

Agenda

Agenda

[Agenda PC.6.2.24.pdf](#)

Page 1

1. Apologies
2. Declarations of interest
3. Matters arising from minutes of Planning Committee meeting of 5 December 2023

Copy attached

[PC.05.12.23 Minutes.pdf](#)

Not included

[PC.05.12.23 Minutes PM.pdf](#)

Page 3

4. Planning Applications

Reports attached

4.1 LA06/2021/0419/F - Lands adjacent to Seacourt, Maxwell Drive, 33m East of 3-6 Seacourt, 39m South of Seacourt Garden, 24m West of 1-2 Seacourt Garden and 8m North of 2A Maxwell Road, Bangor

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

[Item 4.1 - Executive summary LA06 2021 0419 F.pdf](#)

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[Item 4.1a LA06-2021-0419-F - Case Officer Report.pdf](#)

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4.2 LA06/2021/1438/F - Land adjacent to 11-33 Cannyreagh Road, Donaghadee

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

[Item 4.2 - Executive summary LA06 2021 1438 F.pdf](#)

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[Item 4.2a LA06-2021-1438-F - Case Officer Report.pdf](#)

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4.3 LA/06/2021/0627/O - Land adjacent to and approximately 17m east of 6a Ballykeigle Road, Comber

Farm dwelling and garage

Item 4.3 - Executive summary LA06 2021 0627 O.pdf Page 121

Item 4.3a LA06 2021 0627 O - Case Officer Report.pdf Page 124

Item 4.3b LA06-2021-0627-O Addendum to Case Officer Report.pdf Page 141

4.4 LA06/2019/1295/F - Site of the former Bangor Leisure Centre Castle Park Avenue, Bangor

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

Item 4.4 - Executive summary LA06 2019 1295 F.pdf Page 143

Item 4.4a LA06-2019-1295-F Case Officer Report.pdf Page 146

4.5 LA06/2021/0118/F - West of Nos. 39 and 80 St Andrews Avenue, Ballyhalbert, immediately west of 45 Longfield Way, and North of Nos.72 and 84 Longfield Way, Ballyhalbert

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

(Amended proposal)

Item 4.5 - Executive summary LA06 2021 0118 F.pdf Page 169

Item 4.5a Addendum Report to LA06-2021-0118-F.pdf Page 171

4.6 LA06/2023/1910/F - Cloughey Pavilion, Main Road, Cloughey

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

Item 4.6 - Executive Summary LA06 2023 1910 F.pdf Page 181

Item 4.6a LA06-2023-1910-F - Case Officer Report.pdf Page 183

5. Update on Planning Appeals

Report attached

- 📄 *Item 5 Update on Planning Appeals.pdf* **Page 204**

- 📄 *Item 5a - Appeal Finding 2022-A0204.pdf* **Page 208**

- 📄 *Item 5b - Appeal Decision 2022-A0193-1.pdf* **Page 211**

- 📄 *Item 5c - Appeal Decision 2022-A0193-2.pdf* **Page 219**

6. NIW Fence at Seacourt Wastewater Pumping Station

Report attached

- 📄 *Item 6 - NIW fence at Seacourt Wastewater Pumping Station.pdf* **Page 221**

- 📄 *Item 6.1 - Appendix 1 - Letter to NIW Lawyers.pdf* **Page 224**

- 📄 *Item 6.2 - Appendix 2 - Open Letter.pdf* **Page 226**

7. Planning Service Budgetary Control Report - December 2023

Report attached

- 📄 *Item 7 Planning BCR - Dec 2023.pdf* **Page 228**

ARDS AND NORTH DOWN BOROUGH COUNCIL

30 January 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, 6 February 2024**, commencing at **7.00pm**.

Yours faithfully

Stephen Reid
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 5 December 2023 (Copy attached)
4. Planning Applications (reports enclosed)

4.1	LA06/2021/0419/F	Lands adjacent to Seacourt, Maxwell Drive, 33m East of 3-6 Seacourt, 39m South of 4 Seacourt Garden, 24m West of 1-2 Seacourt Garden, and 8m North of 2A Maxwell Road, Bangor Development of 7no. mansion apartments within a two and half storey building
4.2	LA06/2021/1438/F	Land adjacent to 11-33 Cannyreagh Road, Donaghadee Amendment to approved realignment of Cannyreagh Road and provision of new link section to ensure retention of vehicular and pedestrian access for existing residential properties
4.3	LA06/2021/0627/O	Land adjacent to and approximately 17m east of 6a Ballykeigle Road, Comber Farm Dwelling and Garage.

4.4	LA06/2019/1295/F	Site of the former Bangor Leisure Centre Castle Park Avenue, Bangor 19 apartments (4 storey) with on-site parking and amenity space
4.5	LA06/2021/0118/F	West of Nos. 39 and 80 St Andrews Avenue, Ballyhalbert, immediately West of 45 Longfield Way, and North of Nos. 72 and 84 Longfield Way, Ballyhalbert Housing development of 98 units, detached garages (site nos. 175 to 272 inclusive), extension to footpath on Shore Road and playpark. (Amended proposal)
4.6	LA06/2023/1910/F	Cloughey Pavilion Main Road Cloughey. Proposed two storey extension to existing Pavilion to include a balcony and associated alterations as well as other works including a paladin fence and disabled parking (Renewal of approval LA06/2017/1256/F)

5. Update on Planning Appeals (report attached)

6. NIW fence at Seacourt Wastewater Pumping Station (report attached)

7. Planning Service Budgetary Control Report - December 2023 (report attached)

MEMBERSHIP OF PLANNING COMMITTEE (16 MEMBERS)

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

ARDS AND NORTH DOWN BOROUGH COUNCIL

A hybrid meeting (in person and via Zoom) of the Planning Committee was held at the Council Chamber, Church Street, Newtownards on Tuesday 5 December 2023 at 7.00 pm.

PRESENT:

In the Chair: Alderman McIlveen

Alderman: Graham
McDowell (7.10pm, Zoom)

Councillors:	Creighton	McRandal
	Harbinson	McKee (Zoom)
	Kerr (8.44pm, Zoom)	McCollum
	Kendall	Morgan
	Martin	

Officers: Director of Prosperity (A McCullough), Principal Professional & Technical Officers (C Blair & L Maginn), Senior Professional & Technical Officer (A Todd), and Democratic Services Officer (R King)

1. APOLOGIES

An apology for inability to attend was received from Alderman Smith, Councillor McLaren, Councillor Cathcart and Councillor Wray.

Apologies for lateness were received from Alderman McDowell and Councillor Kerr.

2. DECLARATIONS OF INTEREST

3. MATTERS ARISING FROM MINUTES OF PLANNING COMMITTEE 7 NOVEMBER 2023

PREVIOUSLY CIRCULATED:- Copy of the above minutes.

AGREED TO RECOMMEND, that the minutes be noted.

4. PLANNING APPLICATIONS

4.1 LA06/2023/1959/F - Ulster Folk Museum 153 Bangor Road, Holywood (Appendix I - II)

PREVIOUSLY CIRCULATED:- Case Officer's Report.

DEA: Holywood and Clandeboye

Committee Interest: An application in the major category of development

Proposal: Erection of new arrival and welcome building (Culture Hub), collection & exhibition building (Industry Zone), staff and volunteer hub; extension to existing Ballycultra building for collections storage space and sustainable energy centre; erection of new pavilion building and landscaping within the 'town' area; alterations to existing buildings to form learning facilities and craftwork spaces within the 'town' area of the museum; landscaping improvements across the museum estate including new pedestrian walkways and interpretation signage; the development of new car and bicycle parking areas; and the demolition of the Dungannon Store facility, entrance ticket kiosk, staff portacabins and Carrigan's Sawmill.

Site Location: Ulster Folk Museum 153 Bangor Road, Holywood, BT18 0EU

Recommendation: Approval

The Senior Professional and Technical Officer (A Todd) outlined the case officer's report to the Planning Committee.

She explained that Item 4.1 was an application seeking full planning permission at the Ulster Folk Museum, Holywood, for the detail set out above.

The application had been recommended for approval and had been brought before Planning Committee as it fell within the major category of development.

The site was located within the existing Ulster Folk Museum grounds encompassing the 'town area' of the museum. The area lay within the countryside approximately 120m south of the settlement of Holywood and the main Belfast to Bangor A2 carriageway. A number of Draft BMAP designations applied to the site including the 'Ulster Folk and Transport Museum and Cultra Glen' Site of Local Nature Conservation Importance, the 'Folk Park/Creighton' Local Landscape Policy Area and the Cultra Manor Historic Park, Garden and Demesne.

A further slide showed images of the town area of the Folk Museum which most members were already familiar with. The site comprised areas of woodland along with the existing museum buildings and car parking. An image showed the existing main access into the museum and another image showed the current ticket kiosk at the entrance beside the main car park and then additional images set out examples of the buildings within the town area itself.

The site layout plan showed the various aspects of the development. The proposal represented an extensive redevelopment scheme for the current facility reflecting the transformational brief which the National Museums NI had identified for the Ulster Folk Museum. Currently the Ulster Folk Museum attracted approximately 80,000 visitors per annum, and it was anticipated that the redevelopment of the site could potentially increase that to 243,000 visitors per annum.

The scheme had been developed following an extremely thorough design process engaging stakeholders from the outset including pre-application discussions held with the Planning Department and extensive Pre-Application Community Consultation. The overall scheme had also been reviewed by the Ministerial Advisory Group Design Review Panel which wholeheartedly supported the aims of the project.

Thanks to the efforts of the case officer, Christine Hamilton, and the high-quality submission from the applicant's design team, officers were pleased that they had been able to make a recommendation on the application within the 30-week target for major developments. The officer understood that representatives from both the design team and National Museums were in attendance this evening and available to answer any questions members may have had regarding the background and design ethos of the project but the officer provided a brief overview of the each of the different aspects of the proposal.

Starting at the northern most end of the site, a new woodland walk was proposed within the wooded area to the right of the main access road. That would involve the removal of some large shrubs within the central area to accommodate the path however no significant tree removal was involved and new tree planting within the area was proposed. The path would link through to the main arrival point at the proposed Culture Hub building for those visitors arriving on foot.

A new car park would be located in the north-western corner of the site with the new arrival building located adjacent. While it would be necessary to remove a number of trees to accommodate the car park at that location, those trees were not subject to a Tree Preservation Order and compensatory tree planting would be carried out as part of the detailed landscaping scheme for the site. NIEA was also consulted and was content that impacts on the habitat of the priority woodland and the Site of Local Nature Conservation Importance would be minimal.

The carpark would provide compliant access adjacent to the main entrance and the proposal as a whole had been designed to provide suitable access for all. The woodland walkway would provide a step-free route between the overflow visitor car park and the main site entrance. The proposal would improve the parking arrangements for the museum as a whole. Currently, staff, visitors, and coaches parked in the same car park. However, the redevelopment would provide a separate visitor car park and a separate staff and coach carpark and the overall parking provision would be increased from 185 to 246 spaces with at least 10% of car spaces provided with EV charging points. A Travel Plan and an Events Management Plan had also been submitted which identified the management strategies to be deployed during busy times.

The Committee was shown images of the proposed Culture Hub building from various viewpoints. That would serve as the new arrival building for the Folk Museum introducing the museum and its ethos. The building would be constructed of sustainable natural materials sourced locally. Walls would be formed with straw bale construction and protected with lime harl and the roof would be finished in slate.

Further images displayed a couple of existing views looking towards the proposed site of the building and conceptual images to give an idea of what the interior spaces of the building might look like along with the proposed materials. A further slide showed the proposed Market Garden area which would be located to the front of the Culture Hub building adjacent to Meeting Street. The Market Garden would connect the new Culture Hub and the town leading the visitor towards Tea Lane and the wider existing town buildings. It would incorporate several areas of productive and ornamental planting, laid in linear agricultural field patterns to create a visual link to

the wider rural landscape of the museum.

Opposite the Culture Hub and Market Garden was the site of the proposed Industry and Staff Hub building. That would serve as a showcase for the national Industrial Collection and some images of the proposed building from various viewpoints were shown. A further slide showed the existing view of the proposed site taken from the current car park at the museum along with images of the interior space and the palette of sustainable and locally sourced materials proposed.

At the eastern end of the site was the existing Ballycultra Building which was currently used as a storage facility. That was the large green building at the entrance to the museum. An extension to the existing building was proposed which would incorporate a series of timber clad 'boxes' that stepped in plan along the length of the building to reduce the overall scale of the elevation. The store extension would include a much needed conservation studio and quarantine area together with a dedicated arrival space for collection transfers and deliveries.

Further to the south was the Diamond area opposite the existing Tearooms. To better spatially define the diamond space, a series of lawns were proposed to the front of the Tea Rooms to accommodate informal gatherings and picnics. A generous area of hardstanding was also proposed to the front of the Tea Rooms with additional outdoor seating and a natural stone sett finish, appropriate to the heritage setting would replace the tarmac finish to the existing central area of the diamond. A canopy structure was also proposed within the area to offer day-to-day use as a gathering space and provide shelter in bad weather. It would also offer the opportunity to host events from market stalls to pop-up cafes.

The proposals for the new Learning Courtyard to the south of the Industrial Hub focused on refurbishment to create dedicated Learning Spaces that would provide a balance of flexible and dedicated use spaces within the area.

Across the whole scheme only four buildings were proposed for demolition to accommodate the new development. All of those buildings had been identified in the Built Heritage Appraisal carried out by Hoskins Architects as having either no relative significance or low relative significance. Historic Environment Division had also been consulted on the application and had raised no objections to the demolition of those buildings.

Further slides showed that the project also involved extensive landscaping works across the site. As previously mentioned, a number of existing trees would need to be removed to accommodate the new car park and Culture Hub building. Some trees to the side of the Ballycultra building would also need to be removed to accommodate the new extension. All of the trees proposed for removal were shown in red and orange on the plan with shrubs shown in pink. However, the vast majority of trees on the site as indicated in blue, would be retained. It was not considered that the removal of those small groups of trees would harm the overall character or ecology of the site. Furthermore, extensive new tree planting would be carried out as a compensatory measure. In total 329 new trees would be planted. Images were shown of the new trees proposed for the Woodland Walk area and further slides

displayed the tree planting around the car park, culture hub and Market Garden areas then lastly around the Ballycultra store, Industry Hub and the diamond.

In terms of the planning policy context, while the site was located within the countryside, policy TSM2 of PPS16 which set out the planning policy on tourism, permitted extensions to existing tourist amenities provided the scale and nature did not harm the rural character or landscape quality of the area.

A Landscape Assessment had been carried out and submitted with the application to assess the potential visual impact of the development within its wider landscape context. As the photographs demonstrated, the site was heavily screened by mature bands of woodland with only limited, distant views of the application site and areas of the proposed development from the wider public viewpoints. The proposed buildings themselves had been designed to an exceptionally high standard and their siting would respect the existing topography as they would sit into the landscape at a low level minimising their visual impact with a maximum height of two storeys in all locations.

Seven letters of support had been received for the application from MLAs, the Education Authority and Craft NI. No objections had been received in relation to the application.

All of the statutory consultees had also confirmed that they were content with the proposals including DFI Roads in terms of traffic impact and SES and NIEA in terms of potential impact on European designated sites and priority habitat within the site itself. The Planning Department was awaiting final confirmation from NIEA that it was content with the further information submitted in relation to badgers, however the final decision would be held until the Planning Department had received confirmation from NIEA and in that regard, it would ask the Planning Committee to grant the Planning Department delegated authority to include any conditions relating to any mitigation measures required by NIEA.

In summary, the Officer advised that this was an extremely high-quality scheme which had been very carefully designed to meet the needs of the Museum while respecting the sensitive context of the site. The proposal complied with all the relevant planning policies in relation to tourism development and the scheme would bring much-needed rejuvenation to the Museum to create a leading national tourist attraction within the Borough. On that basis it was recommended that Full Planning Permission be granted.

(Alderman McDowell joined the meeting via Zoom – 7.10pm)

As there were no questions from Members for clarification, the Chair advised that a delegation was in attendance to speak in support of the application. Andrew Heasley (agent), Kathryn Thomson, Chief Executive of National Museums NI and Gordon Gibb, Director at Hoskins Architects addressed the Committee as follows:

- Mr Heasley thanked the Planning team for its processing of what was a major planning application and how it had positively facilitated the PAD that preceded it.

- The project sought to increase annual visitor numbers to the museum to 240,000 from an average 120,000 before Covid.
- An independent study had shown that for every £1 invested in National Museums NI, it generated £6 economic and social impact.
- Ms Thomson explained that the Ulster Folk Museum was established almost 60 years ago to preserve and interpret the way of life and traditions of the people of Ulster that were fast disappearing.
- From the outset there was a strong community spirit and the museum sought to play an important role in society, notably through cross community initiatives at a time of increasing conflict and division.
- Driven by more peaceful and prosperous times, the museum had more recently become better known for its great day out experience. Many families and school children were able to fondly recall visits to the sweet shop and the smell of freshly baked soda bread.
- However, changing consumer trends coupled with a lack of investment in the museum, had led to a slow decline which needed to be addressed.
- 2024 marked the 60th anniversary of the museum and brought a really exciting opportunity to re-establish its relevance. That process was being referred to as its 'Reawakening'.
- Now was the time to realign the museum to renew its commitment to exploring shared heritage and cultural diversity for peace and reconciliation in Northern Ireland.
- To use its knowledge of the past to provide lessons for the future at a time of environmental crisis, helping people to learn how we could live more sustainably and in harmony with nature, and to provide new ways to support healthy lives for all at a time of increased isolation, anxiety and disconnection.
- The project would deliver significant benefits not only in terms of economic development through increased tourism for the Ards and North Down area, but also in terms of wider societal outcomes.
- The museum would seek to transform how people perceived the museum from a fondly remembered visitor attraction worth visiting every now and then to an inspirational and dynamic heritage and environmental resource with a multitude of ways to connect with its purpose throughout the year.
- A range of ideas had been piloted over the last few years which had demonstrated significant opportunity of that reawakening. Those included increased opportunities for volunteering including around conservation and through development of a schools' programme providing new opportunities to learn about heritage skills.
- However to sustain that the museum needed clear investment in its facilities to provide a stronger welcome, better ways to access the museum's significant collection and fit for purpose spaces to sustain audience, volunteer and staff engagement.
- Mr Gibb, the architect, explained change of perceptions would be done through balance of preserving what was cherished about the museum while introducing new buildings, new collections and new stories to attract new audiences and investment.
- The Culture Hub, an inspiring new welcome building, would be a place to showcase the Ulster Folk collection to new audiences in new ways and to

introduce the themes and ethos of the museum and to provide a variety of engaging spaces to explore shared heritage and cultural diversity.

- The design of all buildings employed traditional materials, new skills, natural materials that were locally sources where possible in an exciting and contemporary way.
- The buildings would be to high level of sustainability – BREEAM standard of excellent and Passive House certified.
- The industrial collection would be back on display allowing visitors to understand and experience industrialisation in places of work, side by side with home life.
- Landscape interventions would link all of the buildings together improving accessibility and access to rural areas, allowing visitor groups to take part in activities in that area and understand more about sustainability, healthy lives to the benefit of the economy of Ards, North Down and beyond.

The Chair invited questions from Members to the speakers.

Welcoming what was an exciting development, Councillor Morgan spoke of fond memories of the Folk Museum. She asked what the timescale was in terms of completing the development and Ms Thomson advised that there was a desire to open the facility by 2028, subject to successful funding which was hoped to be confirmed in 2024.

Noting that there had been zero objections and seven letters of support, Councillor Martin felt this was a great tribute to the architect given the scale of the proposal. He sought information around the environmental sustainability features of the development and it was advised by Mr Gibb that the proposed welcome centre and culture hub would be BREEAM Excellent standard, which was a recognised UK metric for sustainability. The Industry Zone would be Passive House certified which meant it would contain high levels of insulation, air tightness, low energy and low carbon footprint both embodied and operational. Ms Thomson added that it was the museum's ambition to demonstrate what good sustainable development looked like.

Councillor Martin welcomed the innovation but encouraged the museum not to stop baking its soda bread in this technological age.

The Chair, Alderman McIlveen, welcomed the proposed development and he too recalled fond memories of the Folk Museum, explaining that his wedding had been held in the church there 10 years ago followed by a reception in the Cultra Manor.

There were no further questions to either the speakers or officers and the Chair sought a proposal.

Councillor McRandal proposed, seconded by Alderman Graham, that the recommendation be adopted and that planning permission be granted.

The proposer, Councillor McRandal commented that the proposal and design was clearly of high quality and sympathetic to the environment in terms of use of materials and sustainability being a high priority. Alderman Graham wished to echo those comments.

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

(Councillor McCollum left the meeting having declared an interest in Item 4.2 – 7.25pm)

4.2 LA06/2021/0080/F - 31 Old Cultra Road, Holywood
(Appendix III - IV)

PREVIOUSLY CIRCULATED:- Case Officer's Report.

DEA: Holywood and Clandeboye

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

Proposal: Two storey replacement dwelling with integral garage and erection of a two-storey dwelling with detached garage on lands to the rear to be accessed off existing Cultra Avenue access, landscaping and associated siteworks.

Site Location: 31 Old Cultra Road, Holywood.

Recommendation: Approval

The Principal and Professional Technical Officer (C Blair) outlined the planning application, explaining that LA06/2021/0080/F was for a two-storey replacement dwelling with integral garage and erection of a two-storey dwelling with detached garage on lands to the rear to be accessed off existing Cultra Avenue access, landscaping and associated siteworks, at 31 Old Cultra Road, Holywood.

There were no objections from consultees subject to conditions. Eleven letters of objection had been received from seven separate addresses all of which had been considered in the case officer's report and addendum report.

The site consisted of an existing two storey, pitched roof detached dwelling finished in brick and painted render with a conservatory and sunroom the rear. The topography of the site sloped slightly upward towards the rear boundary.

Vehicular access to the site was currently from Old Cultra Road via a curved gravel driveway which led to a parking area directly in front of the dwelling. A wooden gate between rendered pillars towards the rear corner of the site provided access from Cultra Avenue.

There were garden areas laid out in lawn to the front and the rear and several mature trees, particularly in the front garden. This was a mature site and high conifers were located along the south boundary. The rear boundary was denoted by a stone wall which was approximately 2 metres high and mature vegetation and rendered walls formed the other boundaries. The site was not currently visible from Old Cultra Road. There were gates at the rear of the site along the NE boundary with an access to the existing laneway off Cultra Avenue.

The application was before members as it was a local development application attracting six or more separate individual objections which were contrary to the officers' recommendation.

The North Down and Ards Area Plan 1984-1995 (NDAAP) was the current statutory plan for the area however the draft BMAP Plan 2015 remained a material consideration. The site was located within the settlement limit of Holywood and lay in the Proposed Marino, Cultra and Craigavad Area of Townscape Character as identified in draft BMAP.

