abiding by the seven Nolan principals and the additional five principals adopted by the NI Assembly and set out in the NI Local Government Code of Conduct for Councillors. Consequently, it is intended that this NIAO guidance is incorporated within the council's overall planning improvement programme as prescribed training and part of the protocol for the operation of the Planning Committee.

7.1.10 The risk of a planning decision being overturned increases significantly where the Planning Committee votes against the recommendations made by the professionally trained Planning Officer. This is further supported in a recent set of judicial review proceedings against a planning decision made by Causeway Coast and Glens Borough Council (Ref: SCO12472). The judgement stated at paragraph 59 under the heading 'A cautionary word':

*[59] These proceedings provide an example, in my view, of the dangers of elected councillors rejecting the advice of professional planning officers without valid planning grounds for doing so. The analysis of the NIAO discussed above suggests that there may be more willingness on the part of council members to do so in relation to single houses in the countryside than in relation to some other types of development. Whilst it is entirely permissible for elected councillors (to whom planning powers have been given by statute) to exercise planning judgment in a different way to officers in many instances, or to give material considerations different weight than their officers might, they should be wary of stretching planning policy beyond its proper meaning or making decisions on grounds which are not legally defensible. Where they wish to depart from an officer's recommendation, it will often be better to discuss this in advance, including (at least in some cases) with the benefit of the officers' advice or legal advice as to whether there is legitimate scope for a different view to be taken. Where, as here, an unjustifiably generous approach is taken and a legal challenge ensues, this can result in delay and heartache for the planning applicant whom the councillors may have hoped to benefit; and in significant legal costs to the council concerned.*

- **Reminder 8 – the risks related to planning decision outcomes increase significantly where the Planning Committee overturns the recommendation of professional planning officers, more notably for single houses in the countryside.**

- 7.2 In summary of the 33 planning cases referred to in the Findings Report, the former Councillor used his casting vote on 2 occasions to overturn the recommendation from officers. In another 7 cases, the outcome of the vote was a margin of 1. Had the former Councillor declared an interest in these cases and left the room, the outcome may have differed and therefore would have been reliant on the vote of the Vice Chair/Deputising Chair in the event of a tie.
- 7.3 In addition to making declarations of interest, Members will be reminded of their obligations to engage with policy in framing any reason which is contrary to the officer's recommendation to ensure that the proper basis for making the planning decision is fully recorded and that there is openness and transparency in the decision making process.
- 7.4 The Council recognises that interested parties will have had the opportunity to engage with the council's complaints process, considered the appropriateness of taking judicial review proceedings or had recourse through the Planning Appeals process. This is where, on occasion, an application was decided contrary to the planning officer's recommendation and where the former Councillor's vote in particular was considered to be critical to the outcome.
- **Action 11 – As part of a continuous improvement journey, NIAO guidance to be included as part of the prescribed training in order to sit on the Planning Committee with a view to minimising risk to the council.**
- 7.5 Planning Guidance & Training
- 7.5.1 Following the Planning function passing to local government on 1<sup>st</sup> April 2015, a Protocol for the Operation of the Lisburn & Castlereagh City Council Planning Committee was introduced from that date. This was a newly transferred function to Local Government and significant improvements have been made to policy, procedures and processes over the past 9 years. This has been a combination of new Planning Advice Notes, internal and sector wide audits, recommendations from external bodies such as the PAC (Planning Appeals Commission), self-evaluation and outcomes from appeals to the PAC or through the judicial review system.
- 7.5.2 Paragraph 31 of the 2015 Protocol for the Operation of the Lisburn & Castlereagh City Council Planning Committee relates to Declaration of Interests and states:
- “At the beginning of **every** meeting, Councillors will be asked to declare an interest on any item on the agenda and must then leave the meeting for that item. Once discussions are complete, members will be invited to return to the meeting. Notification of the Committee decision will be provided before the meeting reconvenes.”*
- 7.5.3 On 1 March 2017, the Protocol was updated and the Declaration of Interests section was expanded as follows:
- “At the beginning of **every** meeting, Members will be asked to declare whether they have a pecuniary and/or significant private or personal non-pecuniary interest in any item on the agenda. Should a Member declare such an interest they must leave the meeting room for the duration of that item. Members will then be invited to return to the meeting room and notified of the Committee's decision before the meeting recommences.”*

7.5.4 *Where a Member, in advance of the relevant Committee meeting, has taken a firm view on the planning application (in essence they have “pre-determined” the application) that Member should make an open declaration at the beginning of the relevant meeting and leave the meeting for that entire item. Once discussions are complete, the Member (s) will be invited to return to the meeting. Notification of the Committee decision will be provided to the Member(s) before the meeting reconvenes.”*

7.5.5 The March 2017 Protocol also introduced a specific requirement for training as follows:

*“A Member shall not participate in decision making at meetings of the Planning Committee if they have not attended the training prescribed by the Council. Members of the Planning Committee shall also endeavour to attend any other specialised training sessions provided, since these are designed to extend the knowledge of the Member on planning law, regulations, procedures and development plans and to generally assist the Member in carrying out their role properly and effectively.”*

7.5.6 The minimum training to be undertaken by all Members includes training on the principles of good decision making and on Part 9 of the Code of Conduct for Councillors. If Members do not attend both of these courses, they cannot participate in the planning committee decision making process. Records are held by the Council’s HR & OD team and training is refreshed for Members following Local Government elections. It has been confirmed that the 11 Members of the current Planning Committee have all undertaken the minimum training requirements and will be subject to any further adoption of prescribed training such as the NIAO recent guidance on fraud risk in a planning context.

7.5.7 The Protocol relating to Declaration of Interests was further refined on 3<sup>rd</sup> May 2021 as follows:

*“At the beginning of **every** meeting, Members will be asked to declare whether they have any pecuniary and/or significant private or personal non-pecuniary interest in any item on the agenda.*

*Should a Member declare such an interest they must have regard for the Members Code of Conduct and it is recommended that they leave the meeting room for the duration of the item unless they have registered to speak on the item. Members will then be invited to return to the meeting room and notified of the Committee’s decision before the meeting recommences. In this circumstance the Member will be invited into the room to address the Committee and answer questions at the appropriate time.*

*Once discussions are complete, the Member(s) will be invited to return to the meeting room. Notification of the Committee decision will be provided to the Member(s) before the meeting reconvenes.”*

7.5.8 Improvements have been made to the planning protocol in relation to declarations of interest while all members of the Planning Committee have received the necessary training to participate in meetings. It should be noted that there is an annual review

of the planning protocol allowed for within the body of the documentation and this review has taken place on several occasions.

## 7.6 Options Available where Concern exists regarding a Planning Application Decision

7.6.1 Where a planning officer recommendation is overturned by the Committee or where concern exists over a non-declared conflict of interest, the following options exist:

### Actions available to Members

- Where the interest is known by other Committee Members or by officers, the matter should be raised at the earliest point possible, being at the Planning Committee, by other Members. The discussion should be captured within the minute of the meeting.
- Where a Member reflects on circumstances and considers that they should have declared an interest in an agenda item, the declaration of interest should be submitted retrospectively. Consideration would be needed as to whether the business should be referred back to Committee for reconsideration.
- Internal Fraud Risk Assessment – Members could refer the case to Internal Audit for internal investigation. This process was followed recently in relation to soil misrepresentation samples highlighted to Council by NIAO and NIEA. Dependent on the outcome, this could be escalated to the Commissioner for Standards for Local Government.
- Refer to the Commissioner for Standards for Local Government – noting the time taken to investigate the case against a former Councillor of the Council, this may not result in early intervention however, the case will be appropriately investigated in due course.

### Actions Available to Officers after the above options have been considered

- Any concerns noted by the legal advisor following declaration of interest should be brought to the attention of the CEO/Director by the legal advisor
- The CEO/Director to raise the non-disclosure directly with the relevant Councillor(s) – it is a Councillors responsibility to declare the interest however, in such circumstances, it would be appropriate for the CEO/Director to formally record details of the conversation and to share this with the relevant councillor. The outcome of this may be that no further action is required following the clarification provided; or the Member retrospectively declares the conflict of interest; or the CEO/Director considers one of the options below. Where the Member retrospectively declares the conflict of interest before any decision is issued, consideration would be needed as to whether the decision should be referred back to Committee for reconsideration. Officers may consult with our legal advisers on this on a case by case basis.
- Internal Fraud Risk Assessment – as above.
- Refer to the Commissioner for Standards for Local Government – as above.
- CEO instigates a Judicial Review of the Council Decision – proceedings could progress to quash the decision on the grounds of administrative error. This is only available for a time limited period following the decision of the Planning Committee. This option allows for the decision-making process to be corrected at minimum cost to the Council. For the cases referred to in the Assistant Commissioner's decision notes, a Judicial Review could not be instigated due to the passage of time since the original planning decision.
- Where the planning decision is for a refusal the applicant can take an appeal to the Planning Appeals Commission. Otherwise their recourse is to the judicial review courts or via the Council's complaints system leading to an escalation to the Commissioner's office.
- Revocation of the planning decision – It is a decision not to be taken lightly as there are significant cost implications for the Council. For the cases referred to in the Assistant

Commissioner's decision notice, none of these can be revoked due to the passage of time without first seeking leave to appeal to the High Court due to time limitations for such action.

- **Reminder 9 – Councillors to be aware of the options that exist to the Council to allow for quick and effective engagement with Elected Members where a declaration of a pecuniary or significant non-pecuniary interest has not been made. Early intervention in such circumstances is crucial.**

#### 7.7 Ongoing Improvements to the Planning Service

7.7.1 Recognising good practice guidance issued by the Northern Ireland Audit Office, recommendations from internal audit reports on the planning function and the NI wide improvement plan, 2 improvement projects remain outstanding for the service. These are to develop a LCCC specific planning improvement plan and a review of processes to measure and improve performance within the Planning Unit. Recognising our continuous improvement journey, the Council agreed at the Governance & Audit Committee on 13<sup>th</sup> June 2024 to include planning performance improvement as a key action for 2024/25. An improvement plan is under development and will be presented to the Corporate Management Team in the near future and thereafter, to the Planning Committee for endorsement.

- **Action 12 – Develop the Planning Improvement Plan and associated planning performance targets by 31<sup>st</sup> October 2024**
- **Action 13 – Implement the Planning Improvement Plan by 31<sup>st</sup> March 2025 and note any performance improvements through the annual Planning Improvement Plan reporting process.**

#### 7.8 Land Interest

7.8.1 Paragraphs 22 – 40 of the Findings of Fact within the Decision Notice (Pages 15-18) detail information regarding submission of a planning application by the former councillor on 7 December 2017. The process outlines steps taken to avoid the former councillor declaring an interest in land associated with a planning application. An amended planning application with the correct information was submitted on 7 September 2018.

- **Reminder 10 – Being a councillor requires the highest standards of probity and integrity. In submitting a planning application for land within the Council's boundary, councillors should ensure appropriate declaration of any interest, by them (and of their wider family), in the land.**

#### 8.0 Conclusion

8.1 This timely review of the Decision by the Assistant Commissioner allows the Council to reflect on processes and to remind all on the requirement to comply with the Code of Conduct for Councillors.

8.2 The Planning function transferred to Councils on 1 April 2015 and over the past 9 years, has undergone significant improvements as a result of training, self-assessment, new guidance, appeals and legal outcomes. As part of the Council's continuous improvement journey, an



improvement plan is in development to drive down our current performance trends in relation to planning decision making. In tandem with this, improvement work is ongoing at a NI wide level through joint work between Councils and DFI.

- 8.3 There are learnings from the review for all of local government and the action plan associated with this review should be shared with Solace NI and NILGA.
- 8.4 Both Officers and Members have a role to play in protecting the reputation of the Council and the wider local government sector. It is the individual responsibility of Members to declare pecuniary and significant non-pecuniary interests at Council, Committee and Sub Group meetings as required. However, it is hoped that this review acts as a refresh for all concerned and provides clarity on the steps that can be taken where a conflict of interest hasn't been declared. Furthermore, the proactive actions being proposed through this review should assist in improving openness and transparency to our citizens, stakeholders and those with an interest in the work of local government.
- 8.5 The role of the Planning Committee provides an opportunity to support or refuse new developments within the Council area. Strong justification for over turning planning officer recommendations is essential.

#### 9.0 Summary of Actions, Guidance and Recommendations

No.	Action	For Councillors or Officers	Action Complete? If no, action by when?
A1.	Issue Conflict of Interest Form to all Councillors each year, after the Annual Meeting	Officers	Yes, ongoing
A2.	Councillors must complete and return the conflict of interest form annually	Councillors	Yes, now issued annually. 2024/25 Declaration issued June 2024
A3.	Publish annually a combined Elected Member Conflict of Interest Register	Officers	No, 31 <sup>st</sup> August 2024
A4.	Advise Solace NI of the proposed requirement being adopted in LCCC with regards to the annual completion of a Conflict of Interest form by all Members	Officers	No, by 30 <sup>th</sup> September 2024
A5.	Recommend to NILGA that conflicts of interest and complying with the Commissioner for Standards/Ombudsman is strengthened in the standard Member induction training.	Officers	No, by 31 <sup>st</sup> July 2024
A6.	Update declaration of interest form to capture relevant guidance on what is a significant private or personal non-pecuniary interest, including the expected action by those who declare an interest.	Officers	No, by 31 <sup>st</sup> July 2024
A7.	Amend the Protocol for Operation of the Planning Committee to note that, where a Councillor declares an interest and does not leave the room without providing valid justification, the matter should be	Officers	No, by 31 <sup>st</sup> December 2024

	challenged by the Chair of the Committee, or other Councillors.		
A8.	Member Services Officers to have present at any Council, Committee, or sub group meeting, details of the declared conflicts of interest of all Members with voting rights.	Officers	No, by 31 <sup>st</sup> August 2024
A9.	Amend the Protocol for Operation of the Planning Committee to report annually for noting, all declarations of interest made relating to the work of the Planning Committee and to share this recommendation with Solace NI and NILGA	Officers	No by 31 <sup>st</sup> December 2024
A10.	Where the Council's legal adviser has concerns about the action of a Councillor following declaration of interest, the legal adviser should bring those concerns to the attention of the CEO/Director. Officers will confirm this position to the Council's solicitors appointed through the relevant framework.	Officers	No, by 31 <sup>st</sup> July 2024
A11.	As part of a continuous improvement journey a recommendation shall be to include the NIAO guidance as part of the prescribed training in order to sit on the Planning Committee.	Officers	No, by 30 <sup>th</sup> September 2024
A12.	Develop the Planning Improvement Plan and associated planning performance targets by 31 <sup>st</sup> October 2024	Officers	No, by 31 <sup>st</sup> October 2024
A13.	Implement the Planning Improvement Plan by 31 <sup>st</sup> March 2025 and note any performance improvements through the annual Planning Improvement Plan reporting process.	Officers	No, by 31 <sup>st</sup> March 2025
	Guidance		
G1.	For circumstances where a Councillor on the Planning Committee <b>works for an MLA or MP</b> who wishes to make representation on a planning application under consideration, a pecuniary interest should be declared and the member should leave the room. There are no exceptions to this because there is a pecuniary interest.	Councillors	Ongoing
G2.	For circumstances where a Councillor on the Planning Committee is <b>related to an MLA or MP</b> who wishes to make representation on a planning application under consideration, a significant non-pecuniary interest should be declared and the member should leave the room. The member could remain in the room if they have been given dispensation by DFC to remain or where they believe it would be to the Council's benefit for the Member to remain. Any members deciding on this latter course of action should be prepared to be challenged by other Members of the Committee and/or by the CEO/Director either during or following the meeting, recognising an increased risk of the	Councillors	Ongoing

	report potentially coming under greater scrutiny through the declaration of interest.		
	Reminders		
R1.	Regularly reflect on their conduct as part of their role as an Elected Member to avoid bringing themselves or the council into disrepute.	Councillors	Ongoing
R2.	Refresh conflicts of interest declared during the course of the year should new pecuniary or non-pecuniary interests arise	Councillors	Ongoing
R3.	Note the requirement in law to comply with a Commissioner's request in connection with an investigation, even following the end of their term as a Councillor.	Councillors	Ongoing
R4.	Declare any significant private or personal non-pecuniary interest arising at a Council, committee or sub group meeting	Councillors	Ongoing
R5.	A requirement to withdraw from the relevant meeting when the matter to which an Elected Member has a significant private or personal interest is being discussed	Councillors	Ongoing
R6.	Continue to reflect on the 12 requirements of Section 8.1 of the Code in reaching decisions regarding the business of the Council.	Councillors	Ongoing
R7.	Councillors on the Planning Committee to continually reflect on their role in relation to the planning process.	Councillors	Ongoing
R8.	The risks related to planning decision outcomes increase significantly where the Planning Committee overturns the recommendation of professional planning officers, more notably for single houses in the countryside.	Councillors	Ongoing
R9.	Be aware of the options that exist to the Council to allow for quick and effective engagement with Elected Members where a declaration of a pecuniary or significant non-pecuniary interest has not been made. Early intervention in such circumstances is crucial.	Councillors	Ongoing
R10.	Being a councillor requires the highest standards of probity and integrity. In submitting a planning application for land within the Council's boundary, councillors should ensure appropriate declaration of any interest, by them (and of their wider family), in the land.	Councillors	Ongoing

#### 10.0 Examples to assist Members with regard to declaration of interests:

The employer of a Councillor applies for planning permission of any sort – **Action Councillor should declare a pecuniary interest, complete a Declaration of Interest Form and leave the room.**

A Councillor on the Planning Committee is employed by an MLA or MP. The MLA or MP requests permission to speak to a Planning Application – **Action Councillor should declare pecuniary interest, complete Declaration of Interest Form and leave the room.**

A report is presented to Committee on a decision to award a contract for the development of a new IT system for the Landlord Registration System. Several Councillors declare an interest as they are a landlord – **Action, no action required and no requirement to leave the room, as there is no benefit to the Councillor.**

A sports or community group has applied for funding from the Council on the advice of a Councillor. A report has been presented to the Committee to outline the outcome of assessments. The local group are noted as being successful in the award of funding – **No declaration of interest required, as funding criterion only is developed by Committee. The assessment of applications and award of funding in line with criteria is progressed by officers. For the purposes of clarity for Members, the Code could be clearer on where a conflict would exist, perhaps holding an office, employed by or being part of the governing committee. This would differentiate advocating from representing. Officers will raise this point with DFC.**

A sports, advocacy or community group has applied for funding from the Council on the advice of a Councillor. A report has been presented to the Committee to outline the outcome of assessments. The local group has missed out on funding by 1 point. **The Councillor suggests an alteration to the assessment criteria or proposes increase in the funding pot to allow additional awards to be made. This could be deemed to be a significant non-pecuniary interest. In such circumstances, Councillors should avoid such proposals as public perception may suggest that the proposal was made to gain favour with an element of voters.**

A notice of motion referred to the Corporate Services Committee proposes writing to the Health Minister to request a pay rise for all staff in the Health family. Nine members of the Corporate Services Committee declare a pecuniary interest because they have immediate family working in the health sector. **Action – Councillors should declare the interest and complete the register of interests and leave the room, if the committee can continue with the minimum quorum. This is to avoid members of the public suggesting the Council's lobbying of a Minister was for a direct benefit to individual Councillor's financial circumstances. If quorum can't be met, then all Members return and Chair notes the rationale for returning to the room. Alternatively, should the Chair consider the matter to be too significant for those to declare an interest to vote, the matter could be referred to the next Council meeting for decision, if a quorum is likely.**

A report is presented to the Corporate Services Committee following a DFC notification that Councillors allowances have increased in line with inflation. This is a very challenging consideration for Members. On the one hand, there is a DFC recognition that cost of living is impacted by inflation and with 40 councillors from a variety of backgrounds, the financial implication for some will be greater than it is for others. On the other hand, some members may see the hardship being experienced by our residents and seek to deviate away from the DFC recommendation. Despite the long hours and family sacrifices that Councillors may have to make, it can be difficult to be seen to be voting one way or the other. **Action – short term, all Members should declare an interest and a vote should be taken. Officers shall explore further with DFC the possibility of such decisions being taken by DFC as the Department with responsibility for local government. Meanwhile, officers shall develop a report for**

**Committee to request that all future inflationary increases applied by DFC be adopted and thereafter to be noted at Committee.**

The NILGA corporate plan is presented to the Corporate Services Committee. Six Members of the Committee are nominated as Council representatives on NILGA. **Action – the members should declare a non-pecuniary interest but can remain in the room and speak and vote on the matter, as they have been appointed by the Council as a representative on the organisation.**

A report is presented to committee to indicate a request from NILGA to increase the payments made annually to NILGA Office bearers. Six members of the Committee are nominated as Council representatives on NILGA and one of those is an existing NILGA Office Bearer. **Action – The Office Bearer should declare a pecuniary interest and leave the room. The remaining 5 members should declare a significant non-pecuniary interest but can remain in the room and speak and vote on the matter, as they have been appointed by the Council as a representative on the organisation.**

An award of funding is to be made to Citizens Advice following receipt of a block grant from DFC. 2 members declare an interest (1 is appointed by Council to the Board of Citizens Advice and the other was appointed following a public recruitment process). **Action – Both members should declare a significant non-pecuniary interest however, both can remain in the room. The member appointed to the Board by the Council may speak and vote on the matter. The member appointed following a recruitment process may only speak on matters affecting the finances or property of the organisation, but cannot vote.**

A report is presented to Committee to seek agreement to award funding to a specific sports group following a successful application to the Community Investment Fund (CIF). An elected member is a Director on the sports group – **Action – Councillor should declare interest, complete register of interest and leave room for the duration of this agenda item.**

A report is presented to Committee to note the outcome of sport funding awards to 45 groups in the Lisburn Castlereagh area. Four Councillors are Directors on the board of 6 successful groups – **Action – no action as report is for noting only.**

## 11.0 References

*The Local Government Act (Northern Ireland) 1972* [Local Government Act \(Northern Ireland\) 1972 \(legislation.gov.uk\)](#)

*The Local Government Act (Northern Ireland) 2014*, [Local Government Act \(Northern Ireland\) 2014 \(legislation.gov.uk\)](#)

*The Northern Ireland Code of Conduct for Councillors*, Department for Environment, 27 May 2014 [Northern Ireland Local Government Code Of Conduct For Councillors \(communities-ni.gov.uk\)](#)

*The Northern Ireland Local Government Code of Conduct for Councillors – Guidance for Councillors from the Northern Ireland Commissioner for Standards*, Northern Ireland

Commissioner for Standards, May 2017 [Guidance-for-Councillors-from-the-Northern-Ireland-Commissioner-for-Complaints-April-2017-2-1 \(1\).pdf](#)

*Planning in Northern Ireland*, Northern Ireland Office, 1<sup>st</sup> February 2022 [NIAO Report - Planning in NI.pdf \(niauditoffice.gov.uk\)](#)

*Planning Fraud Risks*, Northern Ireland Audit Office, 1 March 2023 [Planning Fraud Risks | Northern Ireland Audit Office \(niauditoffice.gov.uk\)](#)

*Decision of the Assistant Northern Ireland Local Government Commissioner for Standards following an Adjudication Hearing held on 15 November 2023 and 15 February 2024*, Northern Ireland Local Government Commissioner for Standards, 8<sup>th</sup> March 2024 [Luke Poots | NIPSO](#)

# Protocol for the Operation of the Planning Committee

June 2024



**Ards and  
North Down**  
Borough Council

## CONTENTS

	<b>Page</b>
<b>Purpose of the Protocol</b>	<b>2</b>
<b>Remit of the Planning Committee</b>	<b>2</b>
<b>Size of the Planning Committee</b>	<b>4</b>
<b>Frequency of Meetings</b>	<b>4</b>
<b>Scheme of Delegation</b>	<b>5</b>
<b>Enforcement</b>	<b>5</b>
<b>Referral of delegated applications to the Planning Committee</b>	<b>6</b>
<b>Publication of Schedule of applications to be determined by the Planning Committee</b>	<b>7</b>
<b>Submission of Information</b>	<b>7</b>
<b>Format of Planning Committee Meetings</b>	<b>8</b>
<b>Public Speaking</b>	<b>9</b>
<b>Audio Recording of Planning Committee Meetings</b>	<b>11</b>
<b>Running Order</b>	<b>12</b>
<b>Committee Decision Making Options</b>	<b>12</b>
<b>Legal Adviser</b>	<b>16</b>
<b>Deferrals</b>	<b>17</b>
<b>Site Visits</b>	<b>18</b>
<b>Pre Determination Hearings</b>	<b>20</b>
<b>Training</b>	<b>21</b>
<b>Network</b>	<b>21</b>
<b>Review of Decisions</b>	<b>21</b>
<b>Review of Protocol</b>	<b>22</b>
<b>Appendix 1: Running Order for Planning Applications</b>	<b>23</b>



## PURPOSE OF THE PROTOCOL

1. The purpose of this protocol is to outline practical handling arrangements for the operation of Ards and North Down Borough Council's Planning Committee.
2. The protocol should be read in conjunction with the Council's agreed Standing Orders and the Code of Conduct for Councillors. It is not intended to replace either document. It should also be read alongside the Protocol for the Operation of Virtual Planning Committee, when such meetings are held virtually, such as during a national pandemic.

## REMIT OF THE PLANNING COMMITTEE

### *Development Management*

3. The main role of the Planning Committee is to consider planning applications made to the Council as the local planning authority and decide whether or not they should be approved. To this end, the Planning Committee of Ards and North Down Borough Council has full delegated authority, meaning that the decisions of the Committee, in respect of planning applications, will not go to the full Council for ratification.

### *Development Plan*

4. Ards and North Down Borough Council is required by Section 8 of the Planning Act (NI) 2011 to prepare a plan for its district. This plan forms the basis for public and private investment decisions, providing a degree of certainty as to how land will be developed. In law, planning applications must be determined in accordance with the development plan unless other material considerations indicate otherwise. This means that where land is zoned for a particular use, the Planning Committee should ensure it is reserved for that use: for example, an application for housing in an area zoned for housing should be approved unless the design and layout fails in terms of the environmental, open space and access standards, or its design and layout has a detrimental impact on the character of the area or neighbouring amenity.

5. The Planning Committee's role in relation to the Local Development Plan is to contribute to the development of and approve the Local Development Plan before it is passed by resolution of the Council. The Planning Committee should also ensure that the Local Development Plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that it is reviewed every five years, giving consideration to whether there is a need to change the Plan Strategy, or the zonings, designations and policies as contained in the Local Policies Plan.

### ***Development Plan Transition Arrangements***

6. Until such time as Ards and North Down Borough Council has adopted its Plan Strategy the local development plans for the Council area will be taken to be the extant Departmental development plans, namely, the North Down and Ards Area Plan 1984-1995 and the Ards and Down Area Plan 2015, with the draft Belfast Metropolitan Area Plan 2015 being a material consideration.
7. When the Council's Plan Strategy is formally adopted, the Local Development Plan will be the Council's adopted Plan Strategy and the extant Departmental development plans, namely the North Down and Ards Area Plan 1984-1995 and the Ards and Down Area Plan 2015, read together, with the draft Belfast Metropolitan Area Plan 2015 being a material consideration. If there is a conflict between the Council's Plan Strategy and the extant Departmental development plan(s) the conflict shall be settled in favour of the Council's adopted Plan Strategy.
8. When the Council has adopted its Local Policies Plan, the Local Development Plan will be the Council's adopted Plan Strategy and Local Policies Plan as defined in Section 6 of the 2011 Act.

### ***Enforcement***

9. The enforcement of planning controls is delegated to appointed officers with the Planning Committee receiving regular reports on the progress of enforcement activities.

## SIZE OF THE PLANNING COMMITTEE

10. Ards and North Down Borough Council Planning Committee comprises of 16 Members with no substitutions being permitted.
11. The quorum for the Planning Committee will be six (6) Members present and eligible to vote. Where there are less than six Members present eligible to debate an application and vote, the Committee shall be inquorate and the planning application cannot be determined. The application should therefore be withdrawn from the agenda and returned to the next Planning Committee meeting.
12. Where the Planning Committee becomes inquorate, not due to Committee Members being absent but due to Committee Members declaring an interest, the planning application concerned should be deferred to the next Planning Committee meeting to allow each Member to seek advice as to whether their interest of concern is in fact an interest which would prevent them considering and voting upon the planning application. In the event that a Member or Members, on receipt of advice, are comfortable that there is in fact no interest to prevent them considering and voting upon the application, the reasoning for such a position should be so recorded in the minutes of the next Planning Committee meeting.
13. In the event of Planning Committee still being inquorate, due to Members declaring an interest, the Council is deemed to not be able to determine the application, which is then referred to the Department.
14. The Head of Planning will normally attend all Planning Committee meetings in addition to planning officers presenting application reports and recommendations.

## FREQUENCY OF MEETINGS

15. In accordance with the Council's Standing Orders, Committees will be held on a monthly basis. The Planning Committee of Ards and North Down Borough Council will meet on the first Tuesday in every month at 7pm in the Council Chamber at 2 Church Street, Newtownards. In exceptional circumstances the Committee shall from time to time fix

its own day and hour of meeting and notify the Council. Committee meeting dates and times will be published monthly on the Council's website in advance of each meeting.

## **SCHEME OF DELEGATION**

16. Section 31 of the Planning Act (NI) 2011 requires the Council to produce a Scheme of Delegation for operation in its area. A Scheme of Delegation is where decision-making for local applications is delegated to an appointed officer rather than the Planning Committee, thereby enabling speedier decisions and improved efficiency.
17. The Council's Scheme of Delegation relates only to those applications that fall within the definition of Regulation 2 of the Planning (Development Management) Regulations (NI) 2015. Certain statutory restrictions that apply to the Council's scheme prevent particular types of application from being delegated to officers, thereby requiring them to be determined by the Planning Committee. The Scheme of Delegation agreed by Ards and North Down Borough Council reflects these restrictions and can be viewed on the Council's website.

## **ENFORCEMENT**

18. In accordance with the Planning Committee's Scheme of Delegation, the enforcement of planning controls is delegated to appointed officers. The Planning Committee will be informed of progress on cases and can request a report from officers to the Committee on any enforcement matter.
19. The Head of Planning will prepare a quarterly report on enforcement including the progress of formal enforcement cases which will be circulated to Planning Committee Members, detailing the number of live cases, details of notices issued, prosecutions and any other information deemed relevant.
20. An Enforcement Strategy detailing how enforcement action will be dealt with has been agreed by the Planning Committee and can be viewed on the Council's website.

## REFERRAL OF DELEGATED APPLICATIONS TO THE PLANNING COMMITTEE

21. A weekly list of validated applications will be prepared and circulated to all 40 elected Members and will be published on the Council website.
22. Elected Members of the Council can request that a delegated application be referred ('called-in') to the Planning Committee.
23. In such cases, Members must notify the Head of Planning of requests in writing or by email stating clearly the reason(s) for such requests. Valid planning reasons must be provided for all applications 'called-in'. Requests must be made within 25 working days of the application being made valid; however, Members should be aware that applications can be determined after the expiration of 14 days from the date the application is first advertised, neighbour notified or first published on the Council's website, whichever date is the later or latest.
24. In addition, where applications have been delegated to officers, Planning Committee Members will be notified by email, usually on a Monday (or next appropriate day taking account of public/bank holidays) of a list of delegated decisions made, but not yet issued, which will detail the reference number, proposal, location, decision, number of objections, and a hyperlink to connect to the relevant part of the Planning Portal to enable Planning Committee Members to view more details about the application. If considered appropriate, Planning Committee Members can then request that applications are 'called-in'. Such requests must be received via the [planning@ardsandnorthdown.gov.uk](mailto:planning@ardsandnorthdown.gov.uk) email inbox (marked as 'Call-In' in the subject line) by the specified time 48 hours later. It should be noted that applications for householder development, advertising consents, reserved matters (where not associated with a major category of development approval), renewal of outline approvals (subject to no change in policy framework), change of house type applications, listed building consents all of which have not attracted objections and which are recommended for approval will not be included in the weekly delegated list, but the decisions issued immediately.
25. In either of the above circumstances an authorised senior officer will then liaise with the

Chairperson or Vice Chairperson (as appropriate) to determine whether the reasons which have been set out constitute valid planning reasons so as to merit referral to the Planning Committee. The requesting Member will be advised if the request has been successful or alternatively, if the reasons do not constitute valid planning reasons and the request rejected.

26. The agenda for the next appropriate meeting will be amended as soon as possible to reflect those applications that have been 'called-in' from the delegated list.
27. The Head of Planning may also consider it prudent to refer a delegated application to the Planning Committee for determination.
28. Members of the public, MLAs or MPs **cannot** directly request that an application be referred to the Planning Committee.
29. The number and nature of delegated applications referred to the Planning Committee will be reviewed on a regular basis.

### **PUBLICATION OF SCHEDULE OF APPLICATIONS TO BE DETERMINED BY PLANNING COMMITTEE**

30. The schedule of those applications to be determined at the Planning Committee meeting will be published on the Council's planning website pages ten working days before that Planning Committee meeting.