The application proposal sought to sub-divide the existing large plot with a proposed replacement dwelling on the position of the existing house, which would retain access onto Old Cultra Road.

The Officer discussed initially, House A, the proposed replacement.

The proposed demolition of the existing dwelling in the proposed ATC did not conflict with this policy. The existing dwelling, which sat back and was screened from views on Cultra Avenue by existing vegetation, had no particular design merits and did not make a material contribution to the distinctive character of the area.

The proposed replacement dwelling, House A, which was to be sited on approximately the same footprint as the existing dwelling, would be Georgian in style and design.

The proposal was situated approx. 3 metres from the SW boundary and between 8 and 10 metres approximately from the NE boundary. The design was subordinate to the existing character of the area and was in line with the design requirements set out in Policy QD1 of PPS 7 'Quality Residential Environments'. House A did not cause any conflict with adjacent land uses and did not result in overlooking, overshadowing and a loss of natural light to neighbouring dwellings.

The proposed House B was situated at the rear of the site and would be accessed via a separate lane from Cultra Avenue to the northeast of the site.

It was stated in the received objections that the proposed dwelling identified as House B was contrary to the North Down and Ards Area Plan, which specifically stated that in this area of Cultra, development should be limited to one house per acre under the Plot Size policy.

Under paragraph 18.9 of the NDAAP it however recognised that there would be developments which were acceptable in planning terms although they were not strictly in accordance with that plot size policy.

Further, it should be noted that the policy was not included in draft BMAP, which remained a material consideration, as it was considered it was not necessary given the proposed ATC.

The Planning Committee was asked to also consider the surrounding context of the existing established residential area. That demonstrated that the proposed site as a

whole had a density of 4 dwellings per hectare yet the surrounding density measured 5.5 dwellings per hectare.

A further slide displayed the area of Cultra measured, which extended from Cultra Avenue to the northeast to Farmhill Road to the Southwest, Clanbrassil Road to the northwest and the railway line to the southeast (07).

An extensive site history search of the surrounding area had also shown 'subdivision' of plots within the established residential area. Of note were approvals at 22 Old Cultra Road and 18 Old Cultra Road where the densities of 6.25 dph and 12 dph respectively were considered to be acceptable.

Extensive mature landscaping in the form of trees within the site and in particular within the front portion (front garden of house A) would soften the visual impact of the proposal. It was considered that the proposed replacement and additional dwelling would sit comfortably within the existing built form, would not detract from the overall character and appearance of the immediate and surrounding area and complied with the policy requirement set out under the Addendum to PPS 7 – 'Safeguarding the Character of Established Residential Areas'.

Concerns had been raised in received objections regarding the use of the existing lane onto Cultra Avenue, which was shown in a further slide. However, DfI Roads offered no objection to the proposal subject to conditions for visibility splays and sightlines to be put in place prior to the commencement of development.

The proposed scale, size and design of House B was in keeping with the surrounding area, which predominantly comprised two-storey dwellings. The proposed finishes and use of materials were acceptable in that urban area location.

The objections received mainly focused on the proposed House B including potential overlooking, overshadowing and loss of natural light to an approved extension at No. 30A Cultra Avenue, which was located to the east and partly adjacent to the proposed dwelling.

A further slide showed a map, which overlay the positioning of the proposed dwelling, House B, with the approved footprint of the extension at No. 30A Cultra Avenue.

It also showed the proposed gable elevation of House B included a single-storey lean-to, which was the nearest part to the approved extension at No. 30A Cultra Avenue. There was also an approximate 2 metre high timber boundary fence between the two properties at that location. The slide also provided the positioning of the proposed house elevation against the approved extension.

In the approved extension for No. 30A Cultra Avenue under LA06/2021/0170/F two storey and single storey extensions had been approved along the boundary. There were three ground floor windows, which were to serve an ensuite, an office and a guest bedroom.

The policy advised that the effect of a development on the daylight to bathrooms would not be considered. As recommended in Annex A to policy EXT 1 of the Addendum to PPS 7 'Residential Extensions & Alterations', 45 degree and 60-degree lines could be applied from the centre of the closest neighbouring window to assess the impact of the single storey and two storey elements of the proposed dwelling on the narrow office window.

The light test was conducted from the ground floor office window on the side of the approved extension. The 60-degree angle was used when assessing the single storey and the 45-degree angle test used when assessing the approved two-storey. Both of those tests had been conducted separately. The 60-degree test from the office window complied with the light test.

However, the 45-degree test from the narrow office window, which was deemed a habitable room under the Addendum to PPS 7 did not meet the guidance by 30 degrees. It was acknowledged that the proposed two-storey elevation of House B was not in line with the guidance under Annex A of the aPPS7.

However, Annex A in the Addendum to PPS 7 outlined that the use of the tests were an assessment tool only and were to be used in conjunction with other relevant factors rather than applying a rigid standard that must be met in every case.

1. One factor to note from Annex A was that the approved extension was already impeded by an existing 2m high party boundary timber fence, which was located 1.1m away from the position of the approved extension elevation and therefore ground floor windows.
2. The ground floor bedroom was annotated on the approved plans as a guest bedroom. It was the fifth bedroom with the main four bedrooms located at first floor level. The proposed window to that bedroom would be affected by some degree by the existing two-metre-high boundary close boarded timber fence, which was 1.1m from the window.
3. A second factor was that although the extension was approved prior to the current application, the proposal before the Committee was submitted before the proposed extension application at No. 30A Cultra Avenue and it was evident from the approved site layout that the applicant was fully aware of the positioning and design of proposed House B, as its proposed siting was annotated on this granted stamped plan.

(LA06/2021/0170/F was made valid on 15/2/2021)

4. A third factor listed to be considered under Annex A was development which was allowable under permitted development. In this case, under Part 1, Class D of The Planning [General Permitted Development] Order [Northern Ireland] 2015 for development within the curtilage of a dwellinghouse, the owner of the existing dwelling could erect a detached structure in the proposed location of House B of up to 2.5 metres to eaves height when within two metres of a party boundary and had an overall ridge height of 4m without requiring planning permission. The proposed single-storey lean-to of House B was

approximately 2.75m from the party boundary and had an eaves height of 2.5m. It was therefore considered that that element would not have a significantly greater impact than a structure erected at the same location under permitted development.

The proposed first floor gable windows for House B as also identified on this slide for a store, ensuite and a side window to the master bedroom would be conditioned to be fitted with permanently retained obscure glazing should members approve the application.

Objectors had also raised the removal of trees at the site however the trees removed were not protected by the extant TPO. It was considered that the remaining trees and vegetation along with proposed planting provided adequate screening and landscaping for the proposed development.

Other objections raised had been considered in the case officer's report.

The Planning Department had considered the proposed development acceptable and recommended approval.

The Chair invited questions to the officer for clarification.

Councillor McRandal asked about separation distances and referenced Creating Places guidance, recalling that it had been an issue in previous debates in relation to other applications. The officer explained the separation distance was 2.75m to one side from House B and 1.1metre at the opposite side. The key factor however was that those distances only related to the side boundaries of House B and the Creating Places element did not apply as the frontage exceeded minimum requirements.

There were no further questions to the officer for clarification and Mr Mike Crowe who was in attendance to speak against the application, was invited to make an address to the Committee. His address was summarised as followed:

- Mr Crowe explained he resided at 30B Cultra Avenue
- He was objecting on his own behalf and that of his neighbours, Mr & Mrs Clancy, whose property at 30A Cultra Avenue adjoined the rear of the subject site.
- The proposal totally disregarded, as did the Case Report, the very material approved extension to 30A. The Clancys had now contracted a builder and works were to commence early next year.
- The rear site was very much contrived.
- The overall site measured 0.42ha, which slightly exceeded the density zoning criteria of 0.4 ha. The proposal was to split the site into two both of which fell well short of the density criteria to the detriment of the character of the surrounding area.
- He could accept the subdivision of plots where exceptional circumstances applied. However, he argued that there were no such circumstances in this case.
- During Covid there was a very significant culling of trees on the rear Eastern boundary to facilitate the contrived of plot B, despite the Tree Protection Order

in Cultra - Fig 3, in the letter of objection by Messrs Clancy, illustrated the extent of the said culling.

- It would not be practical to position house B close to the rear western boundary, due to tall mature trees in that location, so the proposal was to site house B but 1m, 40" in old money, from the Clancy's dwelling and extension, which would sit right on the boundary line - the 3D modular image of Fig 1, in Clancys' letter of objection illustrated the point.
- Having made an investment well in excess of £1.5M, the notion that Planning would deem it acceptable to grant permission for another dwelling to be erected just 40' from the wall of your house was unthinkable.
- House B overlooked the Master Bedroom of 30A and the various rooms along the single storey extension. It was interesting to note that 6 out of the 9 first floor windows in house B would be required to have obscured glazing on account of the amenity impact on neighbouring properties.
- Access to Plot B was proposed along a private laneway that passed in front of 30A and 30B at its western end.
- Although the applicant may have negotiated a ROW over the lane with a previous owner of 30A, that in itself did not infer a right to develop the lands to the rear of 31 Old Cultra Road.
- There were currently two sets of manual gates in place on the laneway. Historically, a third set of gates were in existence but those, through time, fell into disrepair. Replacement of those gates had been included in the building contract for the extension works to 30A. That would result in three sets of gates along the lane, as existed before. It was not practical, in light thereof, for Plot B to take daily vehicle access over the private laneway.
- Roads Service required strict visibility criteria to be met at the junction of the private lane with Cultra Avenue for safety reasons, yet no concern was given to the potential heightened risks on the actual laneway itself.
- Visibility was restricted from the exit of his own property on to the laneway to the right due to the presence of a 10ft high wall.
- Drivers exiting 30A onto the laneway would have restricted visibility to their left, as the impending extension extended right to the edge of the lane.
- There were no physical boundaries between the forecourts of 30A and 30B and the laneway - children used these forecourts daily as open playgrounds.
- If the private laneway was in the public domain, he would contend that Roads Service would deem additional access along the laneway totally unacceptable on safety grounds. It begged the question - who would accept liability should there have been an accident?
- As highlighted in the Case Officer's Report, a previous similar application to sub-divide the subject site was refused and an appeal duly dismissed. Nothing had materially changed - density compliance issues still prevailed.

Following Mr Crowe's address, the Chair invited questions from Members.

Councillor McRandal sought clarity on the private laneway and if it was just this particular planning application that affected the sight lines on the laneway. The speaker responded that the application affected the sight lines from the exit of property no 30a and there were no sight lines to the left. He also clarified that a new extension from that property would come out to the edge of the laneway so there

would be no sight splays for anyone exiting number 31 on to what was a single track, private laneway.

In a further response to a query from Councillor Morgan, Mr Crowe confirmed that there were currently no sight splays from any existing access points on to the laneway but he argued that creating further traffic from the proposed new dwelling would only increase vehicle use and he believed if it were a public road DfI would have objected.

Responding to a final query from Alderman Graham, Mr Crowe confirmed that the laneway was a cul-de-sac.

The Chair invited questions to the Planning Officer, and Councillor McRandal queried the extension at property number 30A and why its proximity to House B had not been an issue. The officer advised that that was due to being at the side of the boundary with a total separation distance of 3.85m. The 20metre back-to-back minimum distance (between opposing rear first floor windows) guidance did not apply due the separation being a side arrangement.

Councillor McRandal asked if there were any issues in terms of overlooking to the front or rear of property no 30A and the officer advised that House B had no impact on natural light in terms of the lean-to extension, however the proposed side gable had failed a light test when assessed against the approved windows within the extension.

The officer explained that there were however other determining factors that had been taken into account and it was felt on balance that those outweighed the loss of light. He added that the three affected windows related to an ensuite that was not considered to be a habitable room, while the other two related to a small office room with narrow window and a guest bedroom. The main bedrooms however were located on the first floor of the property so it was felt that on balance, those factors outweighed the loss of natural light to this guest bedroom.

In a further query, Alderman Graham asked for clarity that DfI Roads could have no opinion in relation to access points on to the private laneway and the visibility splays that had been discussed.

The officer advised that it was a private laneway with existing vehicular access but statutory conditions for visibility splays could only be stipulated where it met the public road at Cultra Avenue. He confirmed that there would be a condition attached if the application was approved.

Alderman Graham found it troubling that the Committee was placed in a position to determine whether vehicular access on to the road was safe or not. He also felt that there needed to be some sort of control over light angles etc, noting that residents paid a lot of money to live at that location.

The officer confirmed following a query from Councillor Kendal that the application had been submitted before the planning application for the neighbouring property extension that had been referred to. He confirmed that the applicant of the latter

would have been aware of this proposal and the close proximity given there were architect drawings available.

Noting the previous refusal based on the site area, Councillor Kendal asked on what basis Planners had been able to diverge from that previous decision. The officer advised that the decision had been taken in 1988 and policy changes and Draft BMAP 2015 remained a material consideration at the site.

Returning to the objections of vehicular access on to private laneway, the Chair had understood that Dfl only had an interest in vehicular access on to a public road. He asked the officer what the Council had to take into consideration in terms of road safety issues on private laneways.

The officer advised that it had been recognised that there was already vehicular access in place on the laneway. The Council had no control over who could access the laneway and that was determined by the property owners. There were no formal policy guidelines in place with PPS3 relating only to public roads. It was felt that there would only be one or two additional cars accessing the laneway.

Reflecting on that response, the Chair felt that the Planning Committee was having to disregard safety issues due to a gap in the policy.

The officer provided further clarity to Councillor Morgan that there would be a condition for visibility splays attached to any approval of the proposal where there was access to the public road at Cultra Avenue.

Having failed to find a proposer and seconder for the officer's recommendation to approve planning permission, the Chair sought an alternative proposal.

Proposed by Councillor McRandal, seconded by Councillor Creighton, that planning permission be refused.

Councillor McRandal explained that his reasoning for the proposal to refuse planning permission was due to the overshadowing aspect. He referred to applications over recent months where that had been a factor, but in this case he felt that the overlooking related to what were habitable rooms. He noted in the previous cases, referring to an application in Ballyholme, that had related to non-habitable rooms, namely a porch.

On being put to the meeting with 3 voting FOR, 0 voting AGAINST, 7 ABSTAINING and 6 ABSENT, the proposal was CARRIED.

RESOLVED, on the proposal of Councillor McRandal, seconded by Councillor Creighton, that planning permission be refused.

(Councillor McCollum returned to the meeting – 8.15pm)

4.3 LA06/2015/0677/F - 251a Bangor Road, Whitespots, Newtownards
(Appendix V - X)

PREVIOUSLY CIRCULATED:- Case Officer's Report.

DEA: Newtownards

Committee Interest: A Local development application attracting six or more separate individual objections which were contrary to the officers' recommendation

Proposal: Replacement of existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet

Site Location: 251a Bangor Road, Whitespots, Newtownards

Recommendation: Approval

Presenting a series of slides, the Principal and Professional Technical Officer (C Blair) outlined the case officer's report.

He explained that the application was for replacement of an existing structure with one single storey unit to accommodate stables, coach house, tack room, workshop and toilet.

The application was before the Planning Committee as it was an application with six or more objections contrary to the officers' recommendation. The application also had a Section 76 legal agreement associated with the proposal with delegated authority being sought to finalise.

All material objections had been considered within the case officer report and addendums.

Consultees had expressed no objections with some recommending conditions.

Providing some context, he explained that the proposal was originally for three new buildings on site and was associated with a business use. An amended application form and plans were received for the replacement of the existing structure with 1 No. single storey unit to accommodate stables, coach house, tack room, workshop and toilet. The applicant had confirmed that the building was for his own personal use to look after his horses/ponies and work on his own carriages. The building was not associated with a business use on the site.

The site was located in the countryside as the Ards and Down Area Plan 2015 for the area. The site was also located within a Local Landscape Policy Area (LLPA): 'Whitespots, Lead Mines, Golden Glen and associated lands'. The land outlined in blue to the rear of the site continued to gradually rise. The site was accessed via an existing right of way sandwiched between Nos. 251 and 253 Bangor Road, two existing dwellings.

Further slides provided some context from within the existing site and views from the lower lying Bangor Road to the east.

In terms of the existing structure on the site, Google Earth dated images showed that the existing building seeking to be replaced had been present on the site for at least

12 years. The existing structure was immune from enforcement action under section 132 of the Planning Act (Northern Ireland) 2011.

The existing structure had not been subject to any enforcement action given its immunity at the time of the enforcement investigation. There were other structures on site subject to an enforcement notice however those had been removed and did not form part of the current planning application.

The proposal was being considered under policies CTY 1 of PPS 21 'Sustainable Development in the Countryside' and policy OS3 of PPS 8: Open Space, Sports and Outdoor Recreation.

Policy CTY 1 set out a range of types of development which were in principle acceptable in the countryside, and further highlighted that other types of development would only be permitted where there were either overriding reasons why it was essential and could not be located in a settlement, or that it was otherwise allocated for development in a development plan.

The proposed new shed was on the same footprint as the existing dilapidated structure on site. The policy under which this proposal was being assessed was Policy CTY 1 in respect of non-residential development i.e. outdoor sport and recreational uses in accordance with PPS 8: Open Space, Sports and Outdoor Recreation.

Policy OS3 of PPS8 entitled 'Outdoor Recreation in the Countryside' set out that permission would be granted for the development of proposals for outdoor recreational use in the countryside where all of a number of criteria were met.

The headnote in this policy did not distinguish between recreational facilities for personal use and larger commercial operations. Therefore it was applicable to both, which in this case related solely to a site for personal use.

Copies of several horse passports were submitted to demonstrate the applicant's ownership of a number of animals. It was considered that the personal equine use of the site was appropriate to the countryside and it could not reasonably be accommodated within a settlement. It should be noted that the above policy did not set a minimum threshold for equestrian activity before which the erection of new buildings could be considered.

The proposed shed measured 11m x 11m and would have a pitched roof with a ridge height of 4m which was only 0.3m higher than the existing structure currently on site.

The shed would be a lightweight steel framed building finished in green corrugated cladding. Other finishes included clear translucent roof panels, timber sliding main central door and upvc windows.

There would be no loss of high value agricultural land as a result of the application. The current condition of the site, with dilapidated structures and old horse boxes, took away from the visual amenity and character of the landscape. The land rose to the rear of the proposed siting providing a natural existing backdrop, which helped

the proposal to integrate sympathetically into the surrounding landscape and would not cause a detrimental change to, or further erode, the rural character of the area. As such the proposal was also compliant with policies CTY 13 'Integration and Design of Buildings in the Countryside' and CTY 14 'Rural Character' of PPS 21.

There would be no adverse effect on residential amenity. Environmental Health offered no objections in relation to noise issues.

With regarding to road safety and access DFI Roads was consulted on the proposal and stated it would have no objections 'providing this application is non-commercial with little or no intensification in use of the existing access'. As the main use of the building was personal private stable use and workshop/tool store it was considered there would be no intensification in use of the existing access.

Finally, the Planning Committee was asked to note that a section 76 planning agreement was being prepared in relation to the site. That was considered to be the most robust mechanism required to ensure the proposal remained as domestic use rather than commercial. Once signed and completed the agreement would be registered on the statutory charge register.

The recommendation was to approve planning permission with delegated powers sought for the legal agreement with a decision to issue once the legal agreement was finalised.

The Chair invited questions to the officer for clarification.

Recalling a previous deferral of the application Councillor McRandal noted there were concerns in relation to the primary use of the site, as to whether that would be commercial or domestic. He asked for clarity on what officers considered to be commercial use and the officer confirmed that it related to an intensification of use in relation to customers and members of the public attending the site. The officer added that an enforcement investigation had been carried out in relation to alleged commercial use but there was no evidence of any commercial activity.

Raising a series of questions, Councillor Martin was able to establish that the existing building had never been given planning approval however it was too late for the Planning Department to take enforcement action as it had existed for more than five years which made it immune from enforcement action. The officer confirmed to Councillor Martin that it would have required planning approval at the time of construction but was now immune.

Given that history, Councillor Martin expressed a level of sympathy around the objections given that this application was for the replacement of an existing building that had never had planning permission.

The officer explained there had been a suggestion that the Planning Department could ask for a Certificate of Lawful Existing Use or Development (CLEUD) however there was no legislation requiring the applicant to provide one in this particular case. The applicant had however been able to provide significant evidence to show that the development did meet planning policy.

In a further query, Councillor McCollum asked if it was relevant as to whether or not the unit had previous planning approval and the officer advised that the history was immaterial and that the application on its own, as presented, was deemed substantial to proceed with a recommendation to approve.

Alderman Graham noted that the shed had been described as 'make-shift' and was concerned that the Planning Committee was potentially treating a make-shift building as something that could be replaced by a permanent structure. The officer clarified that while it did not have foundations, the existing unit was still regarded as a structure and it had been on site for at least 12 years and there was evidence that it was used for keeping horses.

Alderman Graham argued that the application was verging into PPS21 and recalled there were various definitions of farming activity. In this case there was no statutory definition but horse passports were being used as consideration.

The officer responded that the use of horse passports as evidence in this particular case was normal practice and they could be taken into account.

In a further query, the Chair asked about potential for commercial use, noting that the applicant held business interests off site. He questioned how that would be managed in terms of enforcement and the officer referred to the previous investigation that had concluded there was no established business use taking place at the site. The applicant did not live on the site and may have had business interests elsewhere but the proposal clearly stated it was for the applicant's personal use.

The Chair felt that a legal agreement would need to be well drafted given the applicant's off-site business connections which were clearly stated as part of the proposal. He spoke of the difficulties that officers could face in terms of enforcing this and the level of detail and specificity that the legal agreement would need to contain.

The Director clarified that the condition of personal use was in place to mitigate against intensification of use of the site such as members of the public attending. It was accepted that the applicant may carry out other elements of his business on the site such as the repairs, for example.

Recognising that a CLEUD would have demonstrated if any further work or development had been undertaken, the Chair asked if officers were satisfied that no work had been undertaken in the last five years that could have therefore been subject to enforcement.

The officer responded that it would have to have undergone material changes, explaining that if a partially collapsed wall was removed for example, that was not classed as development. He clarified that if structure was added within the last five years then the planning process would apply. He added that while a CLEUD had not been provided, which could not be forced upon the applicant, they had still provided significant evidence to show that the site met policy requirements.

In a further query, the Chair asked at what stage a run-down shed was regarded as abandoned and the officer advised that it was considered on a site-by-site basis. For agricultural land it was if there was no evidence of any agricultural use for example, but in terms of this site the Planning Department was content that use of the site was ongoing.

Responding to a query from Councillor Morgan, the officer clarified that the Section 76 legal agreement was currently with planning lawyers and any approval could not be finalised until that legal agreement was signed off. Assuming that the intensification of use concerns were more about controlling access on to the site, Councillor Morgan asked if, for example, the applicant kept 20 horses which were under his ownership but required people to attend numerous times per day to tend to them, if that would be considered as intensification of use. The officer maintained that it only related to commercial use if customers and members of the public were attending.

(Councillor Kerr joined the meeting, via Zoom – 8.44pm)

There were no further questions to the officer and the Chair advised that Ms Maria O'Loan was in attendance, via Zoom, to speak against the application. Ms O'Loan was invited to address the Committee and she introduced herself as a solicitor acting on behalf of objectors. Her address to the Planning Committee was summarised as follows:

- Ms O'Loan believed that the applicant was required to prove that any structure was immune from planning permission and the use that was relied upon was not only lawful but existing at the date of the determination. Usual practice was done through a CLEUD provided by the applicant.
- She believed it was a statutory process that allowed the applicant to submit verified and independent documentary evidence to support their claim. That was then assessed by Planners with legal advice as appropriate. This had not been the case in the application and she felt that the discussion so far had underlined the complexity of the matter.
- Ms O'Loan argued that the site was abandoned and drew members attention to the absence of suitable fencing or water troughs etc, along with the condition of the grass. She believed that demonstrated that it had not been used for a considerable period of time.
- She argued that the evidence before members contradicted that the access was used regularly for tending to animals. She argued that the use of access had been abandoned.
- At the very least the application must be assessed as having major intensification of existing use which was currently nil.
- DfI response was based on the assumption that currently there was inactive use in terms of access and there would be no intensification of that use. As stated that was not the case and DfI needed to be reconsulted on the application.
- Members could refuse the application based on the assumption that this would result in an unacceptable intensification of use of the laneway.

- While the case officer presented a simplistic view of the legal test of whether the site could be immune from planning permission, she argued that it was significantly more complex and nuanced than that.
- It was necessary to determine the planning unit which consisted of three buildings and an area of hard standing. She claimed that the hard standing was particularly relevant as it was not limited to just dilapidated buildings and any amendment to any building or the hard standing reset the clock in terms of planning enforcement.
- She claimed that satellite images showed that there may have been development that had taken place within the last five years.
- That factor underscored the importance of having a certificate of lawfulness and undergoing that associated process.
- The application also failed to comply with the public consultation requirement and the description of the application was inappropriate.
- Each planning application was required to be advertised and subject to public consultation and that must be accompanied by an accurate description of the location and of the development.
- The description of the development did not accurately reflect the development proposed. There was no evidence that the "structure" to be replaced was lawful, there was no reference to the septic tank or any associated hard standing required, the reference to "carriage house" was ambiguous and could lead to an argument that there was a residential element to the proposal, particularly when the development included a full shower room.
- The address of the development was not a recognised postal address and that may have caused confusion in relation to the advertisement.
- The case officer's report was somewhat contradictory in its references to commercial use. It was important for the wording of the planning agreement and the reliance on it, that members at least had sight of the heads of terms noting that there had been reference throughout the debate to restrictions of horses only in the applicant's ownership and references to visitors for commercial purposes. It was not entirely clear what exactly was going to be restricted.
- Ms O'Loan argued that for all of those reasons the application should be refused.

The Chair invited questions to the speaker from the Committee and Councillor McCollum sought further comment in relation to the advertised location and claims that the address was not recognised. She asked the speaker if she could accept that no 251 was still a relevant and identifying factor that 251a was in the vicinity.

The speaker argued that the statutory requirement was that there needed to be an accurate description of the site and 251a was not a postal address. Normal practice was to take the nearest address and list the number of metres. She argued that the advertisement for the retention of an existing structure was also confusing as it could be assumed that it related to a house. She argued that a coach house could also be used as a residential unit above or close to stables.

Councillor McCollum suggested it was semantical in terms of how Ms O'Loan would have otherwise chosen to advertise the location. She queried what she understood

to be a claim of unfairness or risk of prejudice caused to the public in terms of the alleged lack of identification and Ms O'Loan contended that the difficulty was that for members of the public to become aware of the unfairness it would unfortunately not be until after planning consent was granted and the development completed.

Ms O'Loan recalled examples of applications that had faltered through the court process for much less in terms of their descriptions and emphasised the importance that they were accurate, recalling a case where a townland had been slightly misspelt.

Councillor McCollum asked for clarity on the speaker's point about Members having sight of legal information and Ms O'Loan argued that the Committee was being asked to rely on a Section 76 legal agreement to secure an important planning restriction of no commercial use. There had been no information provided to Members in terms of what that would cover. She noted questions raised in the previous discussion about ownership of horses or the extent to which the applicant could carry out repairs in relation to his business for example. She provided further scenarios that needed clarity, for example if a friend of the applicant was given permission to use the site or if the applicant could accept deliveries to the site in connection with his business.

She suggested that a Heads of Terms would be sufficient at least and believed that other Councils provided key terms to Members.

Councillor McCollum said she was aware of the various terms of the agreement having discussed with officers and she had noted, with some surprise, that a Section 76 agreement formed a statutory charge on the land.

Referring to claims that there had been no grazing of horses on the land for more than three years, Alderman Graham asked what evidence that belief was based on and Ms Loan referred to independent evidence including a series of photographs displaying the condition of fencing, no active water troughs and overgrown land. All of which she claimed supported the statement. She added that the requirement of a CLEUD would have required detailed evidence and sworn statements to be provided by the applicant in terms of use of the site.

In terms of the implications of the alleged inactive use of the land, Ms O'Loan argued that that was highly relevant to access and being able to determine whether any new development would lead to an intensification of use. She further argued that it was material consideration, pointing to PPS 8 Policy OS3, paragraph 8, which stated that development would only be permissible where the road network could handle extra traffic it would generate.

In a further query, Alderman Graham referred to the aerial photographs which dated back to 2009, and he asked for clarity on what they were alleging to show.

Ms O'Loan claimed that there had been a series of buildings over the years on the site that had come and gone and therefore they amounted to changes of the 'planning unit'. She believed that required further analysis and determination though it could not be clarified by aerial photographs and horse passports.

In terms of the aerial photographs, Ms O'Loan explained that it was difficult to see if there had been any structural changes but in recent photographs taken on site it was clear to see that some of the buildings were in a state of disrepair with elements removed and she questioned whether that was indicative of an intention to alter or extend and those factors needed to be taken into account as to whether it was immune from enforcement.

Alderman Graham queried the establishment of a legal agreement and how practical it was to monitor and bring the applicant to court if necessary. He also queried the financial implications of having to use the court process.

Ms O'Loan pointed to her experience as a specialist in environmental and planning law which included providing advice to public authorities and the drafting of Section 76 agreements. While they could be extremely useful mechanisms they were only as good as the wording contained within them and the ability to monitor compliance. She posed a series of questions that she felt needed clear guidance within the terms and conditions of any legal agreement. Was the planning permission personal to the applicant or could it still be utilised by another individual? Could horses that were stabled on the site only be under the ownership of the applicant or could they be kept there by family members etc? While she had an understanding of what officers were trying to control, she explained the difficulties in drafting such an agreement to address many of the complexities that could arise.

In terms of court costs, she referred to High Court injunctions which in her experience resulted in costs of over £100,000.

Councillor Martin asked if the existing building on the site was subject to planning enforcement, could the proposal for a replacement building be brought forward. The Chair would not allow the question to be put to the speaker however, feeling it was unfair given that no enforcement notice was in place currently.

The Chair asked about the alleged abandonment of use including that of the access at the site and how many years of inactivity Ms O'Loan believed there needed to be for it to be considered abandoned.

She explained that it depended and referred to case law relating to Foot and Mouth which had disrupted some uses for a period of six months and in that case, it was considered to be an abandonment of use. In other cases it had been a number of years and it was about intention and something that all should have been dealt with in a formal process. She felt in this case three years was a reasonable period. Traffic surveys would look at the last two years of data and she felt that was a good analogue.

(The meeting went into recess at 9.10pm and resumed at 9.25pm)

Speaking in support of the application, Mr Stuart Magee (agent), along with the applicant Mr Finnegan, was invited forward. His address to the Committee was summarised below:

- The applicant concurred with the Council's recommendation to approve the application.
- The applicant concurred with what was a thorough, detailed and well documented case written by Council which had considered all material planning matters, policy, legislation, site history and third-party representations in reaching its recommendation to approve.
- The applicant contended that this was a 'minor' planning submission which in 'layman's' terms sought only to replace one established structure with another, the planning merits of which were compliant with legislation and policy.
- The existing shed, established more than 15 years ago had been heavily documented, photographed and evidenced by the Council and by the previous Planning Department (DOE in Downpatrick) through site visits, reports and aerial photography taken at this and adjoining lands over many years, (including applications and appeals on behalf of work carried out by Queens University Belfast).
- The need for the replacement structure was to provide a modern, fit for purpose structure for Mr Finnegan – fit for purpose meaning simply a warm, weatherproof structure with running water, a toilet and winter stabling for his horses, this structure allowing Mr Finnegan to 'tinker away' in retirement making his own horse equipment, fixing his carriages and tending to his ponies and horses, all of which were bred and trained by him on these, his lands – in short his hobby (as accepted by Council and appeal 2018/A0008).
- Unfortunately, the term 'business', derived from various sources caused misinterpretation of the proposal. He wished to clarify all that had already been documented by the Council when it had considered this proposal acceptable in principle and to approve.
- Mr Finnegan fixed carriages which he used with his horses for charity events off-site – in 20 plus years those charity events had never required customers (or business) to visit the site or Mr Finnegan. Furthermore, this 'minor' element of Mr Finnegan hobby would not change, if permission was granted, in the future except to cease for reasons of age, ill health and after many years of civil occurrences between neighbours.
- The replacement structure, these lands Mr Finnegan had owned for 20+ years, his horses, his hobby was all he had now and in continuing that in a weatherproof structure allowed him to further tidy and upkeep the lands for his horses – in 'layman's' terms, retire doing what he had done and been involved with (at high sporting level and with royalty) since a child with his father, i.e. tend to and maintain his horses in peace.
- Reminded all parties of the applicant's acceptance of several changes, amendments, submission of reports and further evidential documents requested by the Council throughout the planning process, most significantly the 'unique' application of a Section 76 agreement.
- In legal terms, approval of the application afforded a 'higher level of protection' to the Council, in addition to planning conditions he contended were exceptional, 'rare', unnecessary and likely unprecedented in such a 'minor' case had been accepted by Mr Finnegan to replace one established structure with another fit for purpose unit allowing him many more years of retirement on his land at 251a Bangor Road to continue his hobby in peace.

The Chair invited questions from Members and Councillor McRandal referred to claims of previous enforcement action on the site and asked the speaker to comment on the absence of a CLEUD, given that the previous speaker had argued it had been normal practice to have one. Mr Magee responded that the enforcement action had not related to the structure in question and the Planning Department had been clear that the CLEUD was only voluntary and not a requirement. He could not advise the applicant, as his client, to pay a fee simply to gain a certificate when there was sufficient evidence presented and accepted from 2009. That fee would be better saved for the important Section 76 agreement.

In a further query, Councillor McRandal asked for the applicant's view on the claims by the objectors of abandonment and Mr Finnegan dismissed the claim as nonsense explaining that the only reason that the site hadn't been used lately was due to ill health and his wife had also feared using the site without any planning permission in place, an application had now been in the planning system for eight years. He alleged that 'every trick in the book' had been used to frighten them away from using the site but he advised that the only reason he had not been on site lately was due to ill health. The agent added that there was no evidence of abandonment and it was immaterial to the planning decision. The application was submitted eight years ago with a need for the structure, that need had only increased with Mr Finnegan's age and deteriorating health. He confirmed that the horses would be returned to the land once there had been approval.

Alderman Graham asked what the facilities were at present and how they compared to what was being asked for in the application. The applicant advised that there was workshop, stable and room for a carriage. The application was just to upgrade that space.

The Chair returned to the query by Councillor McRandal and the claim of abandonment. He noted Ms O'Loan had claimed that because the land had not been used for a period of time, that rendered the use of the access as abandoned. He asked what the current standard of the access was and Mr Magee explained that it remained open for use at any time. He added that the land was used by one person, the applicant, who was free to use his land which totalled eight acres and he was free to do as he chose with his horses whether they remained on or off the site. He felt that the intensification concerns had been dealt with and could be ruled out along with abandonment.

The Chair asked when the site was last used and it was confirmed that the applicant was on site the previous day walking his dogs. The applicant added that he did not understand the claims of abandonment.

The Chair queried the business arrangement and connections to a business off site and Mr Magee said there was no business on the site. The applicant fixed his carriages and carried out work attending charity events with his horses. He trained his horses on the land but every element of his client's business was carried out off site. One example was attending a Council run event at Cocklerow Cottages where he offered horse and cart rides for children. There were no customers or visitors to the site of this planning application.

Continuing, he explained that the only access to the site was usually his client with his horse and cart and that had reduced over the years given the civil occurrences with his neighbours which was thoroughly documented. He further clarified that Mr Finnegan did not operate a business at any other site and all business took place at events where he was requested to attend.

The Chair invited questions of clarification to officers and Councillor McCollum queried if there was a legal requirement for the applicant to provide a CLEUD and the officer confirmed that it was only a voluntary process. The applicant had chosen to submit the required information as part of the planning process. The Director added that legal advice taken specifically in relation to this case, had confirmed that a CLEUD was not required and officers could assess evidence provided by the client to demonstrate the building had been on site for a certain number of years. The passage of time had made the building immune from enforcement action.

Councillor McCollum asked for clarity that the Section 76 agreement was attached to the land as a statutory charge and that would transfer to any subsequent owners including use by family members. The Director confirmed that the inclusion of a Section 76 agreement had resulted from the legal advice taken following the previous deferral of the application. The agreement, in line with that advice, would address the concerns of the Planning Committee and would be paid for by the applicant. She confirmed that the agreement would be attached to the land rather than the individual.

Councillor Harbinson referred to claims around the alleged illusion of the address and how a court would view that but the officer explained that it related to a valid address, as verified with LPS, and was therefore legal and an accurate description.

In a further query, Councillor Harbinson asked about what was regarded as intensification of use, relating to the number accessing the private laneway of an earlier planning application site, however it was clarified that had related to the number of dwellings on the laneway if they had been in excess of five and not the number of uses.

Councillor McRandal queried Ms O'Loan's comments around the hard standing and that any development would restart the clock in terms of planning enforcement. The officer explained that alleged unauthorised development would be a matter for planning enforcement investigation. He confirmed that was new information and would require investigation but he explained that this particular application was dealing with the replacement structure on the site. He added in response to a further query, that there had been no evidence provided to show it materially affected the planning unit. He did not feel that a small area of hard standing should however be relevant to the consideration.

Councillor Martin referred to an attached addendum where an objector had stated that the site had been previously put up for sale with planning permission for stables for commercial use. When raised with the applicant the sign was removed given there was no approval in place. He asked when that had occurred and the officer

understood it was towards the end of the previous year although he had not been involved in the case at that time.

Alderman Graham asked if immunity from enforcement gave grounds for a new replacement structure and it was confirmed that as a result of the passage of time that structure was immune and had become lawful. It was therefore legitimate.

Alderman Graham queried if a building was therefore classed as established did that create a precedent for extension and the officer clarified that while hypothetical, it would require planning permission and the Director confirmed that it would also require a CLEUD in that particular scenario to establish lawfulness of the existing building before being able to extend, known as the Saxby principle in planning caselaw.

The Chair raised further questions, returning to the hard standing issue and the situation where the clock could be restarted on the entirety of the planning unit. He asked how the Planning Committee could legally proceed with a decision at this stage while a question like that remained outstanding. The officer explained that legal advice would need to be sought in that regard.

While the Chair had sympathy for the applicant, he was concerned that ignoring the matter of the hard standing could leave the Council open to judicial review.

The Director commented that it left the Committee in a predicament given that no new information was permitted but officers were not in a position to respond without investigating the new information that could be fundamental to the application.

Councillor Morgan felt that eight years was a huge amount of time for the Committee to make a decision and felt that one needed to be taken at this stage. Councillor Martin however disagreed and felt that the Council had a duty to make the best decisions it could based on all of the evidence before it, and in due regard to the law. He suggested a deferral in order to get further information around the hard standing along with legal advice.

Proposed by Councillor Martin, seconded by Alderman Graham, to defer for one month to allow officers to consider and seek legal advice regarding new information presented which relates to a hard standing.

The seconder, Alderman Graham supported the proposal and felt clarity was needed before a decision could be taken.

Councillor McCollum felt that it was unlikely that there was evidence to show the hardstanding was created within the last five years given that it had not been raised by the objector. It was also clarified that none of the photos submitted were dated so could not be used as evidence. She suspected deferral would unlikely result in any new evidence.

Councillor McRandal was concerned that potentially opening an enforcement case could be material to consideration of the application but the Director confirmed that it could only be material if it was established that there had been a breach of planning.

She believed that a month would allow sufficient time to establish whether there was an issue.

Given it would only be for one month, Councillor McRandal felt he would be content to support the proposal.

On being put to the meeting with 7 voting FOR, 4 voting AGAINST, 0 ABSTAINING and 5 ABSENT, the proposal was CARRIED.

RESOLVED, on the proposal of Councillor Martin, seconded by Alderman Graham, to defer the application for one month to allow officers to consider and seek legal advice regarding new information presented which relates to a hard standing.

(Alderman McDowell and Councillor Kerr left the meeting – 10.14pm)

4.4 LA06/2023/2000/LBC - Ards Art Centre, Town Hall, Conway Square, Newtownards
(Appendix XI)

PREVIOUSLY CIRCULATED:- Case Officer's Report.

DEA: Newtownards

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

Proposal: Replacement of ground floor windows to front elevation

Site Location: Ards Art Centre, Town Hall Conway Square, Newtownards

Recommendation: Approval

Presenting a series of slides, the Principal and Professional Technical Officer (C Blair) outlined the case officer's report.

He explained that the application was for Listed Building consent to replace ground floor windows to the front elevation of the Town Hall in Newtownards which was a Grade B+ Listed Building.

The application was before the Planning Committee as it was a Council application.

Slides were shown to display the location of the site in Conway Square and existing and proposed elevations.

A further slide showed the details of the proposed double-glazed windows. All timber work would be of traditional Georgian-bar design with painted white gloss to match existing windows.

HED had been consulted on the application and initially expressed concern regarding the proposed use of double glazing. However, following a subsequent site visit, HED confirmed that the existing windows were double glazed and were of no historic merit. On this basis, HED provided no objection to the proposal subject to

conditions to control the finishes of the windows to ensure the glazing did not affect the essential character of the listed building.

It was recommended that Listed Building Consent be granted with the following condition attached, that windows were required to be finished in hardwood, slim profile glazing – sample windows were to be agreed in writing prior to commencement.

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

4.5 LA06/2023/1751/F - Hollywood Rugby Football Club, Belfast Road, Hollywood
(Appendix XII)

PREVIOUSLY CIRCULATED:- Case Officer's Report.

DEA: Hollywood and Clandeboye

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

Proposal: 1st floor roof terrace with railings

Site Location: Hollywood Rugby Football Club, Belfast Road, Hollywood

Recommendation: Approval

Presenting a series of slides, the Principal and Professional Technical Officer (C Blair) outlined the case officer's report.

He explained that the application was for a 1st floor roof terrace with railings at Hollywood Football club.

The application related to land in which the Council had an interest.

The site was accessed from Belfast Road. Hollywood Bypass was located to the north-west of the application site. Residential properties were located to the east and south of the application site.

Further slides showed the location of the roof terrace to the south west of the existing building and existing and proposed elevations, along with photographs of the site.

The roof terrace would overlook the existing pitches. It would be located approximately 40m away from apartments at 5 Belfast Road which were located on higher ground. Given the position and orientation of the roof terrace, relative to the apartment building, as well as the intervening separation distance, there were no overlooking concerns. All other residential properties were located in excess of 75m away from the proposed roof terrace.

Environmental Health had been consulted and offered no objections subject to conditions to control the hours of use of the roof terrace and to minimize noise impacts.

There were no objections from members of the public and it was recommended that planning permission be granted.

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

Welcoming the application, Councillor McCollum commented that it would enhance a much-used facility in Holywood and could be enjoyed by the community.

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

5. UPDATE ON PLANNING APPEALS

(Appendices XIII - XIV)

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity attaching appeal decision notices.

Appeal Decisions

1. (a) The following appeal was allowed on 6 November 2023 and condition 6 was reworded.

PAC Ref	2022/A0068
Application ref	LA06/2018/1264/F
Appellant	CES Quarry Products Ltd.
Subject of Appeal	The conditional grant of planning permission.
Location	163 Moneyreagh Road, Castlereagh

Firstly, in terms of a preliminary matter, the Commissioner was satisfied that the appellant had correctly exercised their right to appeal the conditional grant of planning permission within four months of the date of notification of the decision under section 58 of the Planning Act (Northern Ireland) 2011. The PAC therefore did not agree with the Council's assertion that the appeal was invalid, which had been on the basis that the café use was not included in the description of the approved development. The PAC considered that the absence of the café was not critical as it was proposed to be ancillary to the main retail use of the premises. Therefore, the appellant was correct that they may try to seek deletion of the word 'café' from the condition 6 text through an appeal.

A CLEUD was certified on this site under LA06/2020/0167/LDE on 30 June 2020 for the sale and storage of concrete products, aggregate and landscape supplies, DIY products and equipment had been ongoing on the site for a period exceeding five years.

Following this, this planning application was subsequently granted on 7 March 2022. Condition 6 of this approval stated –

*"The café and retail use of the mezzanine floor of the building hereby approved, as shaded blue on drawing no.02 bearing the date stamp 19th November 2018, shall cease and all associated equipment shall be removed within 6 weeks of the date of this decision notice. No retail activity shall be permitted on the mezzanine floor, coloured blue on drawing no.02 bearing the date stamp 19th November 2018, of the building hereby approved without the written consent of the Council.
Reason: To control the nature, range and scale of the commercial activity to be carried out at this location."*

The Commissioner did not agree with the Council's view that the CLEUD did not establish any food or drinks activity at the site and referred to approved drawing No.04 which included a note stating the existing sales/office building "serves as a customer services facility where customers could meet staff, have a beverage and discuss products and requirements."

In terms of The Planning (Use Classes) Order (NI) 2015 ['the UCO'] the PAC confirmed that a café use was sui generis [no class specified] and as such was quite distinct from retail shops, which fell under Part A of the UCO. The Commission therefore found that a café use should be confined to a main town centre use and the sequential test outlined in the SPPS did not need to be applied.

The PAC further noted that the CLEUD certificate established retailing as a stand-alone use with no qualification or restriction to make it a secondary use to the quarry. The Commissioner stated that when he visited the site he observed more traffic attending the retail store than the concrete works and had concluded that the outlet was not functionally dependent on the adjacent quarry and concrete works. The PAC concluded that the effect of the Council's approval was that a second primary use (retail) had been authorised at the site. As such the café was not required to be ancillary to the concrete works but to the retail store, which was a primary use in its own right.

The Commissioner, taking account of paragraph 1.12 of DCAN 4 considered that the café could not practically or viably operate on its own were the retail use of the premises to cease. He stated that the café was designed to provide refreshments for those who were already shopping for DIY or garden products at the site, and being on a mezzanine floor, it would not change the appearance of the building.