### **SUBMISSION OF INFORMATION**

31. In the interests of efficient and timely decision-making on those applications being presented to the Planning Committee with a recommendation, it is imperative that **all relevant and appropriate information** as required has been received by planning officers, whether in support of or in opposition to proposals. To this effect **no additional information** will be accepted by the Council after 5pm on the Tuesday *prior* to the Planning Committee meeting scheduled to hear that application (one full week prior).

32. In addition, **no documentation** should be circulated at the meeting at any time to Members by speakers.

### **FORMAT OF PLANNING COMMITTEE MEETINGS**

33. Ards and North Down Borough Council will operate its Planning Committee in line with its approved Standing Orders.

#### ***Standard Items***

34. The agenda will allow for the inclusion of the following items:

- Notice of Meeting
- Apologies
- Declarations of Interests
- Matters arising from the minutes of the previous meeting
- Schedule of Planning Applications
- Development Plan Issues
- Enforcement Matters
- Budgetary Matters
- Performance Management Matters

#### ***Committee Papers***

35. All Planning Committee Members will be sent an agenda one week in advance of the committee meeting. The following papers (where appropriate) will also be provided:

- Minutes of the previous meeting;
- Details of Development Plan issues;
- Details of relevant Enforcement matters;
- Details of proposed pre-determination hearings;
- Details of non-delegated applications (including those brought back following

deferral) for consideration by the Planning Committee;

- Details of applications of regional significance with an impact upon the Council area in response of which the Council is a statutory consultee or where it may wish to make representations;
- Performance Management Reports.

36. When considered appropriate two sets of the detailed drawings will be made available in the Members' Room in both Church Street, Newtownards and in The Castle, Bangor, for inspection from the Thursday before and each day up to and including the day of the scheduled Planning Committee meeting.

37. The Chairperson and Vice Chairperson of the Planning Committee along with the Head of Planning (or authorised senior officer) will hold a briefing session with planning officers on each application to be considered in advance of the Planning Committee meeting.

38. Where necessary, planning officers will prepare an addendum before 10.30am on the day of the Planning Committee meeting to report any updates since the agenda was issued.

39. Planning Committee meetings will be open to the public.

### ***Declarations of Interests***

40. At the beginning of **every** meeting, Members will be asked to declare an interest in any item on the agenda and must leave the Council Chamber (including the Public Gallery) for that item. Once the item has been determined (or deferred), Members will be invited to return.

## **PUBLIC SPEAKING**

### ***Procedures for Public Speaking***

41. The following procedures will apply to Ards and North Down Borough Council Planning



Committee meetings:

- Requests to speak should be received by the Planning Department (in writing or by email) at least 5 working days prior to the scheduled Planning Committee meeting. Late requests will not be accommodated. The request must set out the material planning issues that the speaker wishes to raise.
- Requests to speak can only be submitted once the Schedule of applications to be heard has been published. The Planning Department will not accept requests made via representations (either in letters of support or objections) submitted in relation to any planning application.
- Written requests should be addressed to Ards and North Down Borough Council Planning Department and highlighted “Request to Speak”; Email requests should be sent to [planning@ardsandnorthdown.gov.uk](mailto:planning@ardsandnorthdown.gov.uk) and specify “Request to Speak” in the subject line.
- When a speaking request has been accepted, registered speakers must submit a copy of their speaking note to the Planning Department by 10.30am on the Friday prior to the scheduled meeting. Failure to provide by the specified time will result in cancellation of the speaking rights.
- Members, whether or not on the Planning Committee, may speak in opposition or support of a proposal – in the case of a Member of the Planning Committee, that Member must declare an interest and be excluded from any discussion and decision on the application;
- There is **only one 5-minute slot** for those speaking in opposition to an application, and **only one 5-minute slot** for those speaking in support of an application. Where there is more than one request to speak, the 5 minutes will be shared or one person can be appointed to speak;
- Members of the public (including agents/representatives) may wish to appoint an elected Member, or an MLA/MP to speak on their behalf or alongside them –

regardless, the 5-minute limit will still apply.

- Members of the public seeking to speak will be expected to have organised themselves in advance of the Planning Committee meeting and informed the Planning Department of details of those individuals intending to share the time or of an appointed speaker (and have submitted a copy of the speaking note by the time prescribed);
  - The Planning Committee can seek clarification from those who have spoken but must not enter into a debate on any issue raised;
  - No documentation should be circulated at the meeting to any Members by speakers;
  - Audio/visual presentations will not be permitted;
  - The exhibition of models and displays will not be permitted;
  - Applications where there will be speakers from the public will be taken first, where possible;
  - Planning officers can address any issues raised.
42. Where an application has been debated by Planning Committee but no decision made and it is then deferred for any reason, when it is returned to a subsequent Planning Committee meeting there shall be a further exercise of speaking rights, **only to those who registered in the first instance**, of 3 minutes only, (and providing a copy of speaking notes was submitted within the specified time frame) limited by the Chair to particular issues. A copy of the speaking notes must also be provided to the Planning Department by 10.30am on the Friday prior to the Planning Committee meeting where the application is being heard again. Failure to provide by the specified time will result in cancellation of speaking rights.

## AUDIO RECORDING OF COMMITTEE MEETINGS

43. From April 2019 audio recordings of each meeting will be made by the Council, with the

exception of items discussed 'In Committee'. These recordings will be posted on the Council's webpages after the minutes of the meeting have been ratified at full Council. Interested parties should listen to both the recording of the Planning Committee meeting and that of full Council, as items heard at Committee which relate to matters for which Planning Committee does not have delegated powers are subject to ratification by full Council. All comments made by speakers appearing before the Committee, whether elected representatives, planning agents or members of the public will be included within the recording.

## **RUNNING ORDER**

44. Details of the running order for discussion of planning applications is included as Appendix 1 to this Protocol.

## **COMMITTEE DECISIONS**

45. The main role of the Planning Committee is to consider applications made to the Council as the local planning authority and determine whether planning permission should be approved or refused.
46. A Planning Officer will prepare a Case Officer report containing a professional planning recommendation which will be circulated in advance. Members will be expected to appraise themselves of any relevant drawings/plans and other relevant information available to them on the Planning Portal. The application will be presented with a recommendation on whether the application should be approved, approved with conditions or refused. Plans and photographs may be shown as appropriate.
47. After the Planning Officer presents the report, Members will have an opportunity to ask questions of the Planning Officer relating to the proposed development, those speaking for or against the proposal, and debate the case.

### ***Committee Decision Making Options***

48. The Planning Committee will discuss applications presented to it during the Planning

Committee meeting before taking a vote on one of the following options:

- Approve the application with conditions as recommended;
- Approve the application with amended conditions;
- Refuse the application for the reasons recommended;
- Refuse the application with additional or different reasons recommended;
- 'Minded to' approve or refuse the application in contrast to the officer recommendation;
- Defer the application to allow additional information/clarification to be provided or a site visit to be arranged.

49. Any appropriate conditions/reasons for refusal must be proposed and seconded before being voted on by Members.

50. The Committee Chairperson has a casting vote.

51. A recorded vote will be taken where a motion is not unanimous whereby the names of Members voting for and against the proposal will be recorded manually and entered into the minutes.

52. Planning Committee Members can add, amend or remove conditions to an approval, (or add, amend or remove reasons for refusal) but they cannot amend the application itself (for example, by allowing a one-bedroom flat if the application is for a two-bedroom flat). Members will therefore seek guidance from the relevant planning officer as to the appropriateness of the proposal to add, amend, or remove a condition or reason for refusal. Any additional conditions should be proposed and seconded before being voted on by Members. Members should be aware that conditions can be tested at appeal and based on planning case law there are a number of requirements that they should therefore meet, namely that they should be necessary, relevant to planning and the development under consideration, enforceable, precise and reasonable in all other respects. An applicant also has a right of appeal to the Planning Appeals Commission in respect of all reasons for refusal.

### ***Decisions Contrary to Officer Recommendation***

53. The Planning Committee has to reach its own decision. Planning Officers offer advice and make a recommendation. Planning Officers' views, opinions and recommendations may, on occasion, be at odds with the views, opinions or decisions of the Planning Committee or its Members. There should always be scope for Members to express a different view from Planning Officers in appropriate circumstances.
54. The Planning Committee can accept, reject or place a different interpretation on, or give different weight to, the various arguments and material planning considerations.
55. Planning Committee decisions contrary to Planning Officer recommendation may be subject to appeal or to legal challenge. Members should therefore ensure that the planning reasons for the decision are set out and based on proper planning reasons prior to any resolution being made and voted upon thereafter. The Planning Officer should always be given the opportunity to explain the implications of the Planning Committee's decision.
56. If the Committee votes to overturn the recommendation of the Planning Officer by way of a "minded to approve or refuse the planning application" motion, the Member proposing the motion to overturn the recommendation must outline the reasoning and material planning considerations relied upon for reaching such a decision. Such reasoning should explain, as and when appropriate, why it is proposed to depart from the development plan, the departure from policy or policy interpretation relied upon and/or what material planning considerations are being attributed determining weight. The receipt of the reasoning and material planning considerations from the Member proposing the motion will ensure that the Committee is fully aware of the reasoning and material planning considerations upon which such a motion is based and allow the Planning Department to prepare a note of the reasoning, accompanied by either draft reasons for refusal or draft reasons for approval with draft conditions. This report will be presented at the next Planning Committee meeting to allow the Committee to consider its content. As a consequence of the tabling of the "minded to" motion, the planning application will be deferred to the next Planning Committee meeting to permit the Planning Department to prepare this report. As part of the deferral of the application

the Committee, Chair of the Committee, or Head of Planning, may seek legal advice on the robustness of the reasons for refusal or the reasoning and conditions of approval. Any such advice will be provided to the Committee in advance of the resumption of the consideration of the planning application to allow them to consider same.

57. No additional speaking rights will be afforded to any person unless at the Chairperson's discretion he/she authorises same. Such speaking rights will be a maximum of 3 minutes.
58. In the event that a Member tables a motion contrary to the recommendation of the Planning Department seeking to approve or refuse the planning application (other than a "minded to" motion) the Member proposing the motion to overturn the recommendation must set out the reasoning and material planning considerations relied upon for reaching such a decision prior to tabling the motion and the Committee voting on same. Such reasoning should explain, as and when appropriate, why it is proposed to depart from the development plan and/or the departure from policy or policy interpretation relied upon and/or what material planning considerations are to be attributed determining weight.
59. Decisions contrary to a Planning Officer's recommendation, and full details of the Members' reasoning for attaching differing weight to material considerations or departing from planning policy or the development plan, must be formally recorded in the Planning Committee minutes, ratified at the next Planning Committee meeting and a copy placed on the planning application file / electronic record.
60. The Planning Committee and Members tabling motions to overturn recommendations of the Planning Department should be mindful of the ability to seek costs on appeal to the Planning Appeals Commission or potential costs liability that may arise through any legal challenge brought against such a contrary decision.

### ***Appeal Contrary to Officer Recommendation***

61. In the event of an appeal against a refusal of planning permission contrary to a Planning Officer's recommendation, planning consultants or different planning officers than those

who made the original recommendation may be appointed to represent the Council at appeal.

### ***Decisions Contrary to Local Development Plans***

62. Planning decisions should be taken in accordance with the Local Development Plan (in so far as it is relevant to the application) unless material considerations indicate otherwise.
63. Should a Planning Committee Member propose, second or support a decision contrary to the local development plan, they will need to clearly identify and understand the planning reasons for doing so, and clearly demonstrate how these reasons justify overruling the local development plan.
64. The reasons for any decisions which are made contrary to the development plan must be formally recorded in the minutes and a copy placed on the planning application file / electronic record.
65. All decisions, whether taken by the Council's appointed Planning Officer, or by the Planning Committee, are decisions made by Ards and North Down Borough Council and may be subject to challenge either by judicial review or appeal.

### **LEGAL ADVISER**

66. Ards and North Down Borough Council will have access to legal advice to support the planning function. Members may require the Legal Adviser to provide legal advice on an issue which arises during the course of a meeting of the Planning Committee. The Director of Regeneration, Development and Planning, and the Head of Planning, shall each also have the ability to exercise discretion regarding the requirement for attendance of the Legal Adviser at Planning Committee. In such circumstances, the Committee shall meet 'in Committee' with only Members of the Planning Committee, presiding officials and the legal adviser(s) remaining in the room. For the avoidance of doubt, all councillors who are not Members of the Planning Committee and Members of the said Committee who have chosen to speak as a supporter or objector to an

application, will be required to withdraw from the room while the legal advice is provided on the matter arising.

## DEFERRALS

67. The Planning Committee can decide to defer consideration of an application to the next Planning Committee meeting to:

- allow additional information/clarification to be provided (including provision of legal advice);
- allow a site visit to be arranged; or
- enable consideration of a 'minded to approve or refuse the planning application' reasoning.

Such a decision should be proposed, seconded and subject to a majority vote.

68. Members of the Planning Committee should be aware that deferrals will inevitably have an adverse effect on processing times and will prolong future meetings, and therefore should be used as an exception. Members should therefore restrict themselves, where possible, to one deferral only per application. In addition, there should be clear reasons why a deferral is necessary.

69. Members should not seek to defer an application in order to seek to re-design or negotiate amendments to an application. The Committee must determine the proposal as presented before it.

### ***Minutes of Planning Committee Meetings***

70. Written minutes will be recorded at all Planning Committee meetings which will be published on the Council's website. All minutes taken at Planning Committee meetings, although not verbatim, must reflect the discussions and decisions taken during the meetings as these could be used as evidence should any complaints be made about how decisions were taken, or a decision appealed to the Planning Appeals Commission.



## SITE VISITS

71. Planning Committee site visits can be useful to identify very important features of a proposal that may be impossible to convey in a written report or by photographs, video, plans and drawings. Site visits can cause delay and should only be used where the expected benefit is substantial.
72. Planning Committee visits will normally be arranged by the Head of Planning, in consultation with the Chairperson, where in their judgement the substantial benefit test applies, i.e.
- The impact of the proposed development is difficult/impossible to visualise from the officer's report, photographs, video, plans, drawings and any other supporting material;
  - There is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing;
  - The proposal is particularly contentious;
  - Non-visual considerations such as noise and smell are key issues on which the application will be determined.
73. If Planning Committee Members defer consideration of an application for a site visit this should only follow a formal proposal, the substantial benefit test and the vote being taken. The reason for deferral for a Planning Committee site visit shall be minuted.
74. The purpose of the Planning Committee site visit is a fact-finding exercise and therefore public rights of attendance/speaking do not apply. The purpose is not to make a decision on the application.
75. Where a site visit is agreed, the planning case officer will contact the applicant/agent to arrange access to the site. Invitations will then be sent to Members of the Planning Committee.
76. At the site visit the merits of application should not be discussed. The purpose of any

discussion is to direct Planning Committee Members to the matters they have come to view or experience. Neither the applicant/agent, objectors, supporters, the Council nor any other Member of the public, will be permitted to address Planning Committee Members, either individually or as a group. It is a function of the Chairperson of the Planning Committee, but also of any officer present and the Planning Committee Members themselves, to make this clear at the visit or beforehand if a member of the public enquires.

77. Members of the Planning Committee should not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land, they will not have the information provided by the Planning Officer, and, in some circumstances (e.g. where an elected Member is seen with applicant or objector) it might lead to allegations of bias.
78. Site visits must not be requested in any of the following cases:
- To consider boundary or neighbour disputes;
  - To consider objections raised on competition grounds;
  - To consider objections raised on the grounds of loss of property values;
  - To consider any other issues which are not material planning considerations;
  - Where Members of the Planning Committee have already visited a site within the last year, except in exceptional circumstances; or
  - To consider representations from friends, neighbours or relatives.

### ***Site Visit Procedure***

79. The Chairperson/Vice Chairperson of the Planning Committee will oversee the conduct of site visits. They will start promptly at the time notified to Members and planning officers. At the request of the Planning Committee Chairperson/Vice Chairperson, the planning officer may be invited to describe the proposal to Members. Whilst Planning Committee Members will be expected to be familiar with the planning officer's report, plans/drawings may be used where necessary.
80. The planning officer may indicate matters of fact in relation to the proposal and surrounding land which Members can take account of. Through the Planning

Committee Chairperson/Vice Chairperson, Members may ask the planning officer for factual clarification on any planning matter relating to the proposal or surrounding land, such as distances to adjoining properties or the location of proposed car parking.

81. At no time during the site visit should Members debate the merits of the planning application. To do so outwith the Planning Committee meeting might imply that Members had made their mind up.
82. In order to assist Members to retain their objectivity, they should keep together in one group with the Chairperson/Vice Chairperson and the planning officer and should avoid breaking away into smaller groups. Once a site visit is concluded, Members should leave the site promptly.