Therefore, the Commission concluded that he was persuaded that the proposed café would be ancillary to the retail outlet store. Additionally, this established that there was no conflict with the rural character of the area.

Furthermore, the PAC concluded that there would be no significant intensification in the use of the access. It was noted that the existing access, which was designed for HGV use would become sub-standard and the PAC had been provided with no evidence to the contrary.

Finally, the Commissioner had determined that the retailing use should be confined to the ground floor of the unit. This had not been the case during his site visit when he observed BBQs for sale in the mezzanine area. As part of the Commissioner's decision, condition 6 of the planning approval had been amended to read as follows

"The mezzanine floor shaded blue on the approved drawing no.02 bearing the date stamp 19 November 2018 shall be used solely as a café and for no other purpose. The café shall remain ancillary to the ground floor retail unit and shall not operate independently of it. No retail sale or display of goods shall be permitted on the mezzanine floor without the prior written consent of the Council."

(b) The following appeal was dismissed on 23 October 2023

PAC Ref	2022/A0170
Application ref	LA06/
Appellant	BT Group
Subject of Appeal	2 No. Digital 75" LCD screens, one on each side of the Street Hub unit.
Location	Footpath outside the Courthouse, 16 Quay Street, Bangor

The main issues in this appeal are whether the proposed advertisements would:

- respect amenity;
- adversely affect the setting of a listed building; and
- maintain or enhance the overall character and appearance of a proposed Area of Townscape Character.

The site lies within the proposed Bangor Central Area of Townscape Character (ATC) as identified in dBMAP 2015. Notwithstanding that a lawfully adopted final version of BMAP is not in place, the impact of the proposed advertisements on the relevant key features of that part of the proposed Bangor Central ATC were assessed under prevailing planning policy.

There was no conflict or change in policy direction between the SPPS and the retained policies, namely PPS 6 'Planning, Archaeology and the Built Heritage' and PPS 17 'Control of Outdoor Advertisements'.

The appeal site was in front of a Grade B2 listed building that was formerly Belfast Bank, a petty sessions courthouse, and was now a licensed music and arts venue (referred to as the "courthouse") (HB23 05 011).

Policy AD1 of PPS 17 was the appropriate policy to assess the impact of the proposed advertisement on amenity. Policy BH11 of PPS 6 states that development would not normally be permitted which would adversely affect the setting of a listed building.

The Commission considered that the courthouse and its architectural features would be interrupted by the proposed advertising screens and the street hub unit that they would be displayed from. This would be due to the overall proposed height and solid form of the signage. The commissioner determined that the proposed advertising

screens would stand out, be obtrusive and dominate the streetscape from critical viewpoints and particularly during periods of low light and adversely contribute to street clutter.

Additionally, the PAC considered the digital 75" LCD screens displaying moving advertisements intermittently, together with the use of bright and dark colours would compete and detract from the listed courthouse, its architectural features and its setting. The Commissioner considered that the Council's first and third reasons for refusal were sustained.

In terms of the Council's second reason for refusal, the Commissioner considered that as each application was considered on its own merits, it could not be said that the proposed advertisement set an undesirable precedent. Furthermore, Policy ATC3 of the PPS6 Addendum applied only to designated ATCs and the overall character and appearance of the proposed ATC could not be assessed due to the absence of a detailed character analysis of the proposed ATC. As such this reason was not sustained.

New Appeals Lodged

2. (a) The following appeal was lodged on 3 November 2023.

PAC Ref	2023/A0072
Application ref	LA06/2018/0673/O
Appellant	Laburnumhill Properties Ltd
Subject of Appeal	Proposed Dwelling and Garage
Location	Lands approx. 51m east of 1 Cardy Road East and approx. 11m south of 10 Cardy Road East, Greyabbey.

- (b) The following appeal was lodged on 3 November 2023.

PAC Ref	2023/L0012
Application ref	LA06/2022/0521/LDP
Appellant	Greenbay Apartments Ltd
Subject of Appeal	Commencement of development in the form of construction of foundations and the establishment of sight lines to satisfy conditions 1 and 2 on planning permission X/2008/1064/F.
Location	84 Warren Road, Donaghadee BT21 0PQ

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

RECOMMENDED that Council notes the report and attachments.

The officer outlined the report and the two attached Appeal Decision notices issued during the last month.

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

6. QUARTER 2 2023/2024 PERFORMANCE REPORT FOR PLANNING

(Appendices XVI)

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity stating that Members would be aware that Council was required, under the Local Government Act 2014, to have in place arrangements to secure continuous improvement in the exercise of its functions. To fulfil this requirement Council approved the Performance Management Policy and Handbook in October 2015. The Performance Management Handbook outlined the approach to Performance Planning and Management process as:

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

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

Reporting approach

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

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

The report for Quarter 2 was attached.

Key points to note:

- The first two quarters of this financial year had seen a considerable drop in the number of planning applications received, against previous years. This had a resultant impact on fee income against what had been anticipated.
- Property Certificate income had slightly exceed the year to date budget.
- Data in respect of enforcement cases concluded against statutory performance indicator was still unavailable at present; however, 76 cases were opened during Quarter 2 with 76 cases being closed.

Key achievements:

- Further to achieving the 15 week processing time for Quarter 1, in respect of applications in the local category of development, Quarter 2 was recorded as 13.0 weeks.
- There were no decisions issued in respect of applications in the major category of development during Quarter 2.
- There were 87 decisions issued in the householder category of applications, with 75% issuing within 8 weeks (the internal performance indicator), with 89% issuing within the 15 week target.
- One appeal decision against a refusal of permission was issued during the Quarter whereby the appeal was dismissed by the Planning Appeals Commission.

Emerging issues:

- Due to a number of complex planning applications and enforcement cases requiring legal input/representation. This coupled with the fee income being less than anticipated to date, had resulted in the year to date budget being exceeded.
- Staff attendance had been impacted by one instance of long term absence within the Unit.

RECOMMENDED that the report is noted.

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

Councillor McRandal questioned the reasoning behind the considerable drop in planning applications compared to previous years. The Director explained that the trend was mirrored across all of Northern Ireland, and it had followed on from a considerable drop in applications the year before. She added that there had been a spike in domestic applications during Covid. There were still a high number of live decisions within their existing five year decision timeframe though so it was hoped that there would be a rise to report in the coming quarters.

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

7. QUARTERLY UPDATE ON TREES (Appendices XVII)

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity stating that this report represented the quarterly update to Planning Committee regarding detail relating to Tree Preservation Orders served and applications for consent to carry out works to protected trees. This update provided information from 21 August (date of previous report) to 15 November 2023.

The table (attached) set out the figures from the date of the last report to Committee.

RECOMMENDED that the Council notes the content of this report.

The Director outlined the attached report.

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

8. NIW RESPONSE TO MEETING REQUEST RE FENCE AT SEACOURT LANE

(Appendices XVIII)

PREVIOUSLY CIRCULATED:- Report from the Director of Prosperity detailing that Members would be aware of the erection of the fence and gate by Northern Ireland Water at its Seacourt Wastewater Pumping Station, Bangor, and the subsequent certifying of the fence under permitted development rights.

Further to receipt of a letter from NIW's Chief Executive which was reported to the Planning Committee meeting (under Item 6) of 03 October 2023, Members agreed to recommend the following

The Director wrote to the Chief Executive on 02 November 2023 setting out the above request, and a response declining the request was received on 23 November 2023, which was appended to this report for Members' information.

RECOMMENDED that the Council notes this report and the attached response from the Chief Executive of Northern Ireland Water.

Recognising that many Members felt passionately about the issue, the Chair referred the Committee to what he felt was a disappointing but unsurprising response from NI Water.

Councillor Martin expressed disappointment that NI Water had refused the request to meet with Members and felt that engagement was always a good way to reconcile difficulties.

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

EXCLUSION OF PUBLIC/PRESS

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

9. LOCAL DEVELOPMENT PLAN (LDP) – STRATEGIC POLICY

(Appendices XV-XVI)

****IN CONFIDENCE****

A report from the Director of Prosperity setting out 'policy in development' pertaining to options for Members' consideration and agreement in respect of the draft Plan that is not at public consultation stage.

10. QUARTERLY ENFORCEMENT REPORT

(Appendix XVII)

****IN CONFIDENCE****

This report is presented in confidence to Members under Part 1 of Schedule 6 of the Local Government (Northern Ireland) Act 2014, Exemption 6a – Information which reveals that the council proposes to give under any statutory provision a notice by virtue of which requirements are imposed on a person.

It provides updates for Members in respect of the status of live enforcement notices, court proceedings and proposed summons action.

RE-ADMITTANCE OF PUBLIC/PRESS

AGREED, on the proposal of Councillor Martin, seconded by Councillor Kendal, that the public/press be re-admitted to the meeting.

TERMINATION OF MEETING

The meeting terminated at 10.36pm.


ITEM 4.1

Ards and North Down Borough Council

Application Ref	LA06/2021/0419/F
Proposal	Development of 7no. mansion apartments within a two and half storey building.
Location	Lands adjacent to Seacourt, Maxwell Drive, 33m East of 3-6 Seacourt, 39m South of 4 Seacourt Garden, 24m West of 1-2 Seacourt Garden, and 8m North of 2A Maxwell Road, Bangor
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to officers' recommendation.
Validated	20/04/2021
Summary	<ul style="list-style-type: none"> • Consultations – no objection with exception of NI Water, which recommends a refusal based on capacity issues. However, a negative condition will be attached to the decision notice should permission be granted requiring the applicant to obtain the necessary consent/agreement with NIW prior to the commencement of any development on the site. • HED have no objection subject to condition. • There have been 67 objections from 26 separate addresses. 45 of those objections (from 19 separate addresses) were received following the re-neighbour notification after the current amended scheme was submitted. All objections have been addressed in the Case Officer's Report. • The site is undeveloped land and is located adjacent to Nos.3-6 Seacourt, (Seacourt House), a listed building. The site is located within the proposed Bangor West ATC as set out in Draft BMAP 2015. • There is an extant planning permission for residential development on the site. Approval W/1993/0580/F has been partially implemented in that 3 dwellings have been erected and the current application site was to be the location of the remaining 2 dwellings. This approval is therefore a

	<p>material consideration in supporting the principle of development at the site.</p> <ul style="list-style-type: none">• As indicated the site lies within the proposed Bangor West ATC. Whilst policy UE3 of draft BMAP cannot apply as the PAC recommended deletion and the Addendum to PPS 6 – ATCs cannot apply as Bangor West ATC is proposed and therefore has no legal standing, the overall character of the built form of the proposed ATC remains a material consideration.• The surrounding built form is characterised by detached, semi-detached, terrace dwellings and apartments. It is also considered the site meets the key features of the area.• The revised scheme is compatible with the scale, design, layout and use of materials, which are found in the surrounding area.• HED is satisfied the revised scheme does not have an adverse impact on the character and setting of the adjacent listed building (Seacourt House), which complies with policy BH11 of PPS 6.• The proposed design meets the requirements set out in policy QD1 of PPS 7 in terms of a sympathetic design as already highlighted earlier and the proposed finished floor level and height of the building enables the development to integrate well within the context of the existing development.• The proposed density is in keeping with the surrounding area which comprises a mix of both higher and lower densities per hectare (dph). As such the proposed development meets the requirements of policy LC1 of the addendum to PPS7 'Safeguarding the Character of Established Residential Areas'.• The proposed amenity space is well above the standards provided with Creating Places which recommends 10-30square metres per unit. The total communal amenity area is 334sq.m with apartments 1,3 and 6 having a private balcony/patio area.• Each apartment will have three bins. The bin storage area is located at the rear of the site. DfI Roads have no objections regarding the temporary use of the footpaths along the roadside for bin collection.• The Planning Dept's Tree Officer was consulted given the TPO trees present within the site. The tree officer had no objection subject to condition including for the operation of the submitted Landscape Management and Maintenance Plan.
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	<ul style="list-style-type: none"> • The proposed apartments will have no unacceptable adverse impacts on the residential amenity of existing adjacent dwellings in terms of overlooking or loss of privacy given the location of the apartments and separation distances. • The proposed development meets the policy requirements of policies PPS 3 'Access, Movement and Parking'. • There are no concerns regarding Flooding and Drainage and the proposal complies with policy NH2 of PPS 2 'Natural Heritage'. • Finally, the layout has been designed to deter crime and promote safety and given its size there is no need to provide local neighbourhood facilities as part of the development.
Recommendation	Approval
Attachment	Item 4.1a – Case Officer Report

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2021/0419/F	DEA: Bangor West	
Proposal:	Development of 7No. mansion apartments within a two and half storey building		
Location:	Lands adjacent to Seacourt, Maxwell Drive, 33m East of 3-6 Seacourt, 39m South of 4 Seacourt Garden, 24m West of 1-2 Seacourt Garden and 8m North of 2A Maxwell Road, Bangor		
Applicant:	Ballymagee Investment Co Ltd		
Date valid:	20/04/2021	EIA Screening Required:	No
Date last advertised:	22/06/2023	Date last neighbour notified:	07/06/2023
Letters of Support: 0	Letters of Objection: 67 (26 addresses)	Petitions: 0	
Consultations – synopsis of responses:			
DFI Roads	No objection subject to condition		
Historic Environment Division	No objection subject to condition		
NI Water	Capacity issue – refusal recommended		
Environmental Health	No objection subject to condition		
NIEA – Natural Environment Division	No objection subject to condition		
NIEA – Marine and fisheries	No objection		
NIEA – Water Management Unit	No objection subject to condition		
Shared Environmental Services	No objection subject to condition		
Tree Officer	No objection subject to condition		
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Impact on proposed Area of Townscape Character (ATC) • Design, Visual Impact and Impact on Character of the Established Residential Area • Access, Road Safety and Car Parking • Impact on Residential Amenity • Impact on Biodiversity • Private Amenity Space • Flooding/drainage issues • Impact on TPO 			

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

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

1. Site and Surrounding Area

The site is occupied by a green/previously undeveloped piece of land and is located at lands adjacent to Nos.3-6 Seacourt, (Seacourt House), which is a listed building. The site is accessed from an existing road on Seacourt and also from Seacourt Garden, both lead onto the Maxwell Road. The topography of the site is such that the ground levels drop from south-west to north-east with a difference of approximately 4m across the site. There is a mature belt of trees along the southern and western boundaries of the site, protected by a Tree Preservation Order. There are a variety of other boundary treatments in addition to the mature trees including a rendered wall, fencing and vegetation. The site is also currently enclosed by protective wire fencing along the boundary with Seacourt. There are two hard surfaced paths/lanes which run across the site from east to west which link Seacourt and Seacourt Garden. It would also appear that some mature vegetation has been cleared from the site in recent years.

The site is within an established residential area characterised by a variety of house types and design including detached and semi-detached dwellings set in mature plots, townhouses and apartment developments. The site is within the settlement limit of Bangor, and within the Bangor West Area of Townscape Character (ATC), as proposed in Draft BMAP.



Figure 1 - View of site from Seacourt Garden



Figure 2 - View of site from Seacourt



Figure 3 - View from within site facing Seacourt Garden



Figure 4 - View from within site facing Seacourt Garden



Figure 5 - View of site boundary from Seacourt



Figure 6 - View of site from garage access on Seacourt



Figure 7 - View of site from Maxwell Road

2. Site Location Plan

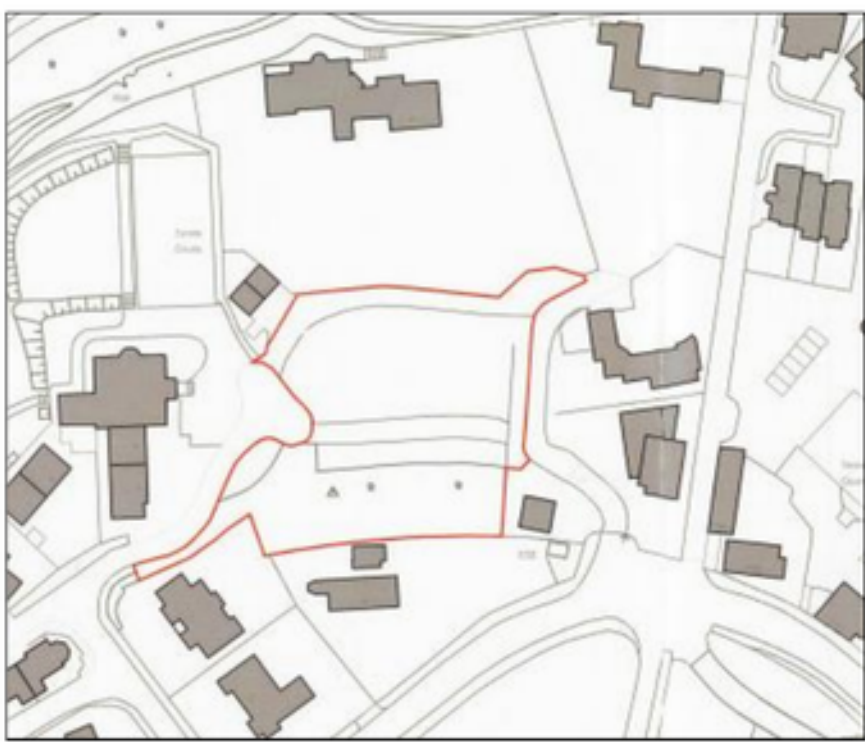


Figure 8 - Site Location Map



Figure 9 - Aerial image of site

3. Relevant Planning History

Site

W/1993/0580/F

Seacourt, Maxwell Road Bangor

Proposal: 5 dwellings

Decision: Approved Dec 1994 (Extant – 3 dwellings completed)



Figure 10 - Approved/Extant Site plan

W/2003/0034/F

Land at Seacourt, Maxwell Road, Bangor

Proposal: Proposed 12 No. apartments

Decision: Withdrawn

W/2004/0468/F

Lands at Seacourt, Maxwell Drive, Adjacent to 2A Maxwell Road, Bangor

Proposal: Proposed 4 No. detached dwellings & associated siteworks.

Decision: Refusal

LA06/2017/1202/F

Lands adjacent to Seacourt, Maxwell Drive, Bangor BT20 3LE - 33m East of No 1-4 Seacourt, 39m South of No4 Seacourt Garden, 24m West of No 1-2 Seacourt Garden and 8m North of 2A Maxwell Road

Proposal: Proposed residential development of 3No detached 2 storey dwellings (2No with integral garages and 1no with detached garage) - sites 1 and 2 to be accessed from Seacourt/Maxwell Drive and site 3 to be accessed from Seacourt Garden

Decision: Withdrawn

W/2004/0564/TPO

Lands adjacent to Seacourt, Maxwell Drive. Bangor

Proposal: Tree Preservation Order.

Decision: Approved

LA06/2019/0392/TPO

Lands adjacent to Seacourt, Maxwell Drive. Bangor

Proposal: Request to fell 4 trees (tree nos 1, 3, 20 and 26) and carry out works to 24 trees (Tree nos 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 22, 23, 24, 25, 27, 28, 30 and 31) (TPO REF: TPO/2004/0025)

Decision: Approved

LA06/2020/0398/TPO

Lands adjacent to Seacourt, Maxwell Drive. Bangor

Proposal: To remove one tree (no.30)

Decision: Tree 30 Not protected, permission not required

LA06/2018/1155/PAD

Lands adjacent to Seacourt, Maxwell Drive, Bangor BT20 3LE - 33m East of No 1-4 Seacourt, 39m South of No4 Seacourt Garden

Proposal: 6 no. Two bedroom apartments

Decision: Advice given

Surrounding Area**W/2009/0406/F**

3 Seacourt Garden Bangor

Proposal: Conversion from 1 detached dwelling to 2 semi-detached dwellings, including 2 storey extension and modifications to existing building (amended description)

Decision: Approval Dec 2009

4. Planning Assessment

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

- North Down & Ards Area Plan 1984-1995 (NDAAP)
- Draft Belfast Metropolitan Area Plan 2015 (BMAP 2015)
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement & Parking
- Planning Policy Statement 6 (PPS6) – Planning, Archaeology and the Built Heritage
- Planning Policy Statement 6 Addendum: Areas of Townscape Character
- Planning Policy Statement 7: Quality Residential Environments
- Planning Policy Statement 6 Addendum: Safeguarding the Character of Established Residential Areas
- Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation

- Planning Policy Statement 12: Housing in Settlements
- Planning Policy Statement 15 – (Revised) Planning and Flood Risk

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

Principle of Development and Consideration of Development Plan

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, PPS12 and PPS15 therefore these remain the applicable policy documents to consider the development under.

Section 6(4) of the Planning Act 2011 states that determination under this Act must be made in accordance with the plan, unless material considerations dictate otherwise. The site is not designated for a particular use and therefore the proposal for residential development is considered to be in conformity with the plan subject to assessment of the impact on the proposed ATC.

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

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

In dBMAP the site is not zoned for any purpose. The site does however lie within the proposed Bangor West ATC (BR15). 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.

The extant planning permission for residential development on the site must also be afforded weight. Approval W/1993/0580/F has been partially implemented in that 3 of the approved dwellings have been erected and the current application site was to be the location of the remaining 2 dwellings, see figure 11 below. The fact that this

approval remains extant is a material consideration in the assessment of the current application.



Figure 11 - Plan showing proposed location of the two dwellings on the site which benefit from extant planning permission under application W/1993/0580/F

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 erection of 7 No. apartments within a two and a half storey block on a previously undeveloped piece of land. The existing and proposed site layout plans are shown below in Figure 12.

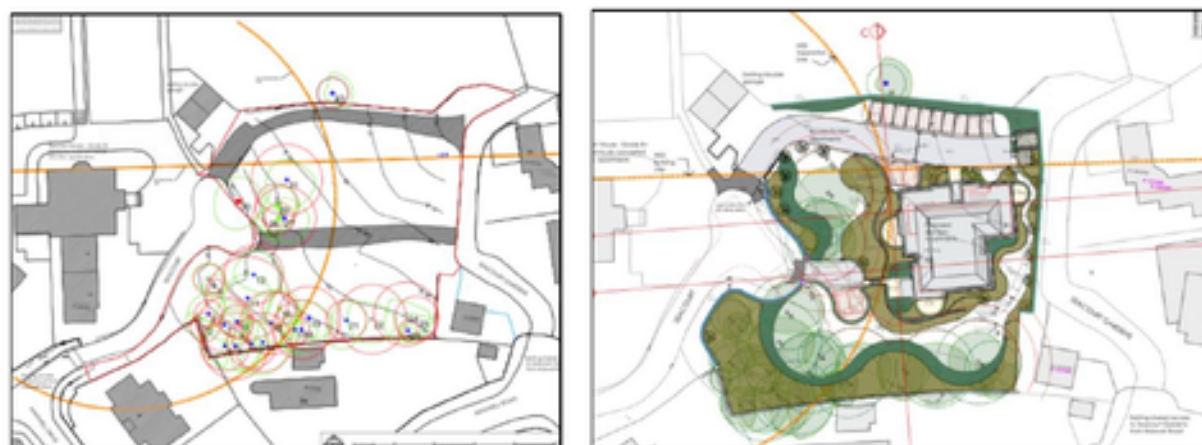


Figure 12 –Existing and Proposed Site Layout

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.