### ***Record Keeping***

83. The planning officer will keep a record of Members' attendance at the site visit and will pass this information to Democratic Services for minute purposes. The planning officer will also prepare a written report on the site visit. This report will be presented at the next meeting of the Planning Committee scheduled to discuss the particular application.

### **PRE-DETERMINATION HEARINGS**

84. In order to enhance scrutiny of applications for major development which may raise issues with particular sensitivity for a local area, Regulation 7 of the Planning (Development Management) Regulations (NI) 2015 sets out a **mandatory** requirement for pre-determination hearings for those major developments which have been subject to notification (i.e. referred to the Department for call-in consideration, but that have been returned to a Council for determination). In such cases Ards and North Down Borough Council's Planning Committee will hold a hearing prior to the application being determined.
85. In addition, the Planning Committee may also hold pre-determination hearings, at its discretion, when considered necessary, to take on board local community views, as well as those in support of the development. The intention is to give applicants and those who have submitted relevant representations the opportunity to be heard by the

Planning Committee before it takes a decision. This will make the application process for major development more inclusive and transparent.

86. Any hearing should take place after the expiry of the period for making representations on the application but before the Planning Committee decides the application. It will be for the Planning Committee to decide whether it wishes to have a hearing on the same day as the related planning application is determined by the Planning Committee or to hold a separate hearing on a different day. The scale and complexity of the planning issues will have to be considered. In holding a hearing, the Planning Committee procedures can be the same as for the normal Planning Committee meetings. The Planning Officer will produce a report detailing the processing of the application to date and the planning issues to be considered. If the Planning Committee decides to hold the hearing on the same day as it wishes to determine the application the report to elected Members should also contain a recommendation.
87. Whilst the Planning Committee will endeavour to hold its pre-determination hearings outwith the Planning Committee meeting at which the application will be considered, it is recognised that this may not always be possible.

## **TRAINING**

88. It is recommended that participating Planning Committee Members continue to attend relevant training on planning matters as required and/or provided in association with the Head of Planning.

## **NETWORK**

89. It is anticipated that a network of Planning Committee Chairpersons will be established and that Members should meet regularly to discuss items of common interest. Ards and North Down Borough Council will contribute to this network once established.

## **REVIEW OF DECISIONS**

90. On an annual basis Members of the Planning Committee should inspect a sample of

implemented planning decisions in order to assess the quality of decision-making. This should include a sample of decisions delegated to officers to give assurance that the scheme of delegation is operating effectively and in line with the Council's views. Procedures will be prepared to assist with this review.

## REVIEW OF PROTOCOL

91. This protocol 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.

## APPENDIX 1: RUNNING ORDER FOR PLANNING APPLICATIONS

<b>1. Presentation of Application</b>		
a.	<b>Oral update if required to report any updates since agenda was issued</b>	Planning Officer
b.	<p><b>Presentation of application</b> Officers' reports will have been available on the NI Planning Portal and have been circulated to Planning Committee Members in advance.</p> <p>The officer will detail the following:</p> <ul style="list-style-type: none"> <li>• Application Number</li> <li>• District Electoral Area</li> <li>• Committee Interest (why before Planning Committee)</li> <li>• Proposal</li> <li>• Site/Location</li> <li>• Any other facts considered necessary for the information of the Planning Committee</li> </ul> <p>The officer will provide clarification on any issue raised by Planning Committee Members.</p>	Planning Officer
<b>2. Speaking Arrangements</b>		
a.	<p><b>Person(s) speaking in opposition of the application (including elected members/MPs/MLAs) ('Against')</b></p> <p>5-minute allocation</p>	Chairperson
b.	<p><b>Person(s) speaking in support of the application (including elected members/MPs/MLAs) ('For')</b></p> <p>5-minute allocation</p>	Chairperson
<p>The same procedure will be used for each speaker:</p> <ul style="list-style-type: none"> <li>• Welcome by the Chairperson, including reminder to keep to planning issues and stating time limit.</li> <li>• Clarification questions from Planning Committee Members through the Chairperson – these should be points of fact, policy or other technical aspects and only refer to issues raised by the speakers</li> <li>• Speaker asked to return to Public Gallery</li> <li>• Clarification on any points from Planning Officer</li> </ul>		

<b>3. Debate</b>		
a.	<b>Indication of Members who wish to speak</b> An initial indication to ensure all Planning Committee Members are able to speak or ask for additional information/clarification. Does not preclude another Member speaking later during the debate.	Chairperson
b.	<b>Debate (Planning Committee Members, through Chairperson, support from officers)</b> Member debate on the planning issues for the application. To be framed by (but not restricted to) the issues identified in the officer report and the resulting recommendation. Clarification available from officers.	Chairperson/ Planning Committee Members /Officers
c.	<b>Invite proposing and seconding of the recommendation/alternative recommendation (if applicable based on debate)</b> If the debate appears to be contrary to the officer recommendations (i.e. decision to overturn or revision to conditions etc.) then the Chairperson should invite a proposal for alternative recommendation or deferral. If the debate appears to support a vote in line with officer recommendation, no action is required.	Chairperson
<b>4. Vote</b>		
a.	<b>Checking that Planning Committee is ready to vote</b> The Chair will ascertain if the Planning Committee as a whole whether it feels it is now ready to vote on the application, leaving a pause for any Member to either request that the debate should continue or to seek clarification on a matter of fact, policy or other technical aspect.	Chairperson
b.	<b>Summing up</b> Short conclusion, returning to the main issues raised by the officer report, the way in which Members have explored these and other issues. Clear reminder of the motion and the implication of a vote in either direction.	Chairperson/Officers
c.	<b>Vote</b> Clear show of hands raised above the head and held in place until the Director/Democratic Services acknowledges the count. Voting first in favour of the motion, then against, then for abstentions. Anyone not voting is subsequently deemed to have abstained.	Director/Democratic Services
d.	<b>Recording of Decision</b> Director/Democratic Services to announce the number of votes in each direction. Individual Member voting to be recorded where not unanimous. Chair to clearly announce the decision and to be included in the minutes.	Director/Democratic Services/Chairperson

Unclassified

536

**ITEM 10****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 November 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Finance
Date of Report	15 October 2024
File Reference	FIN45
Legislation	Section 5 Local Government Finance 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:
Subject	Planning Service Budgetary Control Report - September 2024
Attachments	

The Planning Service's Budgetary Control Report covers the 6-month period 1 April to 30 September 2024. The net cost of the Service is showing an overspend of £8k (1%) – box A on page 2.

**Explanation of Variance**

The Planning Service's budget performance is further analysed on page 2 into 3 key areas:

Report	Type	Variance	Page
<b>Report 2</b>	Payroll Expenditure	£103k favourable	<b>2</b>
<b>Report 3</b>	Goods & Services Expenditure	£11k favourable	<b>2</b>
<b>Report 4</b>	Income	£122k adverse	<b>2</b>



Not Applicable

537

## Explanation of Variance

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

Type	Variance £'000	Comment
Payroll	(103)	Vacant posts include PTO and SPTO. The HPTO vacant for first 5 months. SPTO post to be recruited this month.
Income	122	Mainly Planning application fees. No major applications received yet this year.

REPORT 1 BUDGETARY CONTROL REPORT						
Period 6 - September 2024						
	Year to Date Actual	Year to Date Budget	Variance	Annual Budget	Variance	
	£	£	£	£	%	
<b>Planning</b>						
730 Planning	855,589	847,500	8,089	1,740,400	1.0	
<b>Total</b>	<b>855,589</b>	<b>847,500</b>	<b>A 8,089</b>	<b>1,740,400</b>	<b>1.0</b>	
REPORT 2 PAYROLL REPORT						
	£	£	£	£	%	
<b>Planning - Payroll</b>						
730 Planning	1,158,072	1,261,300	(103,228)	2,522,500	(8.2)	
<b>Total</b>	<b>1,158,072</b>	<b>1,261,300</b>	<b>(103,228)</b>	<b>2,522,500</b>	<b>(8.2)</b>	
REPORT 3 GOODS & SERVICES REPORT						
	£	£	£	£	%	
<b>Planning - Goods &amp; Services</b>						
730 Planning	113,424	124,200	(10,776)	367,500	(8.7)	
<b>Total</b>	<b>113,424</b>	<b>124,200</b>	<b>(10,776)</b>	<b>367,500</b>	<b>(8.7)</b>	
REPORT 4 INCOME REPORT						
	£	£	£	£	%	
<b>Planning - Income</b>						
730 Planning	(415,907)	(538,000)	122,093	(1,149,600)	22.7	
<b>Totals</b>	<b>(415,907)</b>	<b>(538,000)</b>	<b>122,093</b>	<b>(1,149,600)</b>	<b>22.7</b>	

## RECOMMENDATION

It is recommended that the Council notes this report.

Unclassified

538

**ITEM 11****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 November 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	17 October 2024
File Reference	
Legislation	
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	Revision to Scheme of Delegation
Attachments	Proposed amendment to Scheme of Delegation

**Purpose of Report**

The purpose of this report is to bring to the attention of Members a Court Order quashing a decision of the Council whereby it granted planning permission on 11 May 2023 under planning reference LA06/2020/1115/F .

**Background**

The Council granted planning permission under delegated authority, to the following application proposal under the above reference:

**Proposal:** Retention of dwelling approved under W/2014/0177/F, including alterations to fenestration of approved dwelling, revisions to patio/terrace area, landscaping and associated ground retention to include existing timber retaining structure. Also proposed amendment to existing development to include new 'Macwall' block wall to facilitate culverting of

Not Applicable

539

existing small watercourse which runs adjacent to boundary with No. 29 Station Road.

**Location:** 27 Station Road, Holywood

An application for leave to judicially review (JR) that decision was made by the objector ("The Applicant") to the decision citing a number of grounds of challenge.

Further to review and upon receipt of legal advice, the Director agreed to concede the challenge on one ground only which is stated as follows:

'That the Council erred by misdirecting itself and/or acting in a procedurally improper manner by failing to consider that the threshold of "*six or more separate individual objections which are contrary to the officer's recommendation, and where a material planning matter has been raised*" was met", requiring the application to be called in for consideration by the full Planning Committee.'

The decision has been quashed by Court Order dated 17 October 2024 and the application remitted back to the Council for reconsideration.

#### **Detail**

The ground of contention (as accepted by Council) was "*Breach of policy in relation to the Council's Scheme of Delegation*". The Applicant (objector) took issue with the fact that the planning application has been determined by officers acting under the Council's Scheme of Delegation, rather than having been automatically 'referred/called in' to be considered by the full Planning Committee. His point was that six separate objections were made which all raised material planning concerns so that relevant condition for call-in to the Committee had been met.

The Council had received material objections from five individual addresses; whereby the objector claimed that a consultation response from NIE should be considered as an objection, thus making up the sixth objection so that the relevant trigger for call-in was operative.

The Judge considered that the Council's Scheme of Delegation does not make clear on its face that a qualifying "objection" can only come from a private individual or company who is not a statutory consultee. Indeed, he considered that such an interpretation may seem counter-intuitive. He took issue with a situation whereby a statutory body, or a body required to be consulted under statute, objects on material planning grounds, and the Council did not consider that to be a separate objection (over and above others) which would warrant consideration by the committee if the threshold has been reached.

In a leave hearing judgment dated 29 May 2025 the Judge considered that against this background there was an arguable case that the Council had misdirected itself as to whether or not its Scheme of Delegation required a call-in in these circumstances.

Not Applicable

540

### **Action Required**

Further to legal advice on this issue, given the fact that the Judge had raised this particular point within his leave hearing judgment, it was prudent to accede to quashing of the decision on this singular point. Thus the Council requires to amend its current Scheme of Delegation to address this point going forward, so there can be no further ambiguity.

It is therefore proposed to amend the Scheme of Delegation by the addition of the wording highlighted in the Scheme of Delegation attached.

Subject to approval, the Council is required to submit this Scheme of Delegation to the Department for Infrastructure for its approval, before publishing it on the website accordingly.

### **RECOMMENDATION**

It is recommended that Council notes the content of this report and approves the amended Scheme of Delegation, for submission to the Department for Infrastructure for approval.

## Scheme of Delegation for Ards and North Down Borough Council

### Part A – Mandatory applications for determination by Planning Committee

By statute certain types of application must be determined by the Planning Committee and therefore cannot be delegated to officers:

- Applications which fall within the Major category of development as specified within the Planning (Development Management) Regulations (NI) 2015;
- Applications where the application is made by the Council or an elected member of the Council;
- Applications relating to land in which the Council has an estate.

### Part B – Non-Mandatory applications for determination by Planning Committee

- A Local development application attracting six or more separate individual objections which are contrary to the officer's recommendation, and where a material planning matter has been raised.

In determining if the threshold of six or more separate objections is met, the following clarification shall apply for the purposes of the calculation:

- Multiple letters of objection from one individual person (or body including any corporate entity) will constitute one objection;
  - Multiple letters of objection from one address (whether by one individual or more) will constitute one objection;
  - Pro-forma objection letters will constitute one objection;
  - Petitions will constitute one objection;
  - Objection(s) to an application by any statutory or non-statutory consultee will not count toward the threshold and for the avoidance of doubt be excluded from any such calculation. A 'consultee' being a body consulted by the Council to ascertain their expert view on the merits of a planning application.
- A Local development application which is a significant departure from the Local Development Plan which is recommended for approval (the Head of Planning to adjudicate on this where necessary in liaison with the Chair).
  - A Local development application called-in to Planning Committee by the Head of Planning;

- A Local development application called-in to Planning Committee from the delegated list<sup>1</sup> as set out in the Council's Protocol for the Operation of the Planning Committee by a member of that Committee – a sound material planning reason having been given for such a referral;
- A Local development application called-in by any Councillor within 25 working days<sup>2</sup> of the application being validated – a sound material planning reason having been given for such a referral (as set out in the Council's Protocol for the Operation of the Planning Committee);
- A planning (legal) agreement or modification to a legal agreement is required.

### **Part C – Delegated Applications**

The appointed officer is the Head of Planning within the Council and any officer nominated by the Head of Planning, who will be responsible for determining the following:

- All Local development applications whether for approval or refusal, with the exceptions listed at Part B above.

### **Part D – Enforcement and Determination of Other Planning Matters**

In relation to other planning responsibilities, the following matters are delegated to the appointed officer:

- All investigation of breaches of planning control and decisions on enforcement to include:
  - Service of an Enforcement Notice;
  - Service of a Listed Building Enforcement Notice;
  - Service of Hazardous Substances Contravention Notice;
  - Service of a Stop Notice;
  - Service of a Temporary Stop Notice;
  - Service of a Breach of Condition Notice;
  - Service of Tree Replanting Notice;
  - Withdrawal/modification of any of the Notices specified above, as appropriate;
  - Service of Warning Letters and Planning Contravention Notices;
  - Determination of applications for Certificates of Lawfulness of Existing Use or Development;
  - Service of a Fixed Penalty Notice, except in circumstances where the person appointed considers the breach of planning control could result in immediate public danger or development which may result in permanent damage to the

---

<sup>1</sup> Paragraph 25 of the Protocol for the Operation of the Planning Committee

<sup>2</sup> Paragraph 24 of The Protocol for the Operation of the Planning Committee

environment. Examples include: the demolition of, or works to, a listed building; the felling of protected trees; the demolition of a building in a conservation area; or the commencement of building operations without permission;

- Service of a Discontinuance Order;
- The instigation of court proceedings e.g. prosecution for non-compliance with a statutory notice or injunction proceedings.

Other planning matters to include:

- The determination of applications for Certificates of Lawfulness of Proposed Use or Development;
- The serving/affixing of a Building Preservation Notice;
- The withdrawal of a Building Preservation Notice;
- The making and serving of a provisional Tree Preservation Order;
- The making and serving of a Tree Preservation Order;
- Revocation of a Tree Preservation Order;
- Determination of any application to carry out works to a protected tree (i.e. a tree the subject of a Tree Preservation Order or within a Conservation Area);
- Determination as to appropriate replanting in relation to tree(s) the subject of a Tree Preservation Order or within a Conservation Area;
- Determination of non-material change applications to planning permissions;
- Determination of any application for Conservation Area consent;
- Determination of any application for advertisement consent;
- Determination of any application for listed building consent;
- Determination of any application for hazardous substances consent;
- Revocation or modification of any of the above consents;
- Issuance of Urgent Works Notice;
- The screening of and determination decisions on development proposals required under the Environmental Impact Assessment or Habitats Regulations;
- Discharge of planning conditions;
- Determination of any application for variation or removal of condition(s) previously attached to permission to develop land;
- Drafting of legal agreements.

## **Part E – Legal Challenge**

The Council provides delegated authority to the Head of Planning to instigate or defend judicial review proceedings on behalf of the Council, and instruct such Counsel or experts in association with the Council's solicitor deemed necessary to defend any decision of the Council, or a challenge to such a decision, the Head of Planning sees fit in the interests of the Council.

## **Part F – Publicity**

The Council has made a copy of this Scheme of Delegation available on the Council's website at [www.ardsandnorthdown.gov.uk](http://www.ardsandnorthdown.gov.uk) and it is also available on request at the Council's offices at 2 Church Street, Newtownards, BT23 4AP.



Unclassified

545

**ITEM 12****Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	05 November 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	21 October 2024
File Reference	N/A
Legislation	Section 4 of the Planning Act (NI) 2011 The Planning (Statement of Community Involvement) Regulations 2015.
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below: Not applicable
Subject	Update regarding Statement of Community Involvement (SCI)
Attachments	Revised Statement of Community Involvement

**Purpose of Report**

1. The purpose of this report is to seek approval of a revised Planning Statement of Community Involvement (SCI). Subject to approval by Council, and once receipt of agreement has been received from the Department for Infrastructure (DFI) in accordance with Section 4(3) of the Planning Act (Northern Ireland) 2011, the SCI shall be published, thus fulfilling obligations under regulation 7 of the Planning (Statement of Community Involvement) Regulations (Northern Ireland) 2015 – available at <https://www.legislation.gov.uk/nisr/2015/63/contents/made>

Not Applicable

546

## Background

2. The purpose of a Statement of Community Involvement (SCI) is to outline how the Council proposes to engage the community and stakeholders in exercising its planning functions. The SCI sets out a council's policy as to the involvement, in the exercise of the Council's functions under the development management and local development plan provisions of the **2011 Act**, of persons who appear to the Council to have an interest in the matters relating to development in its area.
3. The SCI explains how the community and stakeholders will be involved in the development management process (planning applications) as well as the preparation of the local development plan. It will also set out the steps that the Council will take to facilitate community involvement. It allows everyone to know with whom, what, where and when participation will occur in the planning process. In short, it presents a vision and strategy for involving the community and stakeholders at various stages of the planning process. The SCI sets out the standards to be met by the Council in terms of community involvement, building upon the minimum requirements set out in both the Planning (Local Development Plan) Regulations (NI) 2015 and the Planning (Statement of Community Involvement) Regulations (NI) 2015.
4. Section 4 of the Planning Act (NI) 2011 requires a council to prepare a SCI. The SCI Regulations set out the requirements for the preparation, form and content and publicity for the SCI.
5. A Council should involve the community at an early stage in the planning process and anyone who wishes to get involved is encouraged to do so at the opportunities provided. The following groups of people are most likely to become involved:
  - People living within the area / neighbourhood;
  - Elected representatives;
  - Voluntary groups;
  - Community forums / groups / umbrella organisations;
  - Environmental and amenity groups;
  - Residents' groups;
  - Business community
  - Public bodies;
  - Developers / landowners;
  - Government departments;
  - Adjacent councils;
  - Groups identified under Section 75 of the Northern Ireland Act 1998.
6. It should be noted that the above list is not intended to be exhaustive and in no way restricts other individuals, groups and organisations from participating in the planning process.

Not Applicable

547

7. The planning system can be difficult to understand which means some groups of people may find it difficult to get involved. These underrepresented groups can include young people, ethnic minorities, people with disabilities and disadvantaged communities. The Council may therefore wish to liaise with community representatives to help identify under-represented groups within its area and develop strategies and specific consultative methods in order to encourage engagement with these groups in the planning process. This may include targeting participation through workshops, focus groups or mapping exercises and ensuring venues for consultation events are as accessible as possible to all groups of the community, and that events are held at locations within the community and at varying times which appeal to a wider range of people.
8. The SCI last required updating in 2020 with detail provided on how Ards and North Down Borough Council would engage the public across its planning functions against the backdrop of the COVID pandemic.
9. The SCI has now been reviewed and updated to take account the arrangements for community involvement in the planning system post-pandemic and, once approved by Council, will be submitted to the DFI for review seeking to agree terms as per Planning Act (NI) 2011, Part 2 section 4 (3).

### **RECOMMENDATION**

It is recommended that Council notes the content of this report and approves the updated Statement of Community Involvement.

# Statement of Community Involvement

Revised October 2024



**Ards and  
North Down**  
Borough Council

How to contact us:

**By email to:** [planning@ardsandnorthdown.gov.uk](mailto:planning@ardsandnorthdown.gov.uk)

**By post to:**

Planning Service  
Ards and North Down Borough Council  
2 Church Street  
Newtownards  
BT23 4AP

Additional copies of the document can be downloaded from our website at [www.ardsandnorthdown.gov.uk](http://www.ardsandnorthdown.gov.uk) or requested via the postal address, email as above, or by telephone on 0300 013 3333.

This Statement of Community Involvement is not intended to be a source of definitive legal advice. Reference should be made to the actual legislation referred to in this statement and if any discrepancy exists the provisions of the legislation will prevail.

Should you require a copy of this document in an alternative format, it can be made available on request in large print, audio format, or Braille. It may also be made available in minority languages to meet the needs of those for whom English is not their first language.

If you have any queries regarding this document, please contact us using the details above.

# Contents

- 1.0** What is the Statement of Community Involvement? **3**
- 2.0** Community Involvement in the Preparation of our Local Development Plan **4**
- 3.0** Community Involvement in Development Management **20**
- 4.0** Community Involvement in Planning Enforcement **28**
- 5.0** Community Involvement in Supplementary Planning Guidance **29**
- 6.0** Community Involvement in Conservation Area Designation **30**
- 7.0** Community Involvement in the Designation of a Simplified Planning Zone **30**
- 8.0** Review of the Statement of Community Involvement **31**
- Appendix 1** - Glossary of Terms **32**
- Appendix 2** – Local Development Plan Consultation **36**
- Appendix 3** - Development Management Consultation Process **37**

## 1. What is The Statement of Community Involvement

### Purpose

1.1 The purpose of this Statement of Community Involvement (SCI) is to set out how we shall engage with the community and key stakeholders in the delivery of planning functions. The Council's planning powers include:

- preparation of a Local Development Plan (LDP) which shall set out what the Council area should look like and how land should be used and developed in the future;
- making decisions on the majority of planning applications for the Borough; and
- investigation of alleged breaches of planning control and determining what enforcement action should be taken.

12 It describes who, how and when the community will be invited to participate in the different stages of both LDP formulation and the determination of planning applications, in planning enforcement and other planning matters.

### Participation

#### Our Vision of Participation

13 The Council's vision as set out in its Corporate Plan is *'of A Sustainable Borough is one where economic, environmental, and social wellbeing are interdependent and decisions that are taken are well-balanced and equitable.*

14 This is a shared vision of participation in decision making and it is therefore aimed to ensure that:

- (i) everyone has an early and informed opportunity to express their view on the development of the area and have it considered before decisions are made;
- (ii) all groups in our community, regardless of religious belief, political opinion, racial group, age, sex, marital status, physical ability, sexual orientation, and those with and without dependents are enabled and empowered to participate.

15 It is intended to adopt a proactive and timely approach to community involvement through a process of providing clear information and encouraging participation during local development plan preparation, planning application submission, assessment and determination, and reporting of breaches of planning control. The process must, therefore, be informative, user friendly, as inclusive as possible, and conducted in an open and transparent way. Every effort is to be made to engage the community, record views and provide feedback, where appropriate.

- 16 Community planning is a further new power that has a significant impact upon how we engage with our residents and empower them to help us make decisions for the new Borough.
- 17 Councils have a statutory responsibility to participate and lead in Community Planning. The Local Government (Northern Ireland) Act 2014 and the Planning Act (Northern Ireland) 2011 link the community planning and Development Plan processes suggesting that the LDP should be 'the spatial reflection of the community plan'. The Local Government Act defines community planning as 'a process whereby Councils, statutory bodies and communities work together to develop and implement a shared vision for promoting the wellbeing in an area.' When considering well-being community plans should include the social, economic and environmental factors which can impact on communities and citizens.
- 18 Every effort will be made to establish linkages between the community planning and local development planning processes, especially in relation to community engagement.

## 2.0 Local Community Involvement in the Preparation of the Local Development Plan (LDP)

### Purpose

- 2.1 The purpose of the Ards and North Down Borough Council LDP is to inform the general public, statutory authorities, developers and other interested bodies of the policy framework and land use proposals that will implement the strategic objectives of the Regional Development Strategy (RDS); take account of the Council's Community Plan; and guide development decisions within the Borough up to 2032.
- 2.2 The LDP will comprise two separate documents. The first document is called the Plan Strategy (PS) and will set out the Council's vision and strategic objectives and strategic policies for the future development of the area with a spatial strategy that indicates in broad strategic terms the locations where different types of development will be promoted. This will be followed by a Local Policies Plan (LPP) which will include the site-specific proposals, policy designations and land-use zonings that will be required to deliver our vision, objectives, spatial strategy and strategic policies of the Plan Strategy. Once adopted, the LDP will replace the current development plans<sup>1</sup> for the borough and operational planning policies produced by the Department of the Environment.
- 2.3 Prior to the preparation of these two plan documents, we have identified key planning issues and defined a range of options for addressing these issues which culminated in the publication of a Preferred Options Paper (POP).

---

<sup>1</sup> North Down and Ards Area Plan 1984-1995, Ards and Down Area Plan 2015 (for legacy Ards Borough), Bangor Town Centre Plan & draft Belfast Metropolitan Area Plan 2015 (for legacy North Down Borough)



- 24 To ensure that the policies and proposals in the LDP are socially, economically and environmentally sustainable, we will undertake a Sustainability Appraisal (SA) which will run parallel to the preparation of the POP, Plan Strategy and Local Policies Plan.

### **Who can get involved?**

- 25 Anyone who wishes to get involved in the preparation of this LDP will be encouraged to do so at the opportunities provided. In particular, the views of the following groups of people are welcomed:
- people living within the Borough;
  - voluntary groups;
  - community forums / groups / umbrella organisations;
  - environmental groups;
  - residents' groups;
  - business interests; developers / landowners/Investors; and
  - elected representatives.
- 26 Elected Members, forums, community and residents' groups provide a voice for the local community. Other voluntary and interest groups also bring a special knowledge and can ensure that important concerns are addressed.

### **Empowering disadvantaged and under-represented groups**

- 27 Section 75 of the Northern Ireland Act 1998 requires a public authority, in carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity between:
- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
  - men and women generally;
  - persons with a disability and persons without; and
  - persons with dependants and persons without.
- 28 In addition, without prejudice to the above obligations, public authorities are required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or race. The above Section 75 groups are important participants within the planning process and include people who traditionally have been under-represented or disadvantaged. These groups will be targeted through the consultation process on the LDP in order to obtain their views and contribute to the consideration of equality issues under Section 75. Their views on any equality screening documents or Equality Impact Assessments will also be sought within the specified period for comment along with the draft PS and draft LPP.
- 29 To ensure that the LDP and consultation documents are accessible to everyone they will be made available online on the Council's website [www.ardsandnorthdown.gov.uk](http://www.ardsandnorthdown.gov.uk) and upon request in different formats, where possible. The Council will take all reasonable steps to provide documents in the requested alternative formats. Plain English is to be used for all

publications. A telephone number will be stated on each document. If for any reason, a request for a document in a particular alternative format cannot be met, other possible solutions will be explored.

### **How and when will the community be involved?**

- 210 The Local Development Plan process involves a number of key stages, each presenting opportunities for community involvement. Each of these stages is identified with details of how community and stakeholders can get involved. The actions will fulfil, and in some cases exceed, the statutory requirements on public consultation. The LDP Timetable will outline an indicative timeframe for each of the stages, including production of Plan Strategy and the Local Policies Plan. The timetable is available to view at the Council's Planning office and published on the Council's website at [www.ardsandnorthdown.gov.uk](http://www.ardsandnorthdown.gov.uk). It may be subject to review and revision as considered appropriate.
- 211 Notification shall be placed in the local newspapers regarding the availability of the timetable (paragraph 2.10 above). The current newspapers available to the Council for advertisement of the LDP Process are the Newtownards Chronicle and the County Down Spectator, however the Council shall use regional papers which also circulate in the Borough at any time where the local newspapers are not available (those papers being Belfast Telegraph and Irish News). That follows for all sections of this document where the term 'local newspapers' appears.
- 212 The Council's methods of engagement of the local community in the LDP process are set out below.

### ***Stage 1 Initial Plan Preparation and Data Collection***

- 213 Surveying and information gathering has been an ongoing function of the Council and is particularly important at this early stage of plan preparation. Information obtained at this stage has been used to establish the social, economic and environmental characteristics of the Plan area which shall enable the Council to determine the issues which need to be addressed and the options for addressing them. The initial findings from the evidence base have informed the preparation of the (POP). The POP is also accompanied by Scoping Reports for the Sustainability Appraisal (SA) (incorporating Strategic Environmental Assessment (SEA) and the screening with regard to Section 75.

### ***What we will do***

- 214 During this stage the Council will:
- Set up a **Steering Group** consisting of the Planning Committee and relevant council officers that will ensure an overview and strategic input to the plan process.

- Set up a **Project Management Team (PMT)** comprising Senior Officers from the Council and invite representatives from key statutory consultees including government departments and agencies. The purpose of the PMT will be to ensure that key consultees engage in the Plan-making process and particularly in the development of the emerging policies and proposals.
- Engage with key consultees who will receive written invitation requesting them to participate in the plan making process by providing information on the key strategic issues that the Local Development Plan should address;
- Engage with underrepresented (Section 75) groups who will be invited to identify whether there are any types of planning policies which are likely to have a significant impact on the groups they represent. They will also be provided opportunity to identify any particular issues or needs which they feel the plan should address. Where requested this can be done through a face to face meeting with a planning official.
- Consult with statutory consultation bodies on the Scoping Report of the SA incorporating SEA;
- Issue a Public Notice to confirm:
  - (i) the commencement of work on the Council's new Local Development Plan;
  - (ii) publication of the timetable; and
  - (iii) how to view or obtain copies of the timetable.

215 The Public notice will be placed on the Council's website [www.ardsandnorthdown.gov.uk](http://www.ardsandnorthdown.gov.uk) and appear in the local newspapers (referred to at para 2.11 above) for two consecutive weeks.

- Consult with neighbouring Councils if there are matters which require survey work or information from those neighbouring districts in order to ascertain potential cross boundary impacts.

### ***Stage 2 Publication of the Preferred Options Paper (POP)***

216 The Council launched its Preferred Options Paper on 25 March 2019, and the public consultation period opened on 28 March 2019. Following discovery of an inadvertent error in the original online version of the POP, public consultation began afresh on 17 May 2019 and ran for 12 weeks, ending on 9 August 2019. The POP sets out the key plan issues and the preferred options available to address them. The POP is a consultation paper to promote debate on issues of strategic significance which are likely to influence the shape of future development within the Borough. The intention of the POP is to stimulate a wide-ranging, yet focused, debate and encourage feedback from a wide variety of interests. Any representations or views received as a consequence of its publication will be considered whilst formulating the draft Plan Strategy.

217 The POP is also subject to the initial stages of Sustainability Appraisal (SA), including interim Strategic Environmental Appraisal (SEA), and Equality Impact Screening. The SA is a continual process which runs parallel with the preparation of the POP and the LDP. A SA interim report, (consisting of SA Scoping Report and assessment of alternatives) accompanies the POP.

### **What we have done/What we will do**

218 During this stage the Council has:

- **Held a launch event** and issued a press release highlighting publication of our preferred options;
- **Made available** on the Council's website and at the Council Office the POP and other supporting documentation including SA Scoping Report and Equality Impact Screening Assessment and provide hard copies upon request at a specified price;
- Held public engagement **events and exhibitions** with drop-in sessions at locations throughout the Borough where our Planning Officers were available to answer questions;
- **Written to** Key Consultees and Elected Members providing them with a copy of the POP and relevant supporting documentation; invited them to attend the launch; requested that they provide comments within the specified consultation period; and informed them of the public engagement events, exhibitions and drop-in sessions;
- Contacted local community groups and under-represented (Section 75) groups advising them how to obtain a copy of the POP and inviting them to comment within the specified consultation period, attend the public engagement events, exhibitions, and drop-in sessions, and offering the opportunity of a meeting with planning officers to record their views;
- Issued a Public Notice to confirm:
  - (i) Publication of the POP and invite comment within the specified consultation period (a period of not less than 8 weeks or more than 12 weeks);
  - (ii) Details of public engagement events, exhibitions and drop-in information sessions during the consultation period; and
  - (iii) Publication of the Screening and Scoping Papers for the SA (incorporating SEA) and Equality Impact Assessments and invite comments.

This public notice was placed on our website and appeared in the local newspapers for two consecutive weeks. A notice was also placed in the Belfast Gazette.