Notwithstanding this, the policies within APPS6 and the related provisions of the SPPS refer to designated ATCs. No reference is made to draft/proposed ATCs, which do not have the same status or legal standing as a designated ATC. Therefore, Policy 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 the proposed ATC designation within its report on the BMAP public inquiry and recommended no change to the proposed ATC. Therefore, it is likely, that if and when BMAP is lawfully adopted, a Bangor West 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 West 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 – 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 West ATC covers a large area of the town and within this area there is a wide variety of built forms. In the immediate area, the built form is characterised predominantly by detached and semi-detached family homes, as well as terraces and apartments as shown in the images in figure 13 below.



Avoca House – Apartments 1-9, 83 Princetown Road



No 1A and 1 Maxwell Road



Nos 1-3 Maxwell Gardens

Figure 13 - Images of area surrounding site

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. Draft BMAP describes Bangor West ATC as an area where 'the hilly topography has made a particular contribution to creating a distinctive coastal landscape with a unique sense of place and identity.' It goes on to list the key features of the area, which include 'later Victorian, 2 storey brick and inter-war suburbs of high quality detached and semi-detached houses on generous plots with well landscaped gardens, hedging and trees. Whilst not mentioned by name, the area surrounding the site would accord with this description.

The Conservation Area Officer was consulted and has noted, 'that the character of what was once a substantial wooded site with Seacourt House as its centrepiece, has become fragmented due to the construction of a number of detached dwellings within

the grounds (named Seacourt Garden), plus the severance of the main house from its original access with listed gateposts and railings.'

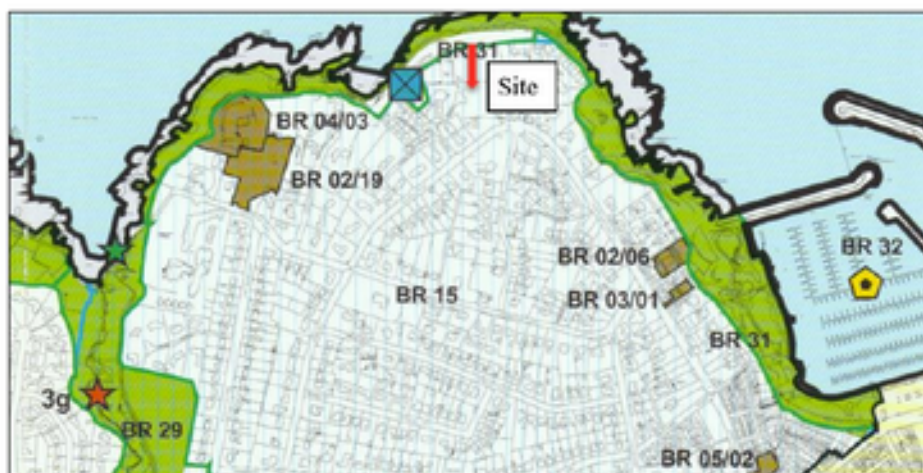


Figure 14 - Extract from Draft BMAP – Bangor West ATC (BR15)

Designation BR 15	Area of Townscape Character Bangor West
<p>An Area of Townscape Character is designated at Bangor West as identified on Map No. 3a – Bangor, Map No. 3i - Bangor Town Centre and on clarification Map No. 3j – Bangor West 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> <ul style="list-style-type: none"> • Late Victorian, Edwardian and inter-war suburbs of high quality detached and semi-detached houses on generous plots with well landscaped gardens, hedges and trees; • Late Victorian 2 storey, brick and stucco houses on the north side of Bryansburn Road and nearby Brunswick Road, containing three of the oldest buildings in Bangor West at no's 49-53. Edwardian and inter-war houses terminate the western ends of Brunswick Road and Bryansburn Road; • The wooded Raglan Road, which contains many fine Victorian stucco villas set on ample landscaped sites; • Inter-war detached houses along both sides of Maxwell Road; • 1930s detached houses along Kensington Park; • Stricklands Glen, a small wooded valley; • The Rendered Victorian villa of Thalassa (1895); • Late Victorian and Edwardian terraces and detached residences on Princetown Road (1885 to 1910), which are typical of the turn of the century seaside town architecture, with painted stucco walls, slate roofs, vertically proportioned sashes, bay windows and elaborate detailing. The form, colour and consistent proportions of these properties fit comfortably within the natural amphitheatre of the Bay in a riviera setting providing a variety of attractively framed views across the bay; and • Ten properties listed in Princetown Road and sixteen terrace houses listed in Queen's Parade. <p>All proposals will be assessed against key design criteria 2A, 2B, 2C, 3A, 3B as contained in Policy UE 3 in Part 3, Volume 1 of the Plan (See North Down District Proposals Appendix 2).</p>	

Figure 15 - Extract from Draft BMAP - Key features of Bangor West ATC

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.



Figure 16– Proposed Site Plan

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

A Design and Access Statement has been submitted by the agent setting out the design principles and how the proposal will respect the established built form of the area. However, the design of the original scheme submitted with the application, was considered to be unacceptable by Historic Environment Division (HED) who considered that the proposal had an adverse impact on the listed building in that the design of proposal was unsympathetic to the setting in its scale height massing and alignment. They also considered the proposed materials to be inappropriate. Amendments were requested by HED that included:

- From the east elevation of the listed building, the protruding massing at the North Eastern corner block forms a competing focus. This is accentuated by the protruding roof and bays at the second floor. We request that consideration is given to removing the protruding mass to the background of West elevation. The North elevation should be straight to reduce the buildings mass and its impact from the listed building.
- The proposed roof geometry forms a competing focus to the setting. Consideration should be given to removing all corner bays that break the traditional roofscape of the mansard roof.
- Subject to detail, sympathetically detailed bays may be appropriate if set within the backdrop primary form of the slated mansard roof.
- Appropriately detailed timber windows and doors with heavy duty cast metal rainwater goods to be appropriate.

Amendments were received to address these concerns, see figures 17-20.



Figure 17 - Original Proposed elevations



Figure 18 - Amended Proposed elevations



Figure 19 – Original Proposed floor Plans



Figure 20 – Amended Proposed floor Plans

As demonstrated in the above plans, the main amendment included a reduction in the overall roof mass and scale of the dormer windows. The materials were also amended as requested by HED. Overall, the design of the apartment block is simple and the materials to be employed are high quality - painted render, zinc cladding, blue-grey natural slate to the roof, sliding sash hardwood windows and cast metal rainwater goods.

Subsequent amended plans were also later received however, these related to other features within the development such as the bin location/storage and access and not the design of the apartment building.

The submitted section drawings shown in figures 21-24 further show how the overall scale and massing of the building will sit within its context of the surrounding buildings. The proposed finished floor level and height of the building will enable the development to integrate well within the context of the existing development.



Figure 21- Cross section plan

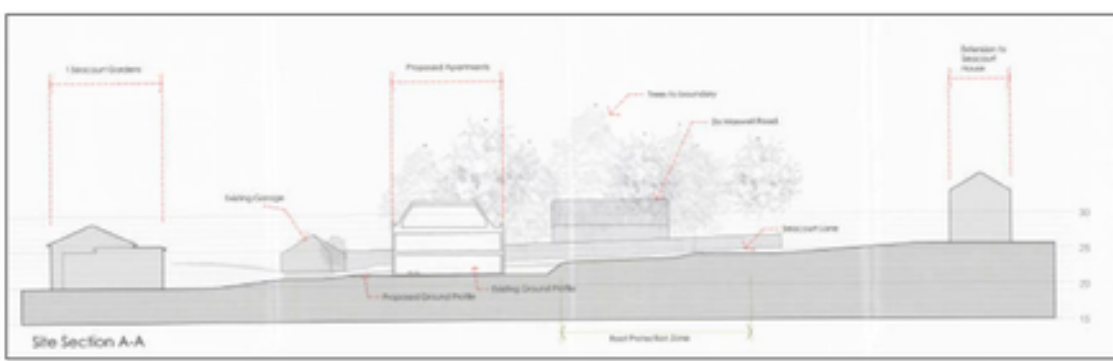


Figure 22 – Proposed section A-A

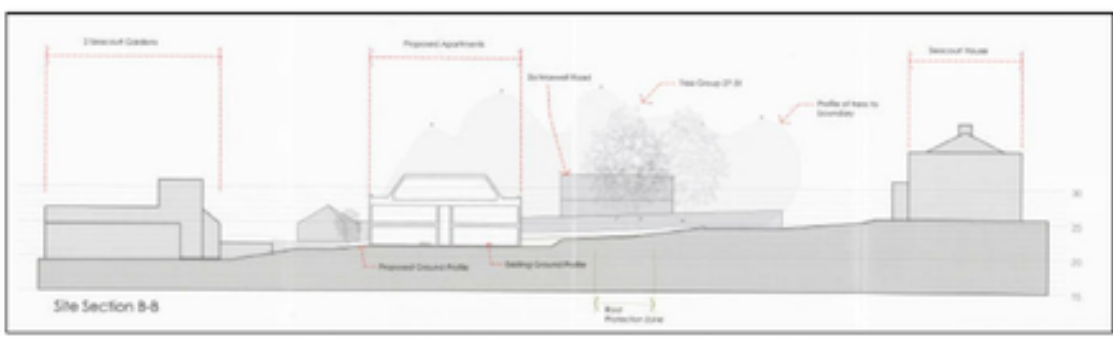


Figure 23 – Proposed section B-B

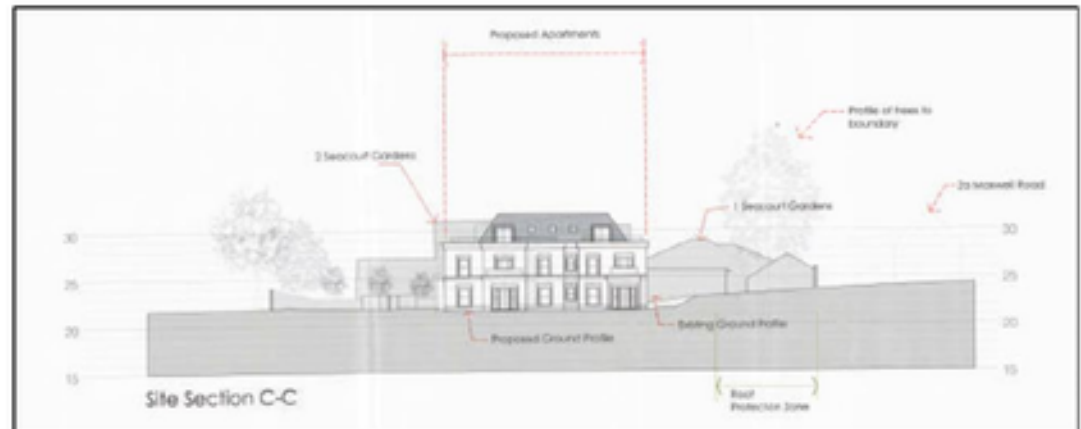


Figure 24 – Proposed section C-C

There are several examples of good quality detached and semi-detached houses within the vicinity of the application site, therefore the proposal should be considered in the context of these along with other more recent built development in the immediate area. Examples of both the traditional buildings and more modern buildings within the immediate and surrounding vicinity of the site are shown below.



Figure 25 – Various modern designs in the 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 good design. The proposal will not damage the quality of the local area and will respect the surrounding context. The scale, massing, landscaping and materials proposed are combined to create a development that is in keeping with the overall character and appearance of the area. The existing access is to be used. The Tree Preservation Order in place at Seacourt will also ensure the screening value of the trees is maintained in the future.

The layout, scale and massing of the proposed apartments will respect the topography of the site and the character of the area. The plot size and ratio of built form to amenity space is acceptable and in keeping with the area. It is not considered that the proposed development will set a precedent for similar applications given the unique characteristics of the site. Extensive landscaping will be provided within the site to soften the visual impact of the proposal. It is considered that the proposed apartments will sit comfortably with the existing dwellings and will not detract from the overall character and appearance of the immediate and surrounding area. Proposed materials include painted render, zinc cladding, blue-grey natural slate to the roof, sliding sash hardwood windows and cast metal rainwater goods.

The proposed design is sympathetic and in keeping with the character of the surrounding area. The Computer-Generated Images below help to further demonstrate how the building will sit comfortably within its context and will not appear dominant.

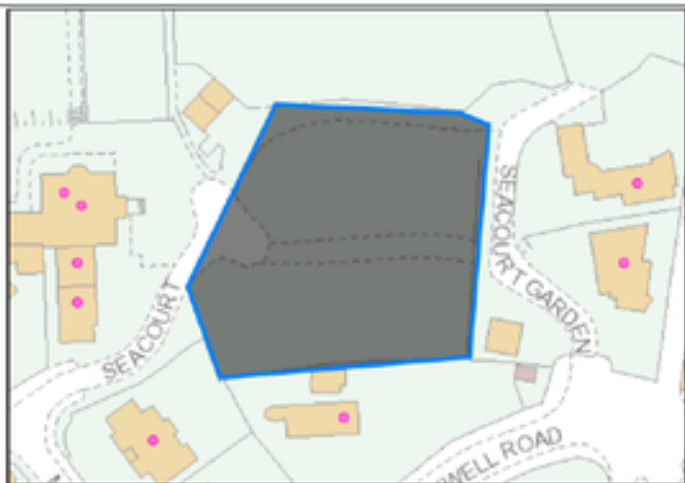


Figure 26 – CGI image View from Princetown Road/Maxwell Road



Figure 27 – CGI image View from Seacourt

The density of the proposed development is not considered as significantly higher than that found within the surrounding residential area, the proposed density is calculated at 20dph (dwellings per hectare). The immediate area has a mix of higher and lower densities, see figure 28 below.



20dph – application site proposed development



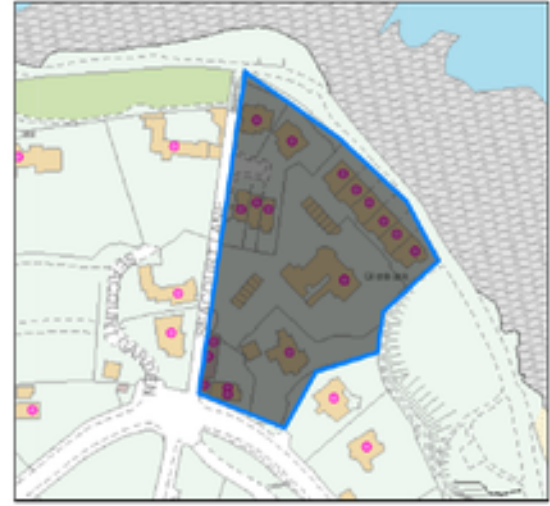
31dph – Maxwell Gardens



8dph - Seacourt



4dph – Seacourt Garden



24dph – Seacourt Lane

Figure 28 – Housing Densities

The proposal complies with relevant policy and guidance in PPS12. The proposal has a good design and will respect the character of the surrounding area. I am satisfied that the proposed development is in keeping with the overall character of the surrounding area.

Impact on Listed Buildings

PPS6 Policy BH11 – Development affecting the Setting of a Listed Building states that development will not normally be permitted which would adversely affect the setting of a listed building. Development proposals will normally only be considered appropriate where all the following criteria are met:

- (a) the detailed design respects the listed building in terms of scale, height, massing and alignment;
- (b) the works proposed makes use of traditional or sympathetic building materials and techniques which respect those found on the building; and
- (c) the nature of the use proposed respects the character of the setting of the building.

The site is in close proximity to the following listed buildings/structures:

- HB23/14/005/A Seacourt 5 & 6, Seacourt, Maxwell Drive, Maxwell Road Bangor (Grade B+)
- HB23/14/005/C Gate Screen Seacourt, Seacourt Garden, Maxwell Road, Bangor (Grade B2)



Figure 29 - View of Nos 1-4 Seacourt

Historic Environment Division (HED) was consulted and as previously stated initially raised objections in relation to the design of the development and the impact it would have on the listed building. These concerns were taken into consideration and amended plans were received. The amendments included the revision of the roof massing. A development Impact Plan was also received (figure 30 below) which shows

the building line of Seacourt House and the setting line in comparison to the proposed location of the apartments.

HED advised in its response that the character of the setting has already been affected adversely by nearby residential development, which encroaches on its original landscaped surroundings. The NI Buildings Database entry for Seacourt states, "the setting has been severely compromised due to development of the site, which has resulted in the demolition of parts of the associated structures and spilt the house from its original entrance. Seacourt remains an important house in terms of the architectural context and historic development of the area."

However, HED also stated that, 'While the proposal remains a concern in terms of further eroding the character of the setting under PPS6 BH11 and SPPS para 6.12, HED is cognisant of previous approvals on the site and therefore has requested conditions.'



Figure 30 - Development Impact Plan

Following submission of the amended plans, HED accepted that the amended proposal illustrates a simplified roof structure and considers that its revised alignment and materials are more sympathetic under policy BH11 than the initial scheme. Furthermore, HED considered that the preservation and protection of existing trees, will help to screen the development from view of the listed building, Seacourt. HED, therefore have no objections to the proposal subject to conditions.

Amenity Space

The provision of amenity space is required for residential development. The proposed apartments have a communal amenity space of approximately 334sqm. Apartments 1-3 and 6 also have a private patio/balcony area. The level of amenity provided is

considered acceptable and well above the standards set within Creating Places which recommends 10-30sqm per unit.

The proposed bin store to the rear of the site is approximately 17sqm. Each apartment will have three bins as standard, this area will be large enough to accommodate 21 smaller wheelie bins (140litres) which is considered to be acceptable. Although Creating Places state that a maximum carry distance will normally be around 25m, the proposed development has approximately 45m carry distance to the adopted footway. Given the large site this is considered to be acceptable and not uncommon for this type of development.

The bin collection point at the roadside is large enough to accommodate 7 large bins, however, normal bin collection requires two bins per apartment to be left out on a fortnightly basis, a green and a blue. Therefore, 7 additional bins will need to be left along the adopted road, as is the current arrangement for the existing dwellings. It is considered that there is adequate space along the site boundary to accommodate these bins that will not cause any road safety or traffic issues. Smaller bins may also be used to lessen the impact however it is not unusual for bins to be temporarily located on public footpaths during bin collection days. Furthermore, in this particular case, given the location at the end of a minor cul-de-sac, there would be no significant safety risk to pedestrians or to visibility for vehicles exiting and entering the site. DFI Roads has raised no road safety concerns in this regard.

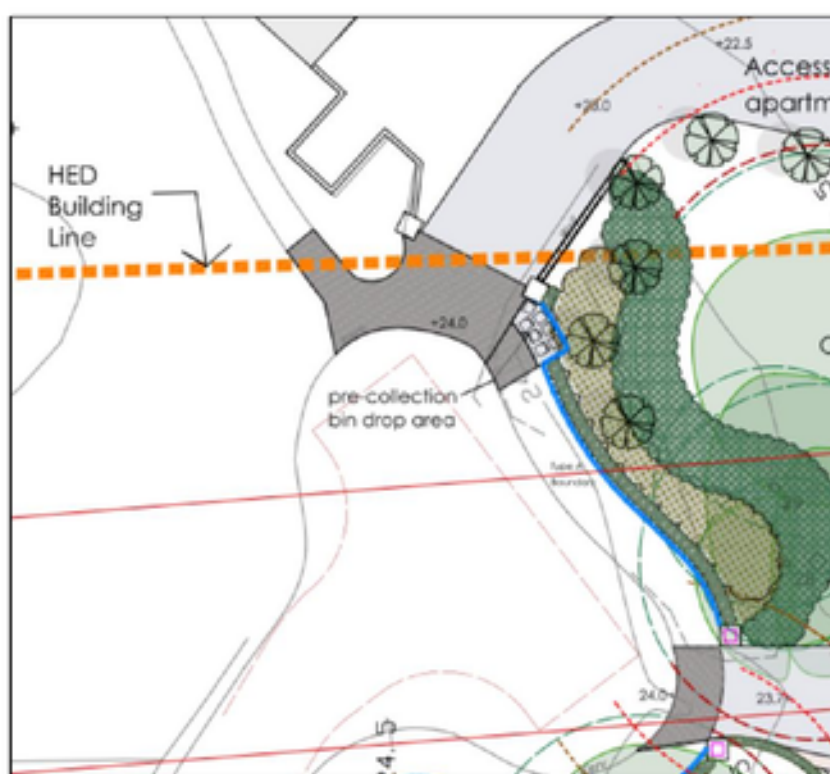


Figure 31 – Proposed location for bin collection area



Figure 32 – Proposed location for bin storage

I am content that the apartments would create adequate living conditions for prospective residents. The provision of public open space is not required in this instance as the proposal is for 7 No. residential units and therefore does not meet the threshold of 25 units set out in policy OS2 of PPS8. The proposal is not at odds with part (c) of Policy QD1 of PPS7. Furthermore, I am satisfied that the site would not fall within the definition of open space as set out in Annex A of PPS8 or any of the nine typologies listed in the annex. The extant planning permission for two dwellings on the site is also a material consideration, which has already established the principle of development on the site.

Landscaping/TPO Trees

An Arboricultural Impact Statement, a Landscape Management and Maintenance Plan, as well as detailed landscape plans from Parkhood Chartered Landscape Architects were submitted for the overall site and the existing TPO trees which are contained within the site. The Council's tree officer was consulted and has offered no objections to the proposal subject to conditions.

The proposed soft landscaping includes:

- Amenity grass seeding
- Groundcover and shrub planting
- Tree planting
- Shrub Planting
- Hedgerow Planting
- Native woodland planting
- Management of existing trees

The proposed hard landscaping includes:

- Footpaths
- Paved driveways

- Roads
- Fencing
- Walls and copings

A Landscape Management and Maintenance Plan has been submitted with the application which sets out how the landscaping of the site will be managed and maintained to ensure a high standard is kept which will benefit existing and future residents of the area. Any planning approval would be subject to a condition in this regard.



Figure 33 – Landscape Plan

Impact on Privacy and Amenity of Neighbouring Residents

The proposed apartments will have no unacceptable adverse impacts on the residential amenity of existing adjacent dwellings.

The existing dwellings which abut the boundaries of the site and therefore are most likely to be affected by the development are 1, 2 and 4 Seacourt Garden, 3-6 Seacourt, 2a Maxwell Road and 3 Maxwell Drive. Each of these are considered in turn below.



Figure 34 – Existing dwellings adjacent to site

1 and 2 Seacourt Garden

There is a separation distances of 22m from the proposed apartments to the dwelling at No. 2 Seacourt Garden, and a separation distance of 15m between the first-floor patio area (above the garage) of No.2 Seacourt Garden and the proposed apartments.