- Made the evidence base available on the Council's website and made hard copies available upon request;
- Presented a synopsis Public Consultation Report to Elected Members following the end of the consultation period. This contained a brief summary of representations and Planning Officers' comment. A written record will be taken of where Elected Members take differing views to that recommended in the report, along with the rationale for that view. This will be taken into account whilst formulating the Draft PS; and
- Provide the opportunity to the Project Management Team to comment on emerging policy for inclusion in the Draft PS. The participation of this team will also form an integral part of testing emerging policy through the Sustainability Appraisal.

### ***Stage 3 Preparation and publication of the Plan Strategy***

219 This stage of the LDP process consists of the preparation and publication of the draft Plan Strategy (PS). The draft Plan Strategy is a public consultation document and is not the final plan. It is an indication of the Council's intentions regarding the future development of the area and is a key part of the public consultation process. The draft PS provides the strategic policy framework for the district and will establish a vision for the council area alongside objectives and strategic policies to achieve the vision. It provides the framework for the later development of the draft Local Policies Plan.

#### **What we will do - preparation**

220 During this stage the Council will:

- Hold a series of workshops for all **Elected Members** to help inform, shape and agree the strategic policies and proposals that will make up the draft PS;
- Report progress to the Steering Group on merging strategic policies and proposals.

#### **What we will do – publication**

- Hold **launch event for invited persons** to announce the publication of the Draft PS and indicate the period for public consultation;
- Issue a **public notice** in the local newspapers for two consecutive weeks, in the Belfast Gazette (one week) and on the Council's website [www.ardsandnorthdown.gov.uk](http://www.ardsandnorthdown.gov.uk) detailing:
  - (i) Publication of Draft PS Plan Strategy and accompanying SA Report and other reports and how to view or obtain copies;
  - (ii) The dates and locations of public engagement events/exhibitions;

- (iii) Advance publication of the Draft PS for four weeks in advance of the statutory 8-week period of public consultation period (if considered appropriate taking into account holiday periods) and closing date for receipt of representations to the Draft PS and accompanying SA Report and EqIA.
  - (iv) The consultation period for the formal 8-week period for submission of counter representations.
- Make available on the Council website and at the Council Office the Draft Plan Strategy and any other supporting documentation including the Sustainability Appraisal Report and Equality Impact Assessment and provide hard copies upon request.
  - Hold **public exhibitions and engagement events** throughout the Borough. Planning Officers will be available to answer any questions on the content of the material presented;
  - **Write to key consultees and Elected Members** to inform them of the publication of the Draft PS, the dates of the public exhibitions; the specified consultation period (including whether a 4-week period in advance of statutory consultation is being utilised) and the closing date for representations and provide them with a copy of the relevant documents;
  - **Write to all who submitted a representation to the POP** informing them of the publication of the Draft PS and accompanying documents; advising how they can view or obtain copies; the dates of the public exhibitions; the 8-week consultation period ((including whether a 4-week period in advance of statutory consultation is being utilised) and closing date for representations.
  - **Representations will be reported to the Elected Members.**

### ***Public Inspection of Representations to the draft Plan Strategy***

221 All representations to the draft PS will be made available for public inspection as part of the public consultation process. Interested parties may also comment on site specific representations that have been received (counter representations). Counter representations must not propose changes to the development plan document. Both the representations and counter representations will be considered at the Independent Examination.

### **What we will do**

222 During this stage the Council will:

- **Make available** copies of representations for inspection at the Council's Planning Office and on the Council's website. Hard copies of representations can also be provided upon request at a specified price;

- **Write to key consultees**, the Council's Elected Members and any person that has submitted (and not withdrawn) a representation, informing them that representations are available for inspection and the places and times at which they can be inspected;
- **Issue a public notice** in the local newspapers for two consecutive weeks, in the Belfast Gazette (one week), and on the Council's website detailing:
  - (i) the availability of representations for inspection; and
  - (ii) the eight week consultation period including closing date for submission of counter representations.
- **Make available** for inspection at the Council's Planning Office and on the Council's website copies of any counter representations; and
- **Report any** counter representations to Council's Elected Members;
- Representations and counter-representations will be considered by the Council before being submitted alongside the draft Plan Strategy, and all other supporting documents, to the Department for Infrastructure (DFI) for it to cause an Independent Examination (IE).

### ***Consideration of representations and counter representations to the draft Plan Strategy<sup>2</sup>***

223 Following receipt of representations to the draft PS the Council will consider the issues raised. The impact of any new information and the implications for the soundness of our draft PS will be considered. If appropriate, the Council may decide to revisit the evidence base or engage with the relevant parties to determine how to address particular issues raised. Ultimately the Council will consider each issue raised and determine whether there will be:

- **No Change** – determine that the draft PS as prepared is sound and does not need to be changed;
- **Minor Changes** – notes the issues and whilst determines that the draft PS as prepared is sound, proposes minor changes that could be acceptable, which would not impact on the soundness of the draft PS;
- **Focussed Changes** – identifies that an unforeseen issue has arisen and considers that changes are required to ensure that any impact upon the soundness of the draft PS is addressed;
- **Fundamental Changes** – agrees that an issue is fundamental and goes to the heart of the draft PS and withdraws the draft PS.

224 In the event of the Council withdrawing the draft PS, the Council will issue a public notice in local newspapers and in the Belfast Gazette and on the

<sup>2</sup> See Development Plan Practice Note 10 – Submitting Development Plan Documents for Independent Examination

Council's website that it has been withdrawn and the reasons for the withdrawal. The Council will also notify consultation bodies and any person who made a representation or counter-representation in relation to the draft PS.

### ***Submission of Plan Strategy to Department for Infrastructure***

225 The Council will not submit the draft PS and associated documentation to the DFI unless it considers that it is ready for Independent Examination (IE). The purpose of the IE is to determine whether the PS is sound, taking into account representations and counter representations. The body appointed by the DFI must consider all representations and counter representations before it makes recommendations, giving reasons<sup>3</sup>.

#### **What we will do:**

226 During this stage the Council shall:

- **Make available** for inspection in the Council's Planning Office and on the Council's website at a copy of the PS and all supporting documentation forwarded to the DFI in accordance with the Regulations;
- **Issue a public notice** in the local newspapers for two consecutive weeks and give notice in the Belfast Gazette (one week) and on the Council's website that the draft PS and supporting documentation has been submitted to the DFI;
- **Notify consultation bodies** and anyone who has made a valid representation (and not withdrawn) and valid counter-representation to the PS notifying them that the submitted plan and supporting documentation are available for inspection at the Council's Planning Office during normal office hours;

### ***Independent Examination***

227 The purpose of the Independent Examination is to determine the soundness of the Draft Plan Strategy, taking into account representations and counter representations.

---

<sup>3</sup> Under section 10(7) of the 2011 Act, "Any person who makes representations seeking to change a development plan document must (if that person so requests) be given the opportunity to appear before and be heard by the person carrying out the examination." DFI Development Plan Practice note 9 Version 2 indicates that '*This 'right' to appear and be heard applies to a person who has made a representation seeking to change a development plan document, but does not apply to a person who has made a counter representation. However, an independent examiner may invite anyone to appear before and be heard at the examination if the examiner thinks that person's oral evidence is likely to materially assist in determining the soundness and sustainability of the development plan document*'. The Independent Examiner appointed by DFI makes arrangements for the procedure of the IE including invitations to appear.



### ***Publicity for Independent Examination***

228 The Council will undertake further publicity measures in relation to the date and timing of the Independent Examination of the draft PS.

#### **What we will do:**

229 During this stage the Council shall:

- **Continue to make available** on the Council's website a copy of the draft PS and supporting documentation;
- **Issue a public notice** at least four weeks prior to the IE in the local newspapers and Belfast Gazette for two consecutive weeks, and on the Council's website at [www.ardsandnorthdown.gov.uk](http://www.ardsandnorthdown.gov.uk) stating:
  - (i) the dates, times and venues at which the IE will be held;
  - (ii) whether the Planning Appeals Commission or a person appointed by the Department for Infrastructure will carry out the IE; and
  - (iii) that representations and counter representations are available for inspection.
- **Notify consultation bodies** and any person who has made and not withdrawn a representation/ counter representation of the full details of the IE at least four weeks prior to its commencement.

### ***Adoption of the Plan Strategy***

230 Following the IE, the DFI will issue a Direction to the Council, requiring it to adopt the draft Plan Strategy, as originally prepared, or with modifications. The Council may also be directed to withdraw the PS. In either scenario, the DFI will be expected to give reasons for its Direction.

#### **What we will do:**

231 During this stage the Council will:

- Issue a **public notice** in the local newspapers for two weeks and Belfast Gazette for (one week) and on the Council's website of the:
  - (i) date of adoption of the Plan Strategy;
  - (ii) where to get copies of the Plan Strategy and any accompanying documents, the Department's Direction and the Independent Examiner's Report;
- **Make the Plan Strategy and any accompanying documents, the DFI's Direction and Independent Examiner's Report available at the Council's Planning Office and on the Council's website, with hard copy available on request for a specified price;**

- **Write to key consultees and those submitting valid representations and valid counter representations** advising them of the adoption of the PS, and where to obtain copies together with the DFI Direction and the Independent Examiner's Report; and also advising them of the commencement of work on the Local Policies Plan.
- Notify any person who has asked to be notified of the adoption of the PS.

232 In an event of the Council being directed by the DFI to modify or withdraw the PS, the Council will issue a public notice in local newspapers and in the Belfast Gazette and on the Council website that it has to be modified/has been withdrawn and the reasons for the modification/withdrawal. The Council will also notify consultation bodies and any person who made a representation or counter-representation in relation to the PS.

#### ***Stage 4 Preparation of the Local Policies Plan***

233 The Local Policies Plan (LPP) is the second document comprising the LDP. The draft local Policies Plan is a public consultation document and is not the final part of the plan. It will be consistent with the adopted Plan Strategy and set out the Council's more detailed policies and proposals (zonings and designations) regarding the future development of the Ards and North Down Borough area. The draft LPP is a key part of the public participation process. The PS must be adopted before the draft LPP Local Policies Plan is published for consultation.

#### **What we will do:**

234 During this stage the Council will:

- Hold a series of workshops for all **Elected Members** to help inform, shape and agree the local policies and proposals that will make up the draft LPP;
- **Report regularly** to the Steering Group regarding progress on emerging local policies and proposals;
- **Invite consultation bodies** to participate by providing information on key issues that the Local Policies Plan should address;
- **Invite community groups** to identify local issues and policies which are likely to have a significant impact on the individuals they represent;
- **Invite under-represented groups** (Section 75) to identify local issues and policies which are likely to have a significant impact on the individuals they represent;

- **Hold public engagement** events at locations across the Borough where Planning Officers will be available to answer any questions on the preparation of the LPP;
- **Issue a public notice** in the local newspapers for two weeks and Belfast Gazette, (one week), and on the Council's website to:
  - (i) advise that work has commenced on our LPP;
  - (ii) confirm the dates and locations of public engagement events / exhibitions; and
  - (iii) invite the general public to make representations, identifying issues that the LPP should address.

### Publication of draft Local Policies Plan

What we will do:

235 During this stage the Council will:

- **Hold launch event/ exhibition** to announce the publication of the Draft LPP and issue newspaper releases highlighting its key elements;
- **Make available** at the Council's Planning Office and on the Council's website the draft Local Policies Plan and any supporting documentation including the Sustainability Appraisal (SA) Report and Equality Impact Assessment (EqIA). Hard copies will be available upon request at a specified price;
- Hold **public exhibitions and engagement events** throughout the Borough. Planning Officers will be available to answer any questions on the content of the material presented;
- Issue a **public notice** in the local newspapers for two consecutive weeks, in the Belfast Gazette (one week) and on the Council's website detailing:
  - publication of Draft LPP and accompanying SA Report and EqIA and how to view or obtain copies;
  - the dates and locations of public exhibitions;
  - the specified eight week consultation period (or as extended to allow flexibility for holiday periods where appropriate) and closing date for receipt of representations to the Draft LPP and accompanying SA Report and EqIA;
- **Write to key consultees and Elected Members** to inform them of the publication of the Draft LLP, the dates of the public exhibitions; the specified consultation period and the closing date for representations and provide them with a copy of the document.

## Representations to draft Local Policies Plan

236 All representations to the draft LPP will be made available for public inspection. Interested parties may also comment on site specific representations that have been received (counter representations).

### What we will do:

237 The Council shall:

- **Make copies of valid representations available** for inspection in the Council's Planning Office and on the Council's website. Hard copies of representations can also be provided upon request at a specified price;
- **Write to key consultees and Elected Members** and any person that has submitted and not withdrawn a representation informing them that representations are available for inspection and the places and times at which they can be inspected;
- **Issue a public notice in the local newspapers for two weeks** and Belfast Gazette for a week, and on the Council's website of the availability of representations for inspection and the eight week consultation period for submission of counter representations;
- Make copies of counter representations **available for inspection** in the Council's Planning Office and on the Council's website;
- Report counter representations to the Council's Elected Members;

238 Representations and counter representations will be fully considered by the Council before being submitted with the LPP, and all other supporting documentation, to the DFI for it to cause an Independent Examination.

239 Following receipt of representations to the draft LPP the Council will consider the issues raised. The impact of any new information and the implications for the soundness of our draft LPP will be considered. If appropriate, the Council may decide to revisit the evidence base or engage with the relevant parties to determine how to address particular issues raised. Ultimately the Council will consider each issue raised and determine whether there will be:

- **No Change** – determine that the draft LPP as prepared is sound and does not need to be changed;
- **Minor Changes** – notes the issues and whilst determines that the draft LPP as prepared is sound, proposes minor changes that could be acceptable, which would not impact on the soundness of the draft LPP;
- **Focussed Changes** – identifies that an unforeseen issue has arisen and considers that changes are required to ensure that any impact upon the soundness of the draft LPP is addressed;
- **Fundamental Changes** – agrees that an issue is fundamental and goes to the heart of the draft LPP and withdraws the draft LPP.

### ***Submission of Local Policies Plan for Independent Examination***

240 The Council will submit the LPP to the DFI for it to cause an IE<sup>4</sup>. The Council will not submit the Plan to the DFI unless it considers that it is ready for Independent Examination (IE). The purpose of the IE is to determine whether the LPP satisfies relevant statutory requirements and whether it is 'sound'.

#### **What we will do:**

241 During this stage the Council shall:

- **Make available** for inspection in the Council's Planning Office and on the Council's website a copy of the LPP and all supporting documentation forwarded to the DFI in accordance with the Regulations;
- **Issue a public notice** in the local newspapers for two consecutive weeks and give notice in the Belfast Gazette (for a week) and on the Council's website that the Plan and supporting documentation has been submitted to the DFI;
- **Notify consultation bodies** and anyone who has submitted (and did not withdraw valid representations) to the LPP, that the submitted LPP and supporting documentation are available for inspection at the Council's Planning Office.

### ***Publicity for Independent Examination (IE)***

#### **What we will do:**

242 During this stage the Council will:

- **Continue to make available** on the Council's website a copy of the LPP, and all accompanying documentation;
- **Issue a public notice** at least four weeks prior to the IE in the local newspapers for two consecutive weeks and Belfast Gazette (for a week), and on the Council's website:
  - the date, time and place at which the IE will be held;
  - whether the PAC or a person appointed by the DFI will carry out the independent examination; and
  - that representations and counter representations are available for inspection;
- **Notify consultation bodies** and any person who has made (and not withdrawn) a representation/counter representation, of the full details of the IE, at least four weeks before its commencement. Council will also advise whether the Planning Appeals Commission (PAC) or another appointed person by the DFI will carry out the IE. Council will provide comment on

<sup>4</sup> See footnote 3 on right to be heard at Independent Examination.

the representations and counter representations for consideration at the Independent Examination.

### ***Adoption of the Local Policies Plan***

243 Following the IE, the DFI will issue a Direction to the Council, requiring it to adopt the LPP as originally prepared or with modifications. The Council may also be directed to withdraw the LPP. In either scenario, the DFI will be expected to give reasons for its Direction.

#### **What we will do:**

244 The Council will:

- Issue a **public notice** in the local newspapers for two consecutive weeks, and Belfast Gazette (for a week) and on the Council's website advising of the:
  - (i) adoption of the LPP; and
  - (ii) where to get copies of the LPP and accompanying documents, the Department's Direction and the Independent Examiner's Report.
- **Make the Local Policies Plan and accompanying documents, the DFI's Direction and Independent Examiner's Report available at the Council's Planning Office and** on website, with hard copy available on request for a specified price;
- **Write to key consultees and those submitting representations and counter representations** advising them of the adopted LPP, and where to obtain copies together with the Department's Direction and the Independent Examiner's Report.

245 In an event of the Council being directed by the DFI to withdraw the Draft LPP, the Council will issue a public notice in local newspapers and in the Belfast Gazette and on the Council's website that it has been withdrawn and the reasons for the withdrawal. The Council will also notify consultation bodies and any person who made a representation or counter-representation in relation to the LPP.

246 Any revisions as directed by the DFI shall be subject to the same procedural and publicity arrangements as set out earlier.

#### **Next Steps**

247 Following the adoption of the Plan Strategy and Local Policies Plan, the Council will identify its work priorities for the next five years in a new LDP Timetable. It may also issue a new Statement of Community Involvement if considered appropriate. In addition, the Council will engage in monitoring and review (Stage 4 of the LDP process) which are essential in establishing how the objectives in the Local Development Plan are being achieved and whether any changes are required. The Council will engage with the public on any formal review of the

LDP. The Council shall review its Local Development Plan no later than five years from the date that the Local Policies Plan is adopted. The Council will also send a Findings Report of the review to the Department for Infrastructure.

### 3.0 Local Community Involvement in the Development Management Process

568

#### The Council's Development Management function

- 3.1 The Council as the local planning authority for Ards and North Down is responsible for making decisions on planning applications in the borough. It also deals with other applications including listed building works, works in conservation areas, works to protected trees and advertising consent. Development Management is the process through which such applications are considered. An important part of the process is to provide information and advice to applicants and to seek and consider the views of the general public and statutory consultees on all planning applications. The statutory requirements for consultation on planning applications are set out in planning legislation. These requirements vary according to the type of proposal but include notification to specified bodies and general publicity (some minor exceptions exist e.g. processing of regionally significant planning applications submitted under Section 26 of the Planning (NI) Act 2011, call-in procedures Section 29 of the Act and Section 88 which permits the Department for Infrastructure (DFI) to issue directions to call-in Listed Building Consent applications (amended to the Department for Communities in 2016)).
- 3.2 The Council receives a wide variety of planning applications and therefore needs to involve the community to differing degrees, according to the scale and complexity of the application.
- 3.3 All planning applications are categorised as local, major or regionally significant. The Council is responsible for the determination of the majority of local and major applications only.
- 3.4 Regionally significant developments are those which are considered to have a critical contribution to make with regard to economic and social success of Northern Ireland as a whole or to a substantial part of the Region. Such proposals also include developments which have significant effects beyond Northern Ireland or involve a substantial departure from the Local Development Plan.
- 3.5 Regionally significant applications are currently dealt with by the Department for Infrastructure (DFI) and applicants will be required to enter into consultation with it. In certain circumstances DFI may determine that a proposal is not of significance and advise the applicant that the Council should determine the planning application.
- 3.6 Some major developments have important economic, social and environmental implications for the Borough. Due to the potential for these proposals to deliver important benefits to the community, where appropriate, major applications are prioritised where possible to avoid any undue delay.

Examples include:

- A housing development involving the construction of 50 units or more;
- A retail development involving 1,000m<sup>2</sup> or more of gross retail floor space outside town centres;
- A business/ industry/storage/distribution development that comprises 5,000m<sup>2</sup> or more gross floor space; and



- A wind or solar farm (or other types of electricity generating stations) where its capacity is or exceeds 5 megawatts.

3.7 This section of our Statement of Community Involvement sets out:

- how the public can become involved at the various stages of the planning application process; and
- how the level of community involvement will depend on the scale of the development proposal.

### **Pre-Application Stage**

Pre-Application Discussions (PADs)

3.8 By facilitating effective and meaningful pre-application discussions a council can ensure that opportunities to work collaboratively with applicants and to improve the quality of developments are maximised. Pre-application discussions are encouraged prior to the submission for a range of types of applications. These will mainly be for major applications. The objective of pre-application discussions should be to confirm whether the principle of development is acceptable and to clarify the format, type and level of detail required to enable the Council to determine an application. For major applications it will also enable the applicant to discuss with the Council details of how the community should be involved in the decision-making process.

Pre-Application Community Consultation (PACC)

3.9 The planning system strives to assist in the informing and involving the wider community in helping to create better quality developments and promote place-making. Applicants submitting major applications to the Council must undertake community consultation before submitting their application in line with details set out in The Planning Act (NI) 2011. The Council will require the following actions to be undertaken by the applicant before the application is submitted:

- Notify the Council, at least 12 weeks in advance, that an application for a major planning application is to be submitted (a 'Proposal of Application Notice (PAN));
- Hold at least one public event in the locality in which the proposed development is situated where members of the public may make comments to the prospective applicant regarding the proposed development;
- Publish details of the proposal in the local press, outlining where further details of the proposal can be obtained and the date, time and location of a public event; and
- Submit a pre-application community consultation ('PACC') report to the Council to accompany the subsequent planning application.

3.10 Pre-application consultation is likely to be more successful if the applicant makes significant efforts to involve communities in proposals which may affect them.

- 3.11 As previously stated, the Council would recommend all applicants considering submission of development proposals that fall within the definition of major development to seek a Pre-Application Discussion with planning officers. Where applicants fail to fully meet the pre-application community consultation requirements the Council may decline to determine the application.

### Planning Application Stage

- 3.12 In line with legislative requirements set out in The Planning (NI) Act 2011, when a planning application is submitted for determination, the Council will involve the community in the decision-making process. If you feel you will be affected by development proposals, you will have an opportunity to consider what is proposed and how it will affect you. You will also have the opportunity to make your views known before a final decision is made on the application. Details of how to comment on a planning application is available on the Council's website [www.ardsandnorthdown.gov.uk/resident/planning](http://www.ardsandnorthdown.gov.uk/resident/planning). This now includes online submission through the Planning Portal, once registered for an account.

### Advertising and Neighbour Notification

- 3.13 The Council undertakes statutory publicity in accordance with current legislation. Government may change the statutory publicity requirements, and our future approach will reflect any changes that are made.

#### Advertising

- 3.14 The Council will advertise all new planning applications (with the exception of Certificates of Lawfulness, Non-material Changes and Advertising Consent) on a weekly basis in the local newspapers (in accordance with **Section 41 of the Planning Act**). The advertising list is also available to view on the Planning pages of the Council's website.

#### Neighbour Notification

- 3.15 Current legislation states that "any identified occupier of neighbouring land" must be notified of development proposals.
- 3.16 "Neighbouring land" is defined as 'land which directly adjoins the application site, or which would adjoin it but for an entry or road less than 20m in width'. "Identified occupier" is defined as the 'occupier of premises within a 90 metre radius of the boundary of the proposed application site'.
- 3.17 Under the Council's Neighbour Notification Scheme, the Council will ensure that planning applications are brought to the individual attention of those specified within the legislation. In addition, the Case Officer when carrying out a site inspection will also check the accuracy of the neighbour notification details supplied on the application form and may add details as considered appropriate.
- 3.18 The Council has provided direction to Planning Officers within Ards and North Down Borough Council to ensure notification of additional properties beyond the parameters of the statutory scheme for those proposals in relation to single wind turbines as follows '*That occupiers of premises within a ten times rotor diameter of wind turbine applications be neighbour notified*'.

- 3.19 The period for responding following receipt of a neighbour notification letter is 14 days, as legislation restricts the Council from making a determination on an application until the 14 day period has expired, although any late representations received before a decision is made will still be considered. We request comments within 14 days so that we know your views as soon as possible in the process. It's also useful for the applicant to learn about any concerns early as it may give them an opportunity to make changes. It also reduces delays at the latter stages of a project too.
- 3.20 You should note that regardless of having submitted comments to the applicant for a major development application through the Pre-Application Community Consultation, you should make representations to the Planning Service on the submitted application, as it is only these comments that we can take account of (where they raise material planning considerations) when assessing the proposal.
- 3.21 Neighbour notification does not take place for applications for Certificates of Lawfulness, Non-Material Changes or Advertising Consent.

### **Environmental Impact Assessment Development**

- 3.22 Environmental Impact Assessment (EIA) is a method for ensuring that the likely effects of new development on the environment are fully understood and taken into account before consent is given for the development to proceed. The Environmental Statement (ES) produced as part of an EIA, brings together in a single document, or series of documents, information about a proposed development and its effects on the environment.
- 3.23 In most cases it will fall to the Council to determine if the application is EIA development. It should be noted that if an application is EIA development it cannot be processed until the ES is received. When a developer submits an ES in support of a planning application, the Council will publish a notice of its receipt in local newspapers and indicate where it may be purchased and the address of the Council Office where it may be inspected. The Council will also allow four weeks from the date the notice is first published for representations to be made.

### **Obtaining further information and getting involved in planning applications**

- 3.24 Planning applications including supporting documents and corresponding plans can be viewed online on the Planning Portal <https://planningregister.planningsystemni.gov.uk/simple-search> as well at the Council's Planning office in Newtownards between 9am to 4pm Monday to Friday. Planning Officers are available to give advice on current or proposed applications through our informal Planning Advice Service (telephone 028 91 824006).

### **Public Register**

- 3.25 The Council will make the planning application, plans and any associated Environmental Statement available on a public register in accordance with **Section 242 of the Planning Act**. Each register will contain the following information:

- a copy (which may be photographic) of each application together with copies of application forms, plans and drawings submitted in relation thereto;
- the decision notice, if any, in respect of the application, including details of any conditions subject to which permission or consent was granted, or refusal reasons;
- the reference number, the date and effect of any decision of the Planning Appeals Commission (PAC) in respect of the application; and
- brief details of any revocation or modification relating to any permission or consent, including date of issue.

Please note:

- For decisions made between 1973-1990 inclusive we only hold the Decision Notice;
- For decisions made between 1991-2015 inclusive we hold the Decision Notice, accompanying drawings and application form only.

### **File Inspection**

3.26 The Council will make the application file available for inspection, by appointment (telephone 028 91 824006). The amount of information on the file will, of course, be dependent on the stages the application has completed.

### **Submitting Comments**

3.27 Individuals, groups and organisations can comment on a planning application even if they have not been neighbour notified by the Council. All comments will be carefully considered. Care should be taken when making comments to the Council to ensure that no personal data is included. The Council has published guidance 'Commenting on a Planning Application' which is available the Planning pages of the Council website here <https://www.ardsandnorthdown.gov.uk/article/1472/Planning-applications-recently-advertised>.

3.28 When a decision is made on a planning application only certain issues are taken into account; these are often referred to as 'material planning considerations'. Material considerations must be genuine planning considerations. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Generally greater weight is attached to issues which are supported by evidence rather than solely by assertion. If an identified problem can be dealt with by means of a suitable condition the Council is required to consider this as an alternative to refusing an application.

3.29 Anonymous or defamatory comments cannot be taken into account. You should ensure that your comments relate to relevant planning matters only. The Council's Planning Service reserves the right to redact information which it considers is defamatory, of a personal nature, or irrelevant to the application.

- 3.30 You can make comments in a variety of ways, by quoting the application number, as follows:

**Online at:** <https://planningregister.planningsystemni.gov.uk/simple-search> (select Application tab at top)

**By email:** [planning@ardsandnorthdown.gov.uk](mailto:planning@ardsandnorthdown.gov.uk)

**By Post:**

Ards and North Down Borough Council  
Planning Service  
2 Church Street  
Newtownards, BT23 4AP

- 3.31 All written comments on an application will be acknowledged within five working days. All material planning issues raised will be summarised and fully considered within the Planning Officer's report on the planning application. The acknowledgement letter will set out who is dealing with the application and who to contact if there are any questions. The Council will not normally contact the respondent again until after a decision is made unless the application is significantly altered or is withdrawn.
- 3.32 Due to the large volume of correspondence received in relation to planning applications, it is not possible for the Case Officer to answer queries raised within representations unless they need to clarify a particular matter.
- 3.33 You may also wish to contact your local Councillor, who has the ability to request that the application is determined by the Planning Committee (this procedure is referred to in the Council's Scheme of Delegation [Part B]).
- 3.34 The Council will consult with a range of Statutory Consultees (see Appendix 2) to assist in the determination of an application. If a representation raises issues that are relevant to the responsibilities of the consultee (e.g. road safety) the representation will be highlighted to the appropriate consultee for consideration and comment. The Council will carefully take any comments made into account before a decision is made. All comments are scanned and added to the NI Planning Portal once email addresses and handwritten signatures have been removed (it should be noted that typed names and addresses remain visible).
- 3.35 The Council may negotiate changes to applications with the applicant/developer where these are considered appropriate, without allowing the process to become overly protracted.

### **Community Involvement at the Planning Committee Meeting Stage**

- 3.36 Planning applications are usually determined by the Head of Planning under delegated powers. The circumstances under which an application can, or cannot, be determined using delegated powers are set out in the Council's Scheme of Delegation available online at <http://www.ardsandnorthdown.gov.uk/article/1473/Delegated-ApplicationsCouncil>, which is subject to regular review.

### **Pre-determination hearings and speaking at the Planning Committee**

- 3.37 For those major applications that have been notified to the Department for Infrastructure but have been returned to the Council for determination, the Council will afford the applicant the opportunity of appearing before and being heard by the Planning Committee.
- 3.38 If an application goes before the Planning Committee, the Council will also offer the public the opportunity to speak and make direct representation to the Elected Members on the Planning Committee. Requests to speak must be made in writing, which includes emails, and include a valid planning reason.
- 3.39 All requests to speak (including those from Elected Members, MLAs or MPs) should be received by the Council's Planning Service (in writing or by email) at least five working days prior to the scheduled Planning Committee meeting.
- 3.40 The Council has a guide to getting involved at Planning Committee meetings – this is available online at:  
<http://www.ardsandnorthdown.gov.uk/article/1474/Planning-Committee>

### **Community Involvement after a Planning Application has been determined (Post Application Stage)**

- 3.41 A notification of decision letter is sent to the applicant/agent and all people who have responded to the consultation on the planning application, informing each of the decision and the reason for that decision. The decision is recorded on the Council's website and in the statutory Planning Register. If it is a case that has been considered by the Planning Committee, details of the decision of the Planning Committee can be found on the Planning pages of the Council website the day after the Committee meeting, or by viewing the minutes of the meeting which will be published on the Council's website once ratified by full Council.

### **Involving the Community When an Appeal is made against a Planning Refusal/ Conditions of an Approval/ Enforcement Notice**

- 3.42 In Northern Ireland there is no third-party right of appeal. Where an applicant is unhappy with the Council's refusal of an application or a condition attached to a permission, he/she may appeal to the Planning Appeals Commission (PAC). An applicant may also appeal to the PAC where the Council has not determined an application within the relevant period prescribed by the Planning (General Development Procedure) Order (NI) 2015, as amended; where such an appeal is lodged, the application is deemed to have been refused. Appeals must be lodged with the PAC within four months from the date of notification of the Council's decision, or expiry of the prescribed period as the case may be. Only applicants and those upon whom Enforcement Notices have been served have the right of appeal.
- 3.43 All those people who responded on the original planning application that is the subject of appeal will be advised by the Planning Appeals Commission that an appeal has been received and provided with an opportunity to make their views known. Copies of letters already submitted will be forwarded to the PAC.

- 3.44 For hearings and public inquiries, the interested parties have the opportunity to make their views known verbally to the PAC. Each appeal will be published in the local press by the PAC to alert any other interested parties, and those who respond within 14 days will be listed as third parties by the PAC and receive invitation to participate in the appeal process. Further information is available on the PAC's website [www.pacni.gov.uk](http://www.pacni.gov.uk).
- 3.45 A member of the public can only challenge an approval issued by the Council on a point of law by applying for leave to judicially review that decision.

## 4.0 Community Involvement in Planning Enforcement

4.1 Under the provisions of the Planning Act (NI) 2011 the Council has a general discretion to take enforcement action when it regards it as expedient to do so, having regard to the provisions of the Local Development Plan and any other material considerations.

4.2 A breach of planning control occurs when building works or a material change of use of land, or a building, takes place without planning consent. In most cases, it is not an offence to undertake development without consent, but the Council has powers to require these breaches to be put right. The Council can do this by requiring changes to be made to the development, by requiring removal of the development, or by giving the development approval if considered acceptable.

4.3 The Council encourages the community to report cases where they believe there has been a breach of planning control; however, the Council **will not** investigate anonymous complaints. A breach of planning control occurs when development or other certain activities take place without the necessary planning permission or consent from the Council or the Department. This may also include failure to carry out development in accordance with the approved plans or conditions.