There are seven windows in total at first and second floor level facing No.2 (see figure 35 below). The two first floor windows to the right, serve as secondary windows for a kitchen/living room for apartment 5. As these windows would have direct views towards the windows and private patio area of No. 2, it is recommended that they are subject to a condition requiring obscure glazing. These windows although facing the front of No.1 Seacourt they do not have any views of their private amenity space.

The two central stairwell windows will also face towards 1 and 2 Seacourt Garden with a separation distance of between 31-34m to the dwellings. As these would also create the potential for overlooking, it is recommended that they too are subject to a condition requiring obscure glazing. The two first floor windows to the left of the elevation would serve an ensuite and bedroom. These windows would face towards the front of No. 1 Seacourt Garden. However, as there would be a separation distance of 32m from the proposed building to the front of No.1 Seacourt Garden, I am satisfied that there will be no unacceptable overlooking issues. The 32m separation is well in excess of the recommended 20m 'back to back' separation distance set out in Creating Places. Lastly, there are two dormer windows at second floor level of the proposed building which serve bedrooms. The dormer to the right would be positioned 25m from No. 2 and the dormer to the left would be positioned 33m from No. 1. Given the proximity of

these windows and the fact that they are secondary bedroom windows, it is recommended that these are also conditioned to have obscure glazing.

No roof terraces or balconies are proposed however to ensure that none are added to the building at a later date which could potentially affect the amenity of the existing dwellings, it is recommended that a condition is added to any approval preventing the addition of any balconies or roof terraces.



Figure 35 – East elevation facing No. 2 Seacourt Garden

Given the siting of the proposed building to the west of Nos. 1 and 2 Seacourt Garden, I am content that it would not result in any unacceptable loss of direct sunlight to these dwellings. Furthermore, the separation distance from the proposed building to the existing dwellings will also ensure that there will be no unacceptable loss of daylight.

The proposed boundary treatments to Nos 1 and 2 Seacourt Garden consists of 1.8m high timber fencing with additional high hedging and trees planted behind.

4 Seacourt Garden, 3-6 Seacourt, 2a Maxwell Road and 3 Maxwell Drive

While each of these properties abut the application site, the proposed apartment building will be positioned a sufficient distance from both the curtilages of the dwellings and the dwellings themselves to ensure no unacceptable impact by way of loss of privacy or overshadowing. The separation distances would all exceed/comply with the recommended 20m 'back to back' separation distance as set out in Creating Places and would be as follows:

- 4 Seacourt Garden – 16m (curtilage), 53m (building)
- 3-4 Seacourt – 47m (curtilage) 63m (building)
- 5-6 Seacourt - 37m (curtilage), 55m (building)
- 2a Maxwell Road - 20.5m (curtilage), 28m (building)
- 3 Maxwell Drive - 41m (curtilage), 57m (building)

Overall, I am satisfied that the proposed apartments will be located a sufficient distance from the existing dwellings to ensure that no unacceptable degree of dominance or overshadowing and no overlooking would occur.

Environmental Health was consulted and offered no objections to the proposal regarding noise and general disturbance.

A collection area for the bins has been provided to the front of the site, to the east of the access road as already outlined above. This is considered to be acceptable as both DFI Roads and the Council's Waste Department were consulted on the positioning of the bins, with several plans being submitted to address concerns. The latest plans were considered to be acceptable to both departments.

Road Safety and Parking

As per Policy AMP 2: Access to Public Roads, planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

- 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.

Two vehicular accesses are proposed to be used for the development; one which runs along the northern boundary of the site, which is currently used as access to existing garages, and the other access to be located further to the south. Both exit onto Seacourt. The existing access will be extended into the site to allow access to 10 car parking spaces as well as the bin storage and is to be 6m in width. The second access is for 2 car parking spaces.

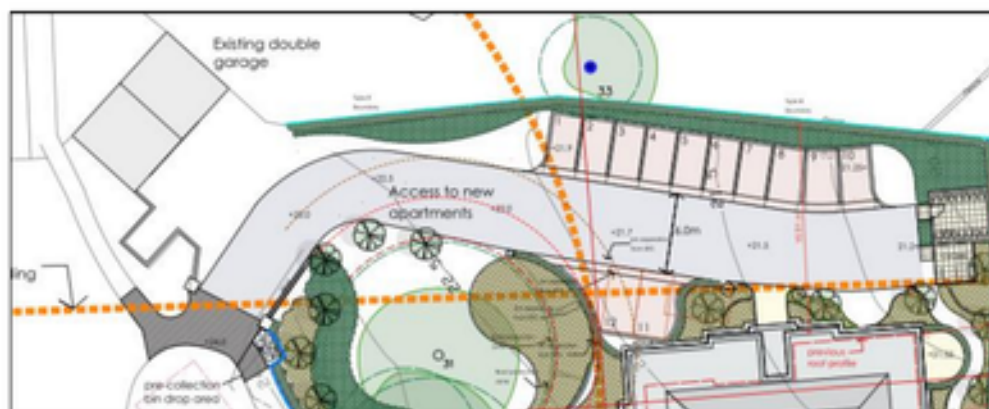


Figure 36 – Existing access extended

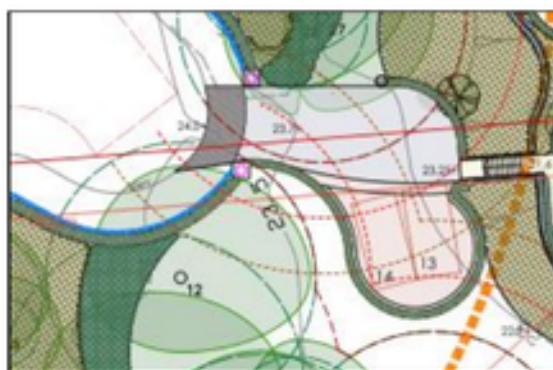


Figure 37 – Proposed second access

DFI Roads has advised it has no objections to the proposal in terms of road safety or traffic progression at this location.

Policy AMP 7 Car Parking and Servicing Arrangements 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 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 Standards set out the parking requirements for various types of development. A total of 12.5 assigned parking spaces are required to serve the proposed development (6 No. 2 bed and 1No. 3 bed). 14 in curtilage assigned spaces are proposed to serve the development therefore the level of parking provided is considered to be acceptable.

Flooding and Drainage

The Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain. There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. No watercourses run through the site.

A drainage assessment is not required under Policy FLD 3 of PPS 15, as the development does not exceed any of the required thresholds:

- Residential development comprising 10 dwelling units or more.
- A Development site in excess of 1 hectare.
- New hard-surfacing exceeding 1000m².

Designated Sites and Natural Heritage Interests

Policy NH1 of Planning Policy Statement 2 relates to European and Ramsar sites and states that planning permission will only be granted for a development proposal that, either individually, or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on those sites.

Both NIEA and SES were consulted on the application and are content with the proposal subject to conditions.

SES stated that following an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, they advised the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.

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 features, conservation objectives or status of any of these sites.

Policy NH 2 of PPS 2 states that planning permission will only be granted for a development proposal that is not likely to harm a species protected by law. To this end, the NI Biodiversity Checklist has been used to identify whether the proposal is likely to adversely affect certain aspects of biodiversity including protected species.

A Bat Roost Potential Survey and Biodiversity Checklist were completed by Ayre Environmental Consulting Ltd. From the Bat Roost Potential survey submitted, NED acknowledged that arboricultural works as proposed in the 2021 tree survey report have already been completed prior to the completion of the requested ecological survey. The ecologist determined that the bat roost potential of all trees that were subject to arboricultural works to be negligible or low and concludes that no impacts are predicted to arise in relation to roosting bats. In this instance it has indicated that there is not a reasonable likelihood of there being protected species present and therefore further investigation is not considered necessary.

It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2. SES and NED offered no objections subject to conditions.

Sewage disposal

NI Water has advised that there would be potential foul sewer network capacity issues associated with this site. This establishes the potential for significant risks of detrimental effect to the environment and detrimental impact on existing properties. For this reason NI Water has recommended that connections to the public sewerage system are curtailed. The Applicant is advised to consult directly with NI Water (InfrastructurePlanning@niwater.com) to ascertain whether any necessary alternative drainage /treatment solutions can be agreed. An Impact Assessment will be required.

I am satisfied that the capacity issue can be dealt with by attaching a negative condition stipulating that no development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority.

The applicant will be able to liaise with the relevant authorities outside of the planning process to establish if a solution can be reached. If the applicant is unable to find an acceptable solution, then he/she will be unable to implement the permission. If a private treatment plant solution is required, a separate planning application for this would be required.

Security from Crime

The layout has been designed to deter crime and promote safety. It is therefore considered that the proposal complies with part (i) of Policy QD1 of PPS 7 and all relevant guidance.

Local Neighbourhood Facilities

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

5. Representations

In total 67 letters of objection from 26 different addresses have been received as follows:

- 22 objections to the original proposal (14 separate addresses)
- 45 objections received since latest submission (19 separate addresses)

Issues raised in submitted representations are summarised below:

Issues raised in relation to original submission

- Loss of light and overshadowing to No. 2 Seacourt garden specifically balcony
- Height of apartments will create dominance
- Overdevelopment and intensification
- Plans not accurate – amenity space no 2 not shown on plans
- Design, mass and scale out of keeping with character of area and Seacourt House
- Visual impact - Does not maintain or enhance area
- Impact on listed building, unsympathetic
- Drainage – storm drainage – existing problem
- Lack of parking/visitor
- Right of way to tennis court as stated within deed
- Construction noise nuisance
- Does not draw on traditional form, material detailing
- Set negative precedent
- PAD process flawed
- Planning history does not establish principle of development
- Natural environment impact by clearing – removal of trees. Removal of vegetation. Impact on wildlife
- Access via Seacourt will create congestion, increase in traffic, safety issue, lack of footpath/facility for cyclists, width of road. Alternative access should be considered vis Seacourt Garden
- Electric gates – access to garages hindered
- TPO issues – removal of trees, Leyland cypress
- Increase pressure on services
- Principle of apartments unacceptable
- Increase in housing density
- Loss of privacy to no5 and 6 Seacourt
- Previous and ongoing clearance of the site – vegetation/trees
- Materials not in keeping
- Proposed landscaping will not replace that which has already been removed

Issues raised in relation to final submission

All previous objections should also be considered against the amended plans – as stated by the objectors. Additional points raised to those already stated above.

- Plans still not accurate – no2 Seacourt Garden
- Volume of traffic using Maxwell Drive
- Bin collection inadequate – access for bin lorry

- Amendments do not address points previously raised
- Apartments in Seacourt house do not set precedent
- Removal of trees and bushes major impact on the setting of Seacourt House
- Bin collection area unacceptable in proximity to listed building
- NI Water capacity issues
- Bin storage more than 25m away as per Creating Place
- Outlook and value of property will be degraded
- Traffic assessment requirement
- Poor sight lines
- No provision of EV charging points
- Lack of access for large vehicles, e.g. emergency vehicles
- Balcony on roof – loss of privacy

The main concerns raised in relation to the impact of the development on the character of the area, impact on residential amenity, environmental impact and flooding have all been considered in detail in section 4 above.

Other matters raised are considered as follows:

Construction noise, general disturbance, road safety, dust, access to the site

Environmental Health were consulted and offered no objections but asked for a condition regarding construction/operating times. Any noise from construction works is considered temporary and will not adversely impact on residential amenity and as the area is within the settlement limit of Bangor, the erection of dwellings is expected.

Impact on house value

This is not a material planning consideration.

Views

There is no right to a private view.

Right of way to tennis court

The site is not affected by any public right of way. The issue of any private rights of way on the site would not be within the remit of planning and would be a legal or civil issue to be resolved between the parties involved.

No provision of EV charging points

This is not a requirement of current planning policy.

Plans not accurate

Concerns were raised that the balcony at No.2 Seacourt Garden was not annotated on the plans. However, having conducted a site visit, the balcony was evident and the impact to such has been taken into consideration in the assessment of the proposed development.

PAD process flawed

The information/advice provided within the PAD process was on an informal basis, as stated an application would still be required with all necessary supporting information to allow the council to fully assess any application received.

Removal of trees/shrubs

Tree no.30 which has been removed, was not included within the provisional TPO and therefore permission was not required to remove. Consent was granted for the removal of other TPO trees within the site, under LA06/2019/0392/TPO.

Several Enforcement Cases were opened in regard to alleged unauthorised works to the trees and investigated by the Council. All cases have been closed. The Council's tree officer was consulted during the processing of the application and subject to conditions has no objections to the proposal.

6. Recommendation**Grant Planning Permission****7. Conditions**

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

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

2. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No.03E, prior to commencement of development hereby permitted.

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

3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway prior to commencement of development hereby permitted and such splays shall be retained and kept clear thereafter.

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

4. The access gradient to the dwellings hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 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.

5. The management and maintenance of the existing and proposed landscaping shall be carried out in accordance with the approved Landscape Management and Maintenance Plan, in perpetuity.

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

6. All hard and soft landscape works shall be carried out in accordance with approved drawing Nos. 10C and 11C and the relevant British Standard 5837:2012 or other recognized Codes of Practice. All works and new planting as indicated on the approved drawing shall be completed during the first available planting season after the occupation of the first apartment of the development hereby approved and shall be permanently retained thereafter.

Reason: In the interest of visual amenity.

7. 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.

8. If any retained trees or planting are 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.

9. The existing trees that are protected by a TPO as indicated on the approved plan, Drawing Nos. 03E, 09C, 10C and 11C shall be retained. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place or any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written consent of the Council. Any arboricultural work or tree surgery approved shall be carried out in accordance with the relevant British Standard 3998: 2010.

Reason: To ensure the continuity of amenity afforded by the existing trees.

10. No development shall commence on site until the details of the position of any utility apparatus associated with the development, including foul and storm sewers, and a construction method statement for same in accordance with NJUG 4 Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees, have been submitted to and agreed in writing

with the Council. The development shall be carried out in accordance with the approved details.

Reason: To ensure that construction is carried out without causing root damage to protected trees.

11. No new utility apparatus including foul and storm sewers shall be installed within the root protection areas of protected trees and retained trees as indicated on Drawing Nos. 03E, 09C, 10C and 11C unless with the prior written consent of the Council and in accordance with NJUG 4 Guidelines for the planning, installation and maintenance of utility apparatus in close proximity to trees.

Reason: To ensure the continuity of amenity afforded by existing trees.

12. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved Drawing Nos. 03E and 10C in accordance with BS5837:2012 before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit without the written consent of the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

13. The proposed levels as shown on Drawing Nos. 03E, 7A, 8B shall be completed as indicated and be permanently retained thereafter. No changes to existing ground levels within the root protection area of protected trees shall be carried out without prior written consent from the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

14. The construction of the proposed entrance pillars as indicated on drawing no 12C shall be carried out in accordance with the approved details and construction method. The pillars shall be permanently retained in the approved position.

Reason: To prevent damage to trees to be retained.

15. New grass and shrub planting as indicated on drawing no. 11C shall be carried out in accordance with the approved details and the methodology provided.

Reason: To prevent damage to trees to be retained.

16. Details of the geo-cell construction for the proposed access laneway including site specific driveway makeup, methodology for construction and sectional drawings through the access and adjacent land showing existing and proposed levels shall be submitted to and agreed in writing by the Council prior to commencement of development on site.

Reason: To ensure the continuity of amenity afforded by existing trees.

17. No tree felling, vegetation clearance and building demolition, shall take place between the 1st of March and 31st of August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests in the trees/vegetation/buildings, immediately before works commence and provided written confirmation that no nests are present/birds will be harmed and 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.

18. The finished floor levels and proposed ground levels for the development hereby approved shall be in accordance with the details set out on approved drawing Nos. 03E, 07A and 08B.

Reason: In the interest of privacy and visual amenity.

19. The windows, as shaded yellow, on the hereby approved drawing Nos 05A and 06A shall be finished with obscure glass. The obscure glazing shall be installed prior to the occupation of the development hereby approved and shall be permanently retained thereafter.

Reason: In the interest of privacy and amenity.

20. 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 apartment building hereby permitted without the grant of a separate planning permission from the Council.

Reason: In the interests of visual amenity.

21. 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 apartment building 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.

22. The flat roofed area of the building, shaded orange on Drawing No.05A shall not be used as a balcony or roof terrace at any time.

Reason: To protect existing and proposed residential amenity.

23. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to

discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority. Evidence of this consent shall be submitted to the Council prior to the commencement of any development.

Reason: To ensure no adverse effect on the water environment and to ensure the development will not have an adverse effect on the integrity of any European site.

24. The development shall not be occupied until provision has been made within the curtilage of the site for the parking of private cars in accordance with approved Drawing No.03E. The parking areas as approved shall be permanently retained and used for no other purposes.

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

25. The development hereby approved shall be completed in accordance with the details included on approved drawings 01, 02C, 03E, 04C, 05A, 06A, 07A, 08B, 09C, 10C, 11C, 12C AND 13.

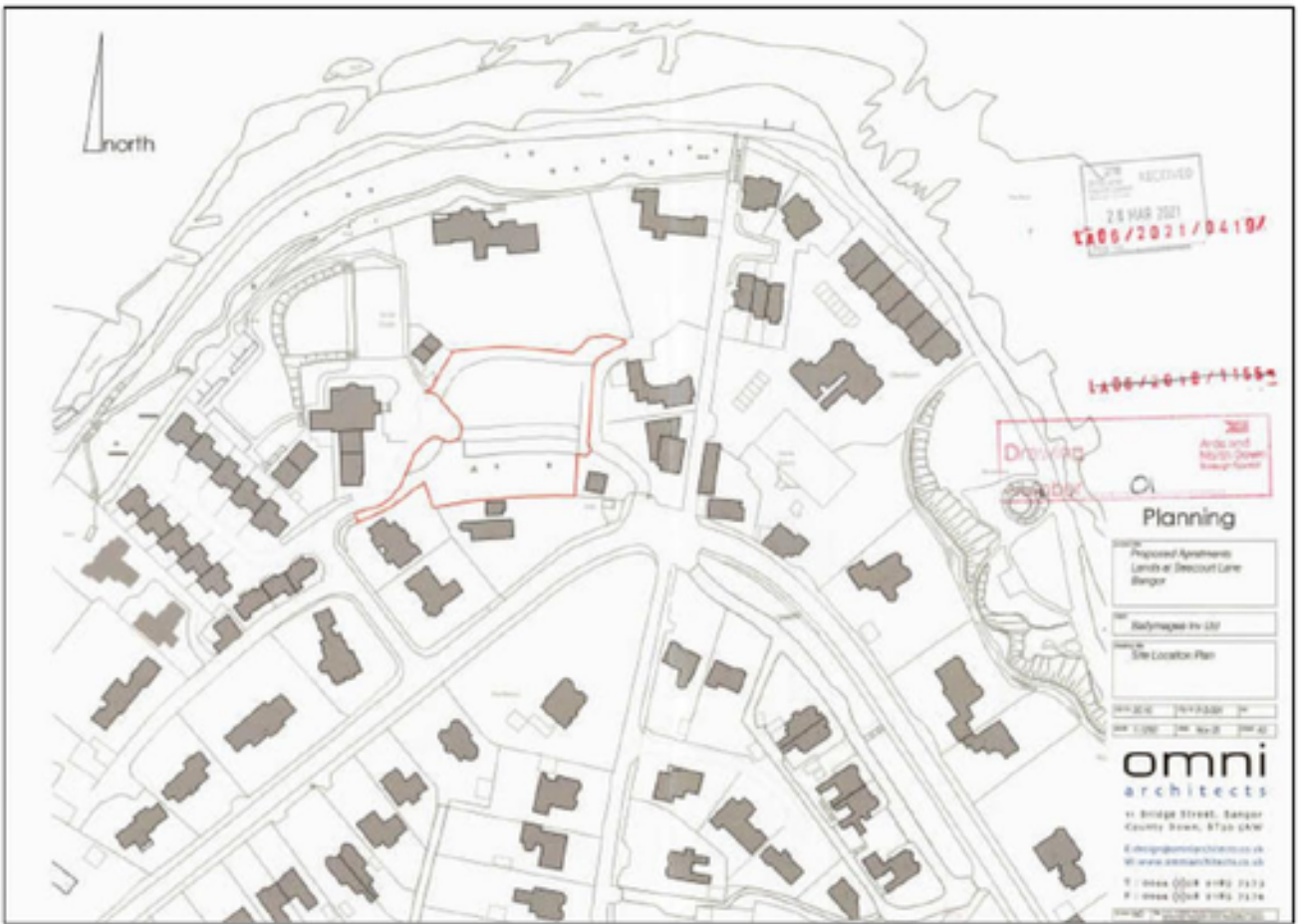
Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

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

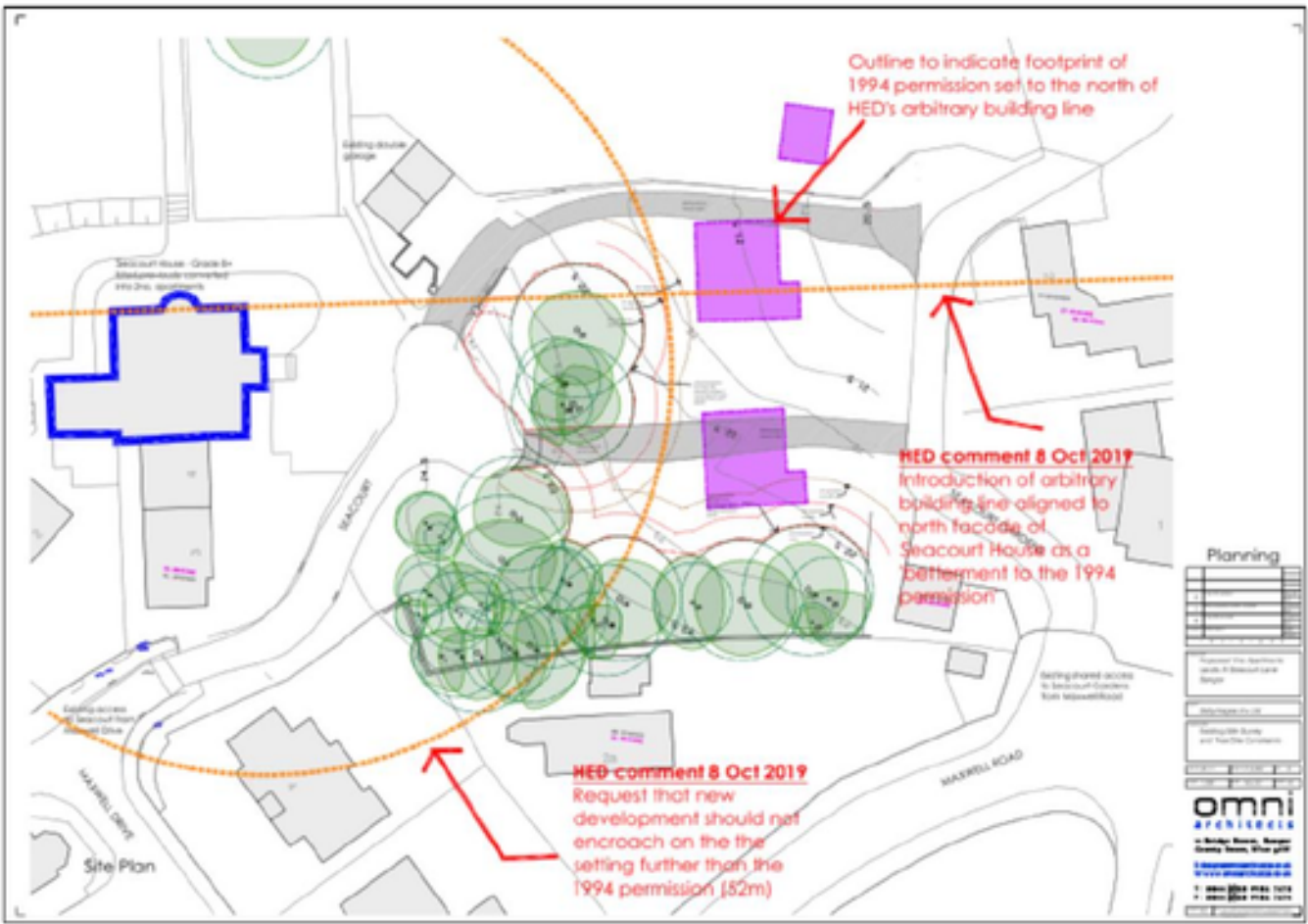
Reason: To ensure the occupiers of nearby residential premises are not adversely affected by noise from the demolition /construction works.