4.4 If someone believes that a breach of planning control has occurred, they should contact the council's Planning Enforcement team (in person, by telephone, in writing, through the Northern Ireland Planning Portal or by email as follows:

**By email:** [www.planning@ardsandnorthdown.gov.uk](mailto:www.planning@ardsandnorthdown.gov.uk)

**NI Planning Portal:** <https://planningregister.planningsystemni.gov.uk/simple-search>  
(go to Log In tab to register)

**By post:** Planning Enforcement Section  
Ards and North Down Borough Council  
2 Church Street, Newtownards, BT23 4AP

**By telephone:** 0300 013 3333 (Main Planning Council Line)  
028 91 824006 (Planning Business Support)

4.5 You should provide the following, if possible:

- give the address of the site or directions (we may need a plan so that we know exactly where the site is);
- detail exactly what has happened and when it first occurred;
- provide the name and address of the landowner or landowners or the person responsible for carrying out the works, if known;

4.6 Please note – we will not investigate anonymous complaints. We require the name and contact details of the person reporting a breach of planning control. Their contact information will remain confidential unless we need to use their evidence to support our case, for example, if the matter goes to court. We will ask for their consent to use their evidence.



- 4.7 We do not keep complainants updated throughout each enforcement investigation as the process is often long and protracted, but mainly as it could be prejudicial to the outcome of the case if it were to result in legal proceedings. If a complainant contacts the officer dealing with the enforcement case, they will try to be as helpful as possible but will not be able to share information in relation to the progression of the investigation.
- 4.8 After investigation we may decide that there has not been a breach of planning control. When we make this decision, we will close the case immediately. We will not re-open the case unless there is significant new information or a change on site. We may also decide that although there has been a breach, it is not causing enough harm to justify taking further action. We will take into account why the breach may have happened, how many people are affected, how they are affected and whether there is a cumulative effect that adds up to an unacceptable situation. Not every complaint about a breach of planning control justifies further action. We use our judgement based on experience, case law and likelihood of success.
- 4.9 Complainants are informed of the outcome of an enforcement complaint, in writing/email, when the case is concluded. Many complaints relate to works that do not require planning permission, such as minor extensions or alterations to a dwelling allowable under Permitted Development legislation.
- 4.10 Our priorities<sup>5</sup> for enforcement action are contained in the Council's Enforcement Strategy available for view online from the Council's website at <http://www.ardsandnorthdown.gov.uk/downloads/ards-and-north-down-planning-enforcement-strategy.pdf>.

## 5.0 Community Involvement in Supplementary Planning Guidance

- 5.1 The Council may also prepare non-statutory planning guidance to support its Local Development Plan. Supplementary planning guidance (SPG) includes, for example, design guides and advice notes in relation to plan policies. Consultation on SPG will be carried out in a proportionate manner where the Council considers it would be beneficial to seek the views of stakeholders and the general public. Comments received on a consultation draft shall be presented to the Planning Committee for consideration and will be published on the Council website. There will, however, be no opportunity for formal objection to this type of document as SPG is not intended to be new policy and is not subject to the Independent Examination process. A final version of any SPG shall be published on the Council's website and may be a material planning consideration in the determination of any planning application or appeal.

---

<sup>5</sup> **Priority 1** – work resulting in public danger or development which may result in permanent damage to the environment. For example, demolition of or works to a listed building, trees protected by a Tree Preservation Order, demolition of a building in a conservation area, and commencement of building operations without permission

## **6.0 Community Involvement in Conservation Area Designation**

- 6.1 A Conservation Area is an area of special architectural or historic interest, the character of which it is desirable to preserve and enhance. The Council considers that consultation with, and the involvement of local people, is important when undertaking work associated with Conservation Areas. This will help encourage greater ownership of the concept and greater co-operation and commitment to achieving the aims of the designation.
- 6.2 The Council will involve the community in the designation, variation or cancellation of a Conservation Area (as designated by the Department/Council). As part of such work, we will formally consult with the Historic Buildings Council, the Department for Communities (Historic Environment Division), the Department for Infrastructure (Roads and Rivers), any water or sewerage undertaker (currently NI Water), as well as any other bodies or persons deemed to have an interest or that could be affected. We will advertise details of proposals in the local press and hold public engagement events to present and discuss them.
- 6.3 For any new designations, the Council will publish a public notice in the local press and hold a public launch / exhibition. The cancellation of a Conservation Area (as designated by the Council under Section 104 of the Planning Act (Northern Ireland 2011), or part thereof, will similarly be confirmed by public notice in the local press and all properties within the affected area will be notified in writing.

## **7.0 Community Involvement in Simplified Planning Zone Designation**

- 7.1 A Simplified Planning Zone (SPZ) is an area in respect of which a simplified planning zone scheme is in force. It shall consist of a map and a written statement and specify the development or classes of development permitted by the scheme. Where the Council proposes to commence work on an SPZ, it will undertake consultations with the neighbouring Council(s), the landowner(s) and occupier(s), the Department for Communities and will notify the Department for Infrastructure.
- 7.2 Once details of a scheme have been prepared, the Council will make copies available for inspection at the Council's Planning Office, give notice by way of an advertisement in the local press and on the Council's website, and will serve a notice on those it has consulted with.
- 7.3 Following advertising of the details of the proposed (SPZ) there will be an eight-week period when representations can be made to the Council. If the Council subsequently decides not to proceed with the proposed (SPZ) it will publish a further advertisement to that effect and will notify all those who have made representations.
- 7.4 The Council may cause an Independent Examination to be held to consider the representations received. Where it is proposed to hold an Independent Examination, details, including the time and place of the examination, will be published in the local press. Where it is decided not to hold an independent examination the Council will notify all those who have made representations.

- 7.5 Following any independent examination the Council will produce a report and statement detailing its decision and outlining reasons for its decision. Notice of publication will be advertised in the local press and the report and statement will be available for public inspection in the Council offices.
- 7.6 Notice of intention to adopt a SPZ scheme will be advertised in the local press and all those who make a representation with respect to the proposals shall be served notice, as well as any other persons deemed appropriate. Any material modifications made to the scheme after considering representations shall be made available for inspection by interested parties. The Council shall make clear what the modifications are and its reasons behind them. Details of the modified proposals will be advertised in the local press and notice shall be served on those affected by the proposals as well as those who had made previous representations. All representations will be considered before finalising the Council's proposals.
- 7.7 The processes of advertisement and notification will be repeated at final adoption stage, following which the relevant scheme details will be made available for public inspection in the Council's Planning Office and any other suitable locations close to the SPZ site, as considered appropriate.

## **8.0 Review of the Statement of Community Involvement**

- 8.1 This Statement of Community Involvement will be reviewed as necessary to ensure that it remains current and relevant to the planning needs of Ards and North Down Borough Council.

## Appendix 1

### Glossary of Terms

**Advertisement:** advertisement for two consecutive weeks in at least one local newspaper circulating in the Council area, unless otherwise specified.

**Conservation Area:** An area previously designated by the then Department of the Environment, or since designated by the Council or Department for Infrastructure under Section 104 of the Planning Act (Northern Ireland) 2011, to be of special architectural or historic interest, the character or appearance of which it is desirable to preserve and enhance.

**Council:** refers to Ards and North Down Borough Council unless otherwise specified.

**Department:** refers to the Department for Infrastructure (previously the Department of the Environment DOE) unless otherwise specified.

**Development Management:** the process of receiving, assessing and determining planning applications and providing related information and advice to customers, the general public and other stakeholders in the matter of placemaking.

**Disabled Person:** as defined by the Disability Discrimination Act (DDA) 1995, someone who has a physical or mental impairment that has a substantial (more than minor) and long-term (usually over one year) adverse effect on his or her ability to carry out normal day-to-day activities.

**Elected Members:** a person elected to the office of Alderman or Councillor in the Council.

**Environmental Impact Assessment (EIA):** a procedure to be followed for certain types of proposed developments to ensure that decisions are made in full knowledge of any likely significant effects on the environment.

**Equality Impact Assessment (EqIA):** a process designed to ensure that a policy, project or scheme does not discriminate against any disadvantaged or vulnerable people.

**Environmental Statement:** Environmental Impact Assessment (EIA) ensures that the likely effects of new development on the environment are fully understood and taken into account by producing an Environmental Statement (ES).

**Evidence Base:** the information and data gathered by the Council to justify the 'soundness' of the policy approach set out in the Local Development Plan documents, including the physical, economic, and social characteristics of the Plan area.

**Identified Occupier:** means the occupier of premises within a 90 metre radius of the boundary of a planning application site.

**Independent Examination:** the examination conducted by the Planning Appeals Commission (PAC), or a person/body appointed by the Department for Infrastructure to test the soundness of a local development plan document

**Local Development Plan (LDP):** the plan for the long-term future development of the Council area, drawn up by the Council in consultation with the community. The Local Development Plan applies regional / strategic policies at local Council level and informs the general public, statutory authorities, developers and other interested bodies of the policy framework and land use proposals that will guide development decisions relating to a specific issue or area.

**Local Policies Plan (LPP):** the second document in the Local Development Plan, which provides detailed policies and proposals for the development of specific geographical or subject areas.

**Neighbouring Land:** land which directly adjoins a planning application site boundary or which would adjoin it but for an entry or a road less than 20 metres in width.

**Permitted Development:** certain relatively minor works and forms of development that can be carried out without the need to obtain planning permission, as currently specified in the Planning (General Permitted Development) Order (Northern Ireland) 2015, as amended.

**Person appointed:** a person appointed by the Department for Infrastructure under Section 10(4) of the Planning Act (Northern Ireland) 2011 to carry out an Independent Examination into a Local Development Plan.

**Planning Committee:** a committee composed of Elected Members (Aldermen and Councillors) which is responsible for determination of non-delegated planning applications and certain other planning matters affecting the Council area.

**Planning Appeals Commission (PAC):** the body which provides Commissioner(s) to carry out an Independent Examination of the soundness of a Local Development Plan document or Statement of Community Involvement (SCI), unless the Department appoints a different independent examiner. The PAC also hears and decides a range of appeals including on refused applications, conditions attached to planning approvals, non-determined applications, applications for Listed Building Consent, Advertisement Consent and enforcement-related cases.

**Plan-led System:** the principle that the determination of any application made under the Planning Act (NI) 2011 must be made in accordance with the development plan unless material considerations indicate otherwise.

**Plan Strategy:** this is the first document of the Local Development Plan and provides a vision, strategic objectives and a framework for growth for the plan area.

**Pre-Application Discussion (PAD):** a process of engagement with an applicant prior to the submission of a formal planning application, to discuss the principle of development and to clarify the format, type and level of detail required to enable the Council to determine such an application.

**Pre-Application Community Consultation (PACC):** if an application is for a major or regionally significant development, applicants must submit a Pre-Application Community Consultation Report together with their planning application. The purpose of the report is to provide details of the consultation that has been undertaken with the local community on the development proposal.

**Preferred Options Paper (POP):** this sets out the key plan issues that the Local Development Plan (LDP) needs to address, possibilities and alternative proposals produced at an early stage in the production of the Local Development Plan and the preferred options available to address them. The POP is a consultation paper to promote debate on issues of strategic significance which are likely to influence the shape of future development within the Council area.

**Proposal of Application Notice (PAN):** in the case of major or regionally significant development, as prescribed within the Schedule to The Planning (Development Management) Regulations (Northern Ireland) 2015, an applicant is required to submit a 'Proposal of Application Notice' at least 12 weeks prior to submitting a planning application for the proposal. The proposal of application notice should set out how an applicant proposes to engage and seek the views of the community on the proposed development.

**Scheme of Delegation:** a scheme where decision-making on local applications is delegated to an appointed officer rather than through the Council's Planning Committee, thereby enabling speedier decisions and improved efficiency. Section 31 (1) of the Planning Act (Northern Ireland) 2011 requires the Council to produce such a scheme.

**Section 75 Groups:** nine key groups listed in Section 75 of the Northern Ireland Act 1998 that traditionally have been under-represented or disadvantaged. Section 75 requires all government departments, agencies and councils to consider these groups when creating a policy.

**Simplified Planning Zone:** an area of land that can be earmarked for specific development where the planning process is relaxed in order to encourage development.

**Soundness:** a Development Plan Document will be found to be 'sound' if it meets certain tests at the Independent Examination stage. These tests require that a document is prepared according to the correct procedures, that it conforms to other policies, and that its proposals are coherent, consistent and effective.

**Stakeholders:** individuals or organisations who stand to gain or lose from the impact of a planning policy, proposal or decision. The term is used mostly to refer to bodies that will affect the delivery of a planning document's policies and proposals.

**Statement of Community Involvement (SCI):** statement setting out the Council's policy and processes for involving the community in the preparation, alteration and continuing review of all Local Development Plan documents and accompanying guidance, the consideration of planning applications, consideration of breaches of planning control and in the making or altering of designated areas.

**Strategic Environmental Assessment (SEA):** a procedure that contributes to the integration of environmental considerations in the preparation and adoption of plans and programmes with a view to promoting sustainable development.

**Supplementary Planning Guidance (SPG):** a document which provides supplementary information about the policies in the Local Development Plan documents. SPGs are not subject to independent examination. A SPG may be related to a topic or to a specific area.

**Sustainability Appraisal:** tool for appraising policies to ensure they reflect sustainable development objectives and required in the Planning Act (NI) 2011 to be undertaken for all Local Development Plan Documents.

## Appendix 2 – Local Development Plan Consultation Process

The statutory consultation bodies in the Local Development Plan process, as defined in the Planning (Local Development Plan) Regulations (Northern Ireland) 2015, are:

- **Northern Ireland Government Departments**
  - The Executive Office
  - Department of Education
  - Department for the Economy
  - Department of Finance
  - Department of Health
  - Department of Justice
  - Department for Infrastructure
  - Department for Communities
  - Department of Agriculture, Environment and Rural Affairs
  
- **Local Planning Authorities adjoining Ards and Down Borough Council**
  - Belfast City Council
  - Lisburn and Castlereagh City Council
  - Newry, Mourne and Down District Council
  
- **Water or Sewerage Undertakers**
  - Northern Ireland Water
  
- **Northern Ireland Housing Executive**
  
- **Civil Aviation Authority**
  
- **Any person to whom the electronic communications code applies by virtue of a direction given under Section 106(3) of the Communications Act 2003**
  
- **Any person to whom a licence has been granted under Article 10(1) of the Electricity (Northern Ireland) Order 1992**
  
- **Any person to whom a licence has been granted under Article 8 of the Gas (Northern Ireland) Order 1996**



## Appendix 3 – Development Management Consultation Process

Planning Officers frequently need to obtain specialist advice to enable them to consider the potential impacts of a development proposal before determining a planning application. This is referred to as the consultation process. Consultation with statutory and non-statutory bodies will be carried out only when necessary to inform a planning decision.

Where the Council undertakes consultation on a planning application, the statutory consultee will be required to respond within 21 calendar days, or any other date as agreed in writing, after which the Council may determine the application whether or not a response has been received. In the case of applications which are subject to an Environmental Impact Assessment (EIA) the Council will not make a determination until 28 days have passed.

Statutory consultees are those government bodies or other organisations with whom the Council must liaise, dependent upon the nature of the application. Schedule 3 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 defines the statutory consultees and outlines the various circumstances where consultation must be carried out. These specific criteria/thresholds for consultation should be referred to. The 'Statutory Consultees' are listed in **bold** below, along with main contact bodies:

### **Department for Communities**

### **Department for Infrastructure – Roads and Rivers**

### **The Health and Safety Executive for Northern Ireland**

### **The Department for Regional Development (now Department for Infrastructure) or water undertaker as defined under Article 13 of the Water and Sewerage Services (NI) Order 2006 - Northern Ireland Water (NIW)**

### **Licensed Aerodromes - Belfast International Airport & The George Best Belfast City Airport**

### **Department of Agriculture, Environment and Rural Affairs**

### **Department for the Economy**

### **The Northern Ireland Housing Executive**

It should be noted that the above is not intended to be a definitive list of consultees nor cover all circumstances under which a consultation with a statutory consultee may be carried out. Due to wide range of development proposals submitted to the Council, each application will be carefully considered, and consultations will be undertaken in line with statutory requirements. The need for consultations will vary between applications depending on the on the nature and scale of the proposal.

## Non-statutory Consultation

Not all information required to process an application will be from statutory consultees. There will be instances where non-statutory consultees may need to be consulted on a case by case basis. For example, this could include other sections within the Council with responsibility for matters relating to environmental health, or trees or conservation. Such consultees may also include other external organisations and bodies.

Non-statutory consultees are not bound by the 21 calendar days for a response; however, they will be encouraged to respond to consultations in a similar timeframe and manner to allow decisions to be made in a timely manner.

Due to wide range of development proposals submitted to the Council, each application will be carefully considered, and consultations will be undertaken in line with statutory requirements. The need for consultation will vary between applications depending on the nature and scale of the proposal.

Further information on the consultation process is contained in the Department for Infrastructure's Development Management Practice Notice 18 'The Consultation Process and Duty to Respond' - <https://www.infrastructure-ni.gov.uk/articles/planning-practice-notes>.