Informative

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



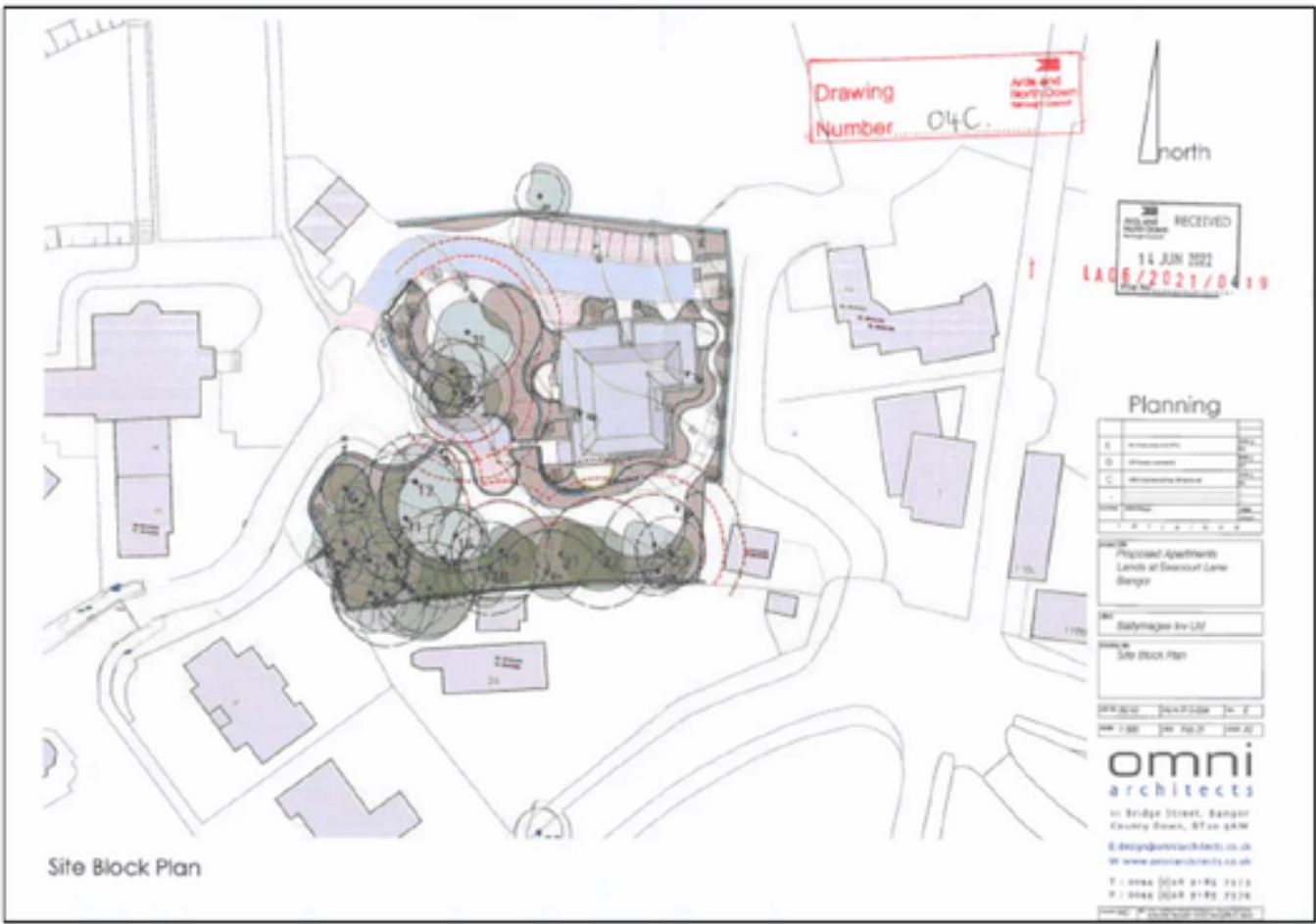
Site location map



Existing Site survey



Proposed Site Plan



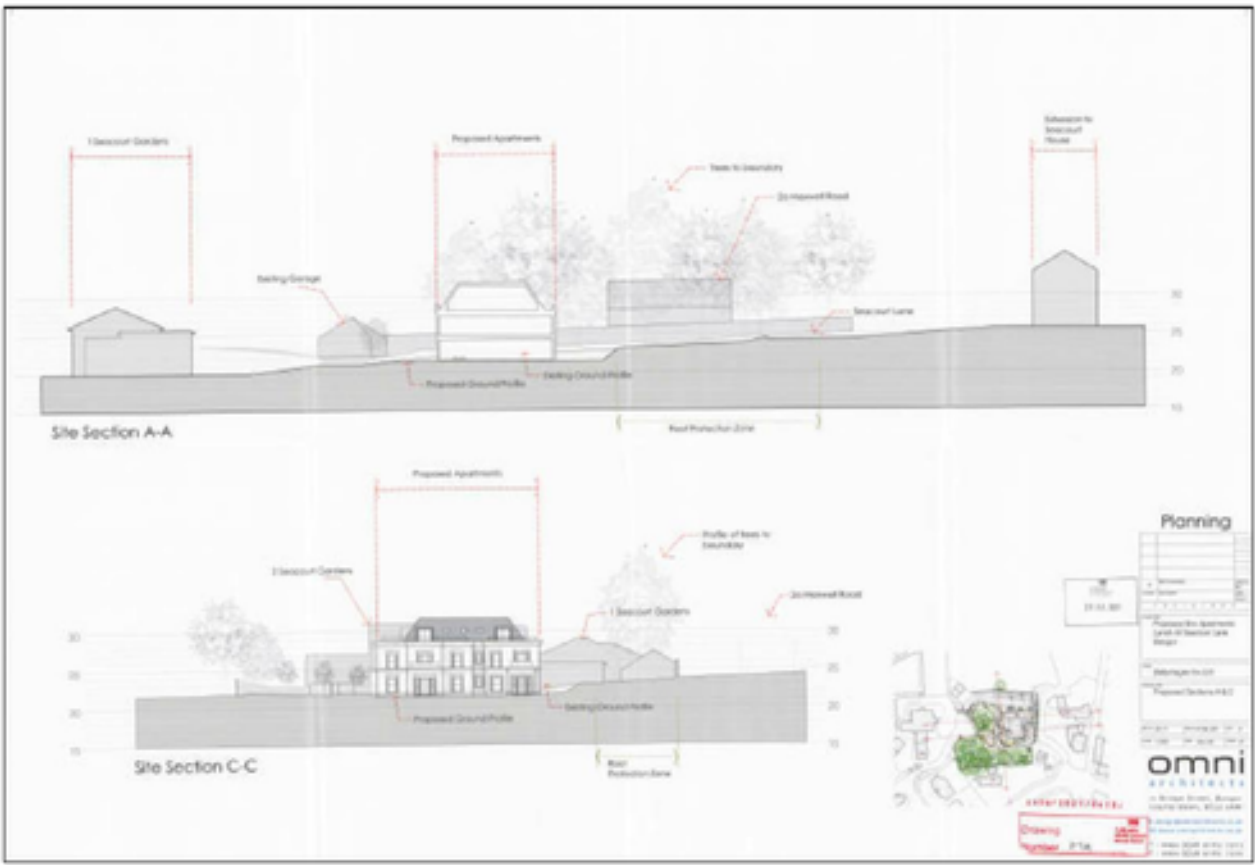
Site block plan



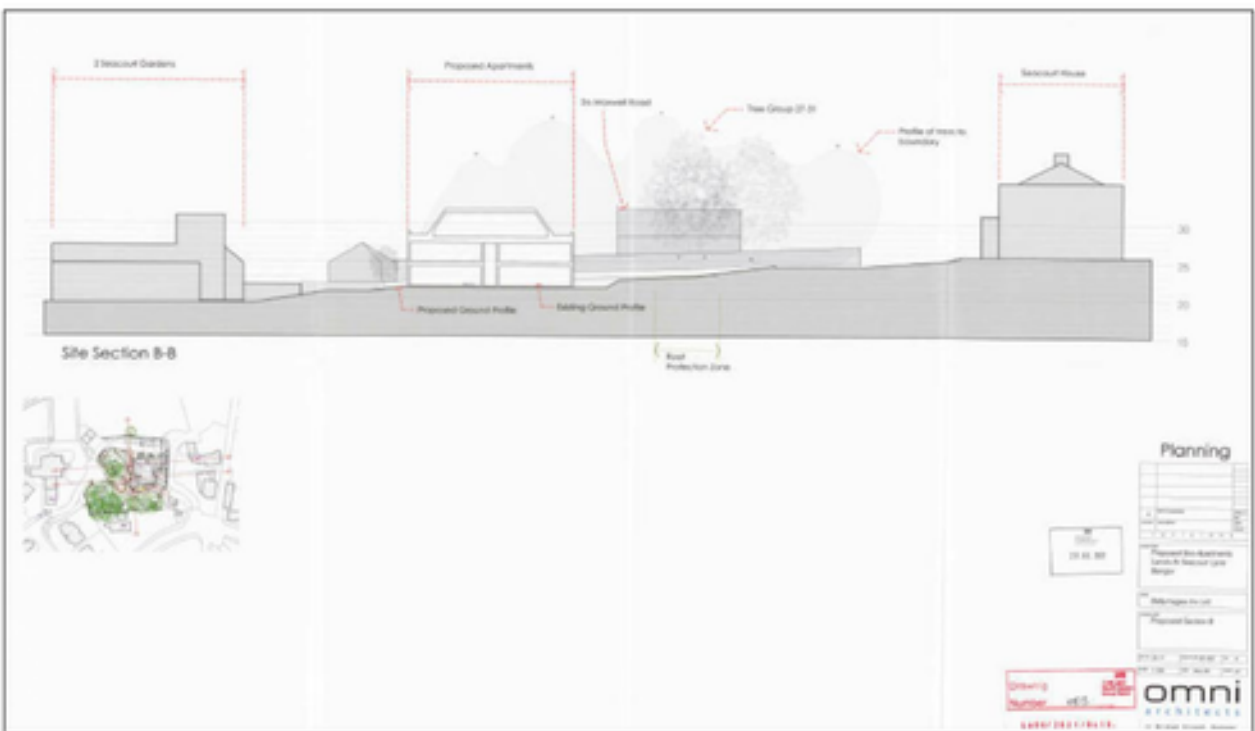
Proposed floor plans



Proposed elevations



Proposed sections



Proposed sections



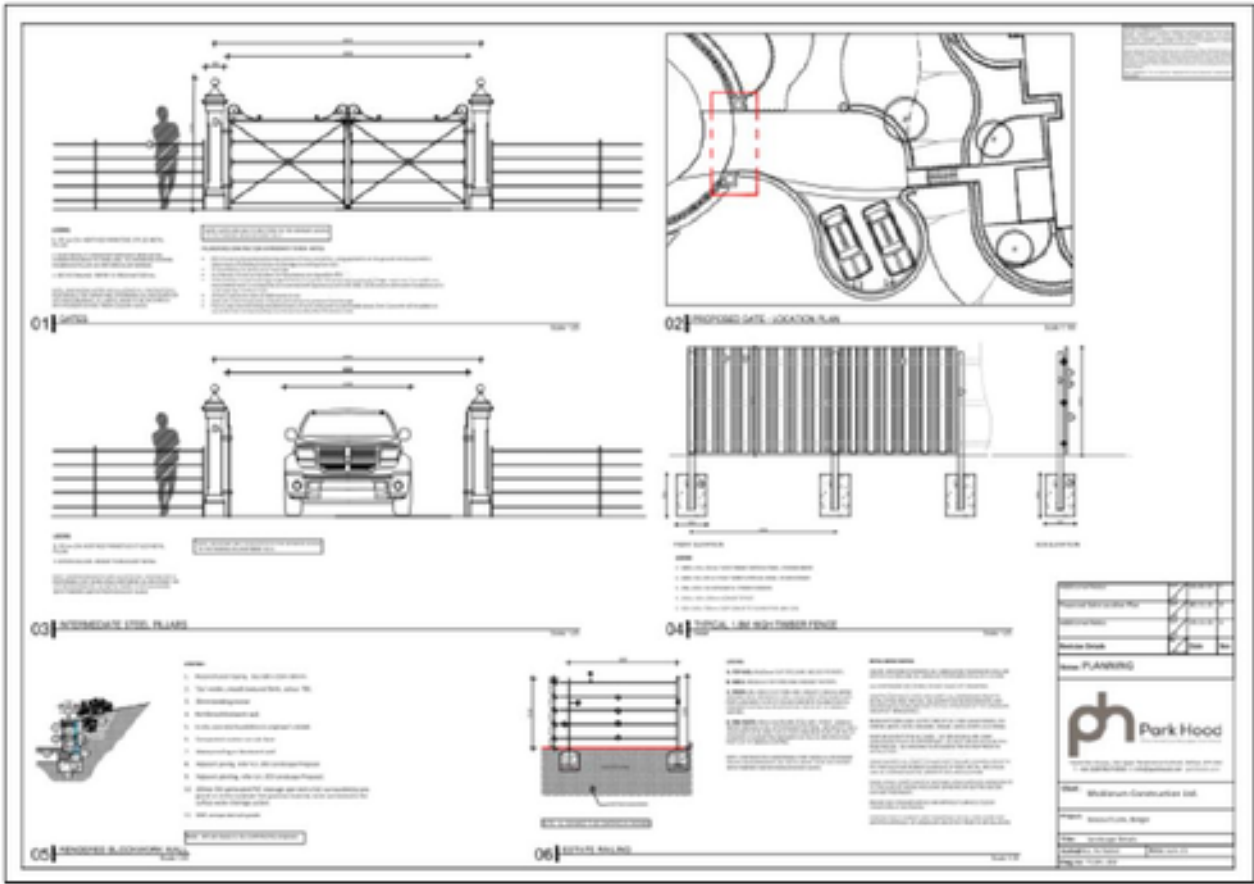
Existing Site Plan



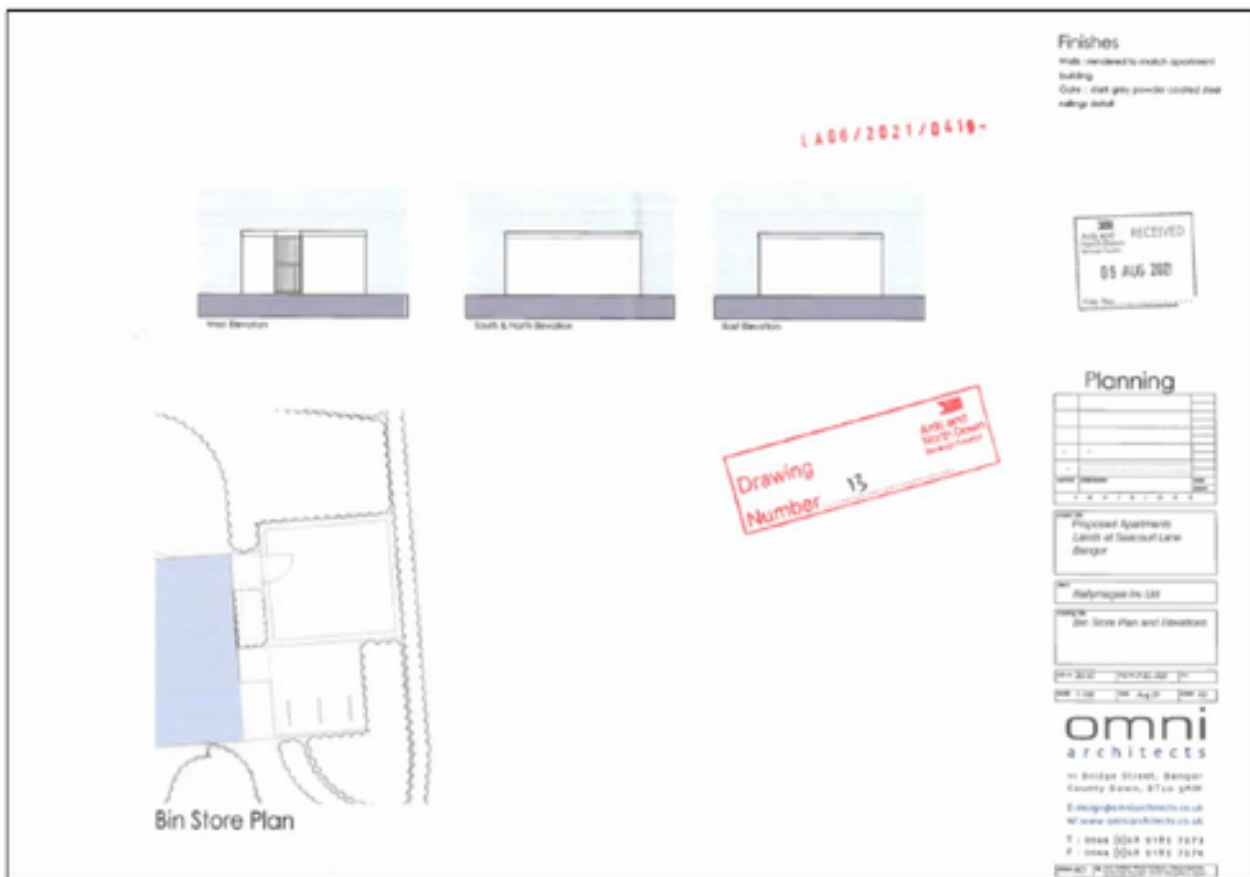
Development Impact Plan



Landscape Plan



Landscape Details



Bin storage plans



CGI Views from Maxwell Road/Princetown Road



CGI Views from Seacourt

Site photographs








ITEM 4.2

Ards and North Down Borough Council

Application Ref	LA06/2021/1438/F
Proposal	Amendment to approved realignment of Cannyreagh Road and provision of new link section to ensure retention of vehicular and pedestrian access for existing residential properties.
Location	Land adjacent to 11-33 Cannyreagh Road, Donaghadee
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to officers' recommendation
Validated	09/12/2021
Summary	<ul style="list-style-type: none"> • The application seeks to amend the previously approved Cannyreagh Road realignment to facilitate access to an approved 390-unit residential development on zoned housing land (X/2014/0473/O & LA06/2016/0982/RM). • The amended road layout will ensure that existing properties with driveways along Cannyreagh Road would retain vehicular access. • The layout will also ensure that the capacity and location of on-street parking along Cannyreagh Road would be similar to what presently exists. • DFI Roads has reviewed the objection letters and has confirmed that it has no objection to the proposal in terms of roads safety and car parking. • The Council's Environmental Health Department has reviewed the proposal and has provided no objection in terms of noise.

	<ul style="list-style-type: none"> • The Council's Tree Officer has reviewed the proposal and is content that it will result in less impact on trees than what was previously approved. • 11 objections from ten separate addresses have been received, and all matters raised therein have been considered in detail in the main Case Officer Report and the subsequent Addendum.
<p>Recommendation</p>	<p>Approval</p>
<p>Attachment</p>	<p>Item 4.2a – Case Officer Report</p>

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2021/1438/F	DEA: Bangor East & Donaghadee	
Proposal:	Amendment to approved realignment of Cannyreagh Road and provision of new link section to ensure retention of vehicular and pedestrian access for existing residential properties	Location:	Land adjacent to 11-33 Cannyreagh Road, Donaghadee
Applicant:	Strand Homes Ltd		
Date valid:	09/12/2021	EIA Screening Required:	No
Date last advertised:	15/06/2023	Date last neighbour notified:	02/06/2023
Consultations – synopsis of responses:			
DFI Roads		No objection subject to conditions	
Environmental Health		No objection	
Letters of Support 0 Letters of Objection 5 Petitions 0			
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Impact on Trees • Impact on Residential Amenity • Access, Road Safety and Car Parking • Designated Sites/Other Natural Heritage Interests • Other Planning Matters 			
Recommendation: Grant Planning Permission			
Report Agreed by Authorised Officer			
Full details of this application, including the application forms, relevant drawings, consultation responses and any representations received are available to view at the Planning Portal https://epicpublic.planningni.gov.uk/publicaccess/			

1. Site and Surrounding Area

The site comprises a section of the existing Cannyreagh Road and a portion of adjacent land that forms part of a wider site that benefits from extant under planning approval X/2014/0473/O and the subsequent approval of Reserved Matters LA06/2016/0982/RM. The boundary along the road is defined by mature hedging and trees. All the trees within the site and surrounding it are the subject of a Tree Preservation Order.

The site is within the settlement limit of Donaghadee. The land to the north-west of Cannyreagh Road is zoned for housing in the Ards and Down Area Plan 2015.

2. Site Location Plan



3. Relevant Planning History

X/2006/0700/O - Lands between the Newtownards Road and Cannyreagh Road, Donaghadee. Residential development to include mix of house types (inc. social/affordable housing), neighbourhood facilities, amenity open space, landscaping and ancillary works. (Amended scheme). Permission granted 15 November 2012.

X/2014/0473/O - Lands between the Newtownards Road and Cannyreagh Road, Donaghadee. Residential development to include mix of house types (inc. social/affordable housing), neighbourhood facilities, amenity open space, landscaping and ancillary works. Permission granted 3 March 2015.



Proposed layout X/2014/0473/O

There is a condition on the outline permission requiring the drawings at RM stage to be generally as indicated on the layout drawing agreed at outline stage. There was a further condition requiring vehicular accesses to be provided generally in accordance with outline drawing prior to commencement and then retained thereafter.

LA06/2016/0982/RM – Lands between Newtownards Road (to south of Donaghadee Rugby Club) and Cannyreagh Road (to north of Nos 17-33), Donaghadee. Residential development of 390 dwellings (to include mix of detached, semi-detached, town houses and apartments) with associated landscaping and amenity space and provision of new Road link from Newtownards Road to Cannyreagh Road. Permission granted 26 September 2018.

Conditions 26, 28, 34, 35 and 36 requiring the approval of details post decision have all been discharged. Conditions 11 (LA06/2019/0554/NMC – to facilitate design and certification of culvert across watercourse by chartered engineer. Culvert to be installed at a stage when road construction is required over the watercourse - consent granted) and 33 (LA06/2019/0550/NMC – to facilitate tree protective fencing to take place prior to work commencing within each of the phases of development set out in accordance with Condition 34 - consent granted) have been subject to non-material change applications.

Condition No.05 of the Reserved Matters approval requires the provision of an access onto Cannyreagh Road in accordance with the approved drawing numbers 131C, 132C & 135C.

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

Cannyreagh Road

No more than 200 dwellings shall be occupied until the works necessary for the improvement of Cannyreagh Road have been completed in accordance with the details outlined in drawing numbers LA06/2016/0982/131C, 132C & 135C, bearing the Council's date stamp 27th February 2018. DFI Roads hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure 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.

The planning history of the site supports the principle of development to provide an alternative road layout and means of access to zoned housing lands.

4. Planning Assessment

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

- Ards and Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement & Parking

Planning Guidance:

- Creating Places
- DCAN 15 – Vehicular Access Standards

Principle of Development

The site lies within the settlement limit of Donaghadee. The site comprises a section of the existing Cannyreagh Road and a small part of a wider site zoned for housing under designation DE11 in the Ards and Down Area Plan 2015.

Planning permission for 390 dwellings on the zoned housing lands is extant under planning approval X/2014/0473/O and the subsequent approval of Reserved Matters LA06/2016/0982/RM.

In the Ards and Down Area Plan 2015, one of the key design considerations (KDC) for Zoning DE 11 states “that part of the road adjoining the southern boundary of the site must be laid out and constructed in such a manner as to allow for its possible continuation into other lands further to the south and the construction of a linkage to the Cannyreagh Road. A Planning Agreement under Article 40 of the Planning (NI) Order 1991 may be necessary”.

The detailed plans approved at Reserved Matters stage include a new distributor road through the site to link the Newtownards and Cannyreagh Roads. A new right turning lane was approved off the Newtownards Road and a new access was approved off the Cannyreagh Road.

The current planning application relates to amendments to the access onto Cannyreagh Road.

The SPPS states that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

The approved access onto Cannyreagh Road involved the re-alignment of the road with a T Junction and a new parking area for 19 No. cars between the realigned road and the housing development to the south. The outline planning permission did not include details of this car park. Moreover, the permanent retention and use of this land as a car park was not specifically conditioned in the RM approval.



Approved layout



Conditions were included on the planning approval for the 2016 application which restricted the occupation of dwellings to 200 until the distributor link from Newtownards Road through to Cannyreagh Road is completed. The development of the site was also to commence from the Newtownards Road with a maximum occupation of 30 dwellings accessed from Cannyreagh Road prior to delivery of the entire distributor road linking Newtownards Road to Cannyreagh Road.

Development has commenced on site from the Newtownards Road. A number of dwellings (change of house type applications) have been approved or are currently under consideration by the Council. To ensure that the approval of separate stand-alone change of house type applications will not result in the potential to breach the above conditions with respect to the number of houses occupied, the applicant, with respect to the wider development site, has agreed to enter into a Planning Agreement prepared under Section 76 of the Planning Act (Northern Ireland) 2011. This will impose the planning conditions with regard to the delivery of the distributor road as obligations under a deed of agreement. This pertains to the wider site's development and is being prepared in conjunction with change of house type application LA06/2022/0978/F, granted permission on 15 June 2023 (due to the minor nature of the changes) and current change of house type applications LA06/2022/1141/F and LA06/2022/1274/F.

This Planning Agreement will not relate to the application currently under consideration. The planning permission for the residential zoning remains subject to compliance with all conditions associated with the Outline planning permission and subsequent Reserved Matters approval. The responsibility for proper implementation of the original planning permission rests with the developer. The applicant's representative has indicated that an application for a non-material change, to amend condition(s) of the

original approval, may be submitted to the Council. Any such future application(s) will be considered by the Council under Section 67 of the 2011 Planning Act and on its own merits.

Impact on Trees

The approved road layout involved the removal of the entire hedgerow along the Cannyreagh Road. The proposed realignment will allow the retention of most of the hawthorn hedge with only approximately 50m to be removed. The majority of the trees will be retained, and replanting measures include a new native species hedgerow and the planting of a number of new trees.

All trees within the site are protected by a TPO and the four trees to be felled for the previously approved access are still to be felled in the current application. The other protected trees within the red line will be retained. Any works/removal proposed would be subject to separate application for consent to carry out works to protected trees.



Proposed layout with landscaping



Approved layout with landscaping

Impact on Residential Amenity

I have considered the re-alignment of the Cannyreagh Road, and the concerns raised by the objectors. The access road is not directly opposite the front façade of any dwelling. It has been designed in such a way that the cars will approach the Cannyreagh Road opposite the driveways and side garden of 2 Elmfield Walk and 28 Cannyreagh Road. As there is no through road to the east, traffic should not have to stop for long before travelling west at the junction. Brightness from car headlights is not considered to be a significant concern due to the positioning of the junction and fleeting nature, and that car lights are limited to use during the darker hours of the day when blinds or curtains are typically closed. I do not consider noise to be a significant concern as the existing dwellings are already located on a through road which leads into the town. Additionally, no objections were raised by Environmental Health in relation to noise as part of consultation on the 2016 RM application.

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

Access, Road Safety and Car Parking

A 24m stretch of the Cannyreagh Road will be inaccessible to vehicular movements. This is a reduction in the length of the triangular landscaped area previously approved in front of 22 and 23 Cannyreagh Road. I do acknowledge that a car park was previously indicated as being provided in front of 24-27 Cannyreagh Road and this no longer forms part of the current application. The original outline approval did not include details of such a car park. I do note that the layout submitted with the outline application included a similar cul-de-sac arrangement at the Cannyreagh Road. As part of the Reserved Matters approval, there was a condition requiring implementation of hard and soft landscaping but there were no conditions requiring parking spaces to be formally laid out in this area or for the area to be retained for such a use thereafter.

It would appear that this car park was provided as the approved road alignment removed the existing on-street parking availability in front of the dwellings between 22 and 35 Cannyreagh Road. The proposed road layout will mean that the on-street parking currently utilised in front of 23 to 33 Cannyreagh Road will remain.

Having reviewed the current parking arrangements, the details of the previously approved outline and subsequent reserved matters applications as well as the proposed amended layout, I am content that the proposal will not result in any significant loss of existing on-street parking and that sufficient capacity for the existing residents will remain.



Site visit photographs of on-street parking on Cannyreagh Road and Council orthophotography showing on-street parking being utilised

DFI Roads has been consulted regarding the access and no objections have been raised. Private Streets Determination drawings have been agreed by DfI Roads.

DfI Roads did recommend a condition that 'No work shall commence on site until the appropriate Abandonment Order/ Stopping up order is operative.'. This is not something that was conditioned in the previously approved planning permission, and I note that the appropriate statutory consents to realign the road will be required outside of the planning process.

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

Archaeology and Built Heritage

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

Designated Sites/Other Natural Heritage Interests

Part 1 of NIEA's Biodiversity Checklist was employed as a guide to identify potential adverse impacts on designated sites. No such scenario was identified.

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

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

5. Representations

5 letters of objection have been received from 5 No. addresses.

The occupier of 22a Cannyreagh Road has advised that they park their car at the closest point to their flat and that this area will be no longer accessible due to the proposed road layout. I have considered the previously approved road layout and the proposed amended layout and note that Ashfield Drive, which is located immediately east of the flats remains available for parking. The representation referred to the potential to provide hardstanding to the front of this property (as an alternative to the previously approved and proposed landscaped area). This is beyond the remit of the current planning application. Immediately north of the flats on Cannyreagh Road will not be accessible for vehicles and this is consistent with the 2016 approval.

The occupiers of 28 Cannyreagh Road requested that the proposed short link road is moved as there are two separate driveways opposite the proposed junction. The Council has to consider the proposal before it and assess if the proposal will cause demonstrable harm to interests of acknowledged importance which includes road safety. The driveways to this property will not be obstructed by the proposed layout. In addition, DfI Roads has considered the proposal and has offered no objections in terms of access and roads safety. The objectors are concerned that headlights will shine into the homes at night. The access road has been located so that it is not directly opposite the front elevations of any dwelling on Cannyreagh Road. The Council's Environmental Health Department was consulted on the proposal and no objections were raised.

A concern has also been raised regarding the potential for houses to be built on the land running west of the Ashfield Drive estate. The proposal does not relate to development of these lands and therefore is not material to this application.

The occupier of 2F Elmfield Walk considers the proposed access route to be unnecessary and has also referred to the extra housing causing added pressure on the

services in the area. The residential development of the adjacent zoned lands has already been granted planning permission.

The occupier of 25 Cannyreagh Road has raised concern with the restriction on parking for the existing residents of the Cannyreagh Road. A detailed assessment of parking is considered under the heading 'Access, Road Safety and Car Parking'. The approved outline planning permission and subsequent reserved matters approval as well as the existing on-street parking facilities have been considered in detail and I am content that the proposed layout will not result in any significant loss of on-street parking and that sufficient capacity for the existing residents will remain.

An alternative location for the road has been suggested; however, no evidence has been provided to demonstrate why the proposed access is unsafe for future road users or the existing residents on the Cannyreagh Road. As set out earlier, DFI Roads has no objection to the proposal.

The occupier of 43 Cannyreagh Road has asked the question "*What does this mean if I want to go down the Cannyreagh Road to the Premier shop if you live in the houses 37-51 Cannyreagh Road*". Similar to the previous approval, the proposed layout will not obstruct access to facilities within the wider area. Pedestrian and vehicular access will remain via the realigned route.

6. Recommendation

Grant Planning Permission

7. Conditions

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.
The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 04C.

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

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

No development hereby permitted shall commence until the works necessary for the improvement of a public road have been completed in accordance with the details outlined in blue on Drawing No. 04C. The Council hereby attaches to the determination a requirement under Article 3(4)A of the above Order that such works shall be carried out in accordance with an agreement under Article 3(4)C.

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

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

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

5. All hard and soft landscape works shall be carried out in accordance with the approved Drawing No. 06 and the appropriate British Standard or other recognised Codes of Practice within the first planting season following completion of the development hereby approved.

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

6. The erection of fencing for the protection of any protected tree shall be undertaken in accordance with Drawing No. 06, before any equipment, machinery or materials are brought on to the site for the purposes of the development for the access road, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit without the written consent of the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

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.

Addendum to LA06/2021/1438/F

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

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

Addendum

1. The application for the above proposal was included on the Delegated list for the week commencing 27th November 2023 with a recommendation to approve. The application received 5 No. objections from separate addresses between submission and being presented on the delegated list.
2. On publication of the delegated list, 6 further objections were received from an additional 5 No. addresses. This includes an objection from Matrix Planning Consultancy on behalf of local residents. The total number of objections therefore meets the threshold for the application to be determined by Planning Committee as set out in the Council's Scheme of Delegation.
3. Matters raised in the objection letters primarily relate to the perceived impact of the proposal on residential amenity and roads safety. The Planning Agent and a Chartered Roads Engineer (acting on behalf of the applicant) reviewed the objection letters and provided additional clarification in response to the concerns raised.
4. This Addendum will provide detailed consideration of all the additional information received by the Council since the publication of the original case officer report including the material considerations raised by third party objectors, information submitted on behalf of the Applicant, and further

comments from key consultees including DFI Roads and the Council's Environmental Health Department. The Addendum should be read in conjunction with the main case officer report.

5. The wider site is zoned for housing (insert designation) in the Ards and Down Area Plan 2015. A key design requirement pertaining to this zoning establishes the need for a link between the Cannyreagh Road and the Newtownards Road *'that part of the road adjoining the southern boundary of the site must be laid out and constructed in such a manner as to allow for its possible continuation into other lands further to the south and the construction of a linkage to the Cannyreagh Road'*.
6. Outline planning permission for the residential development was approved under ref: X/2014/0473/O on 3 March 2015 (Residential development to include mix of house types (inc. social/affordable housing), neighbourhood facilities, amenity open space, landscaping and ancillary works). The detailed design of the of the Cannyreagh Road realignment was approved as part of the subsequent Reserved Matters Ref: LA06/2016/0982/RM on 26 September 2018 (Residential development of 390 dwellings (to include mix of detached, semi-detached, town houses and apartments) with associated landscaping and amenity space and provision of new Road link from Newtownards Road to Cannyreagh Road).



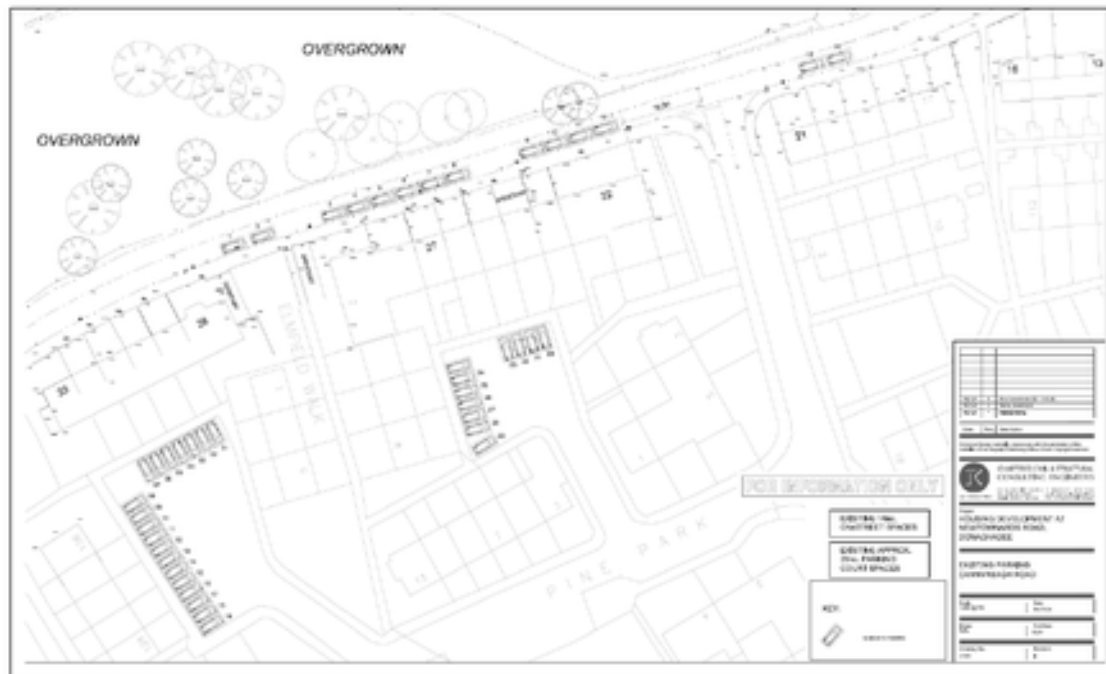
7. The Planning Agent states that the current application for an amended road layout was submitted in response to representations by local residents (after the original planning permission was granted) that expressed dissatisfaction with the approved road layout at the Cannyreagh Road. The previously approved layout does not facilitate access to a number of driveways along Cannyreagh Road; and it removes on-street parking along a significant section of that road.
8. The Planning Department has been informed that prior to submission of the revised proposals, the Applicant engaged directly with residents to discuss various options for the road realignment. The applicant's agent states that *'the objective was to ensure that they, and others with vehicular accesses along Cannyreagh Road, could retain convenient access to their properties.'* The agent further asserts that *'the proposed arrangement seeks to retain Cannyreagh Road largely as it is at present, with a short link road to connect it safely to the approved new distributor road.'*

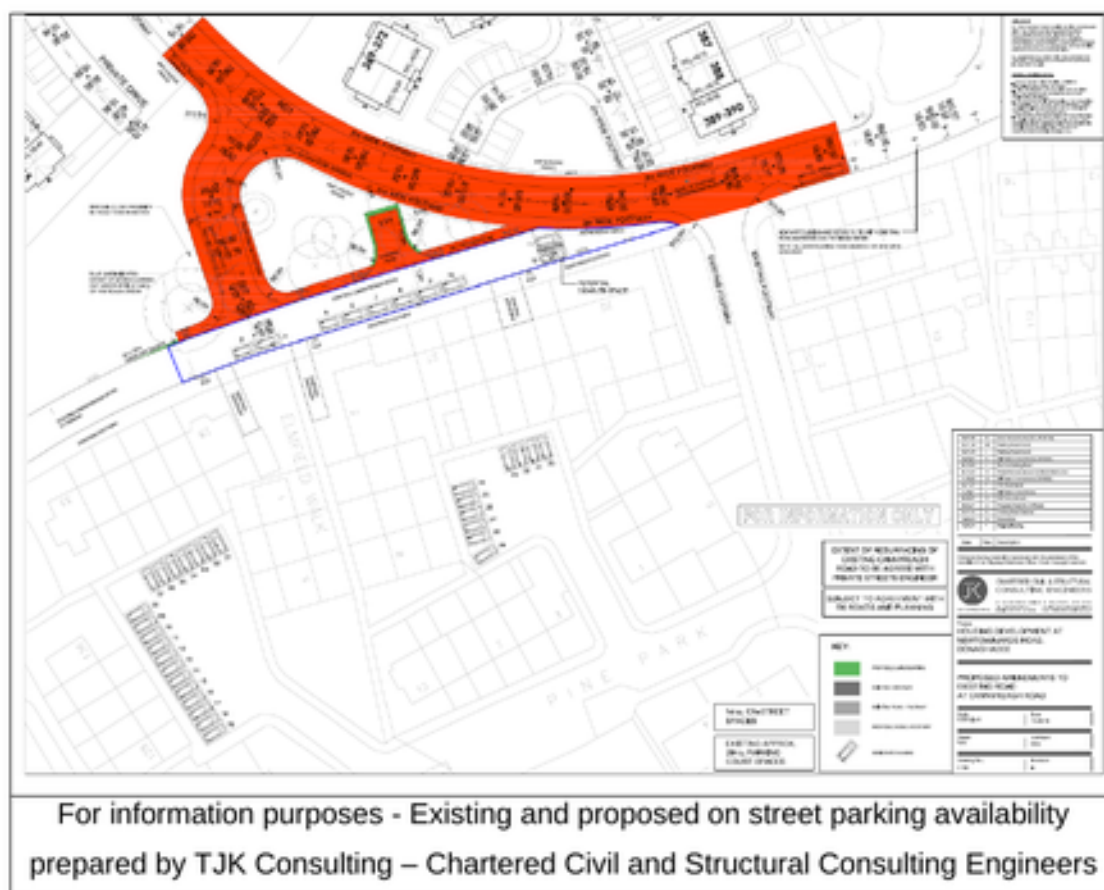


9. Several letters of objection state that the proposed layout restricts access to existing on street parking. The impact of the proposal on the availability of on-street parking has already been considered in detail in the main Case Officer Report.

10. The proposed application seeks to address the aforementioned issues associated with the previously approved scheme in that it ensures access to existing vehicular driveways and the continued availability of on-street parking along Cannyreagh Road.

11. As identified by the Chartered Roads Engineer acting on behalf of the Applicant, there is currently space to accommodate approximately 12 on street parking spaces in front of Nos. 22-23 Cannyreagh Road. The proposed amendment to the realignment of Cannyreagh Road will still allow 12. No of spaces to be accommodated in close proximity to adjacent residential homes replicating existing provisions. Courtyard parking spaces to the rear will remain available for existing residents (approximately 29 spaces as per drawing below). The Chartered Roads Engineer has informed the Planning Department that there are no proposals to introduce parking restrictions as part of the amended arrangement and consequently there will be no restriction on the replication of existing practices.





12. Having reviewed objection letters and the correspondence from the Applicant including the illustrative plans relating to on-street parking availability, DFI Roads has provided no objection to the proposed alternative road arrangement in relation to roads safety and carparking. The amended layout addresses the issues associated with the previous approval and whilst the proposal will alter the existing road layout, I am satisfied that it will not result in any significant impact in terms of the quantity and location of available on-street parking.
13. The occupant of No.22A Cannyreagh Road has expressed concern regarding their need for accessible parking. The Council has been advised that a member of the Applicant's team met with this resident and agreed that their needs would be addressed in so far as possible. Additional information was submitted to satisfy DFI Roads in October 2022. The Applicant's Roads Engineer has advised the Council that there is sufficient space for parking (and potentially a Disabled Parking Bay) within the revised layout adjacent to No.22 Cannyreagh Road.

14. No accessible parking bay currently exists in this location. It should also be noted that residents do not have an automatic right to park their car at an undesignated space along the public highway as the section of road in front of a dwelling remains public. Designation of accessible parking bays on a public road is beyond the remit of the Planning Department. Responsibility rests with DFI Roads and an on-line application for a reserved space on a public road for use by Blue Badge holders can be submitted via NI Direct.

15. Objectors have expressed concern that there is already insufficient capacity for car parking in the area. It is not within the remit of the current planning application to provide additional parking spaces to address any existing shortfall of parking. The previously approved layout includes an area of hardstanding for carparking. Notwithstanding the already stated issues in relation to the existing approved road layout, it is noted that there are no conditions attached to the original planning permission that require retention of this approved area of hardstanding for permanent use as a carpark for existing local residents. Having taken into account the existing road layout and the proposed realignment of the Cannyreagh Road, I am satisfied that the proposal would not result in any significant impact on the capacity and location of on-street parking.

16. The objection from Matrix Planning Consultancy has expressed concern that there would be multiple points of conflict at the proposed link road junction and that there has been no consideration of the implications of cars reversing out of the driveways of existing properties and cars exiting the proposed junction. The potential impact of car head lights shining on drivers reversing out of the existing driveways opposite the proposed link road in the hours of darkness has also been raised.

17. In order to ensure careful consideration of the road safety concerns, DFI Roads was further consulted on receipt of the objection letter from Matrix Planning. DFI Roads has advised that residents using their driveways are expected to use them in accordance with the Highway Code, i.e., leaving the driveway in a forward gear (see points 200, 201 of Highway code). DFI Roads has confirmed

that the proposed anti-dazzle fencing is adequate to protect drivers from headlight glare.

Rule 200

Choose an appropriate place to manoeuvre. If you need to turn your vehicle around, wait until you find a safe place. Try not to reverse or turn round in a busy road; find a quiet side road or drive round a block of side streets.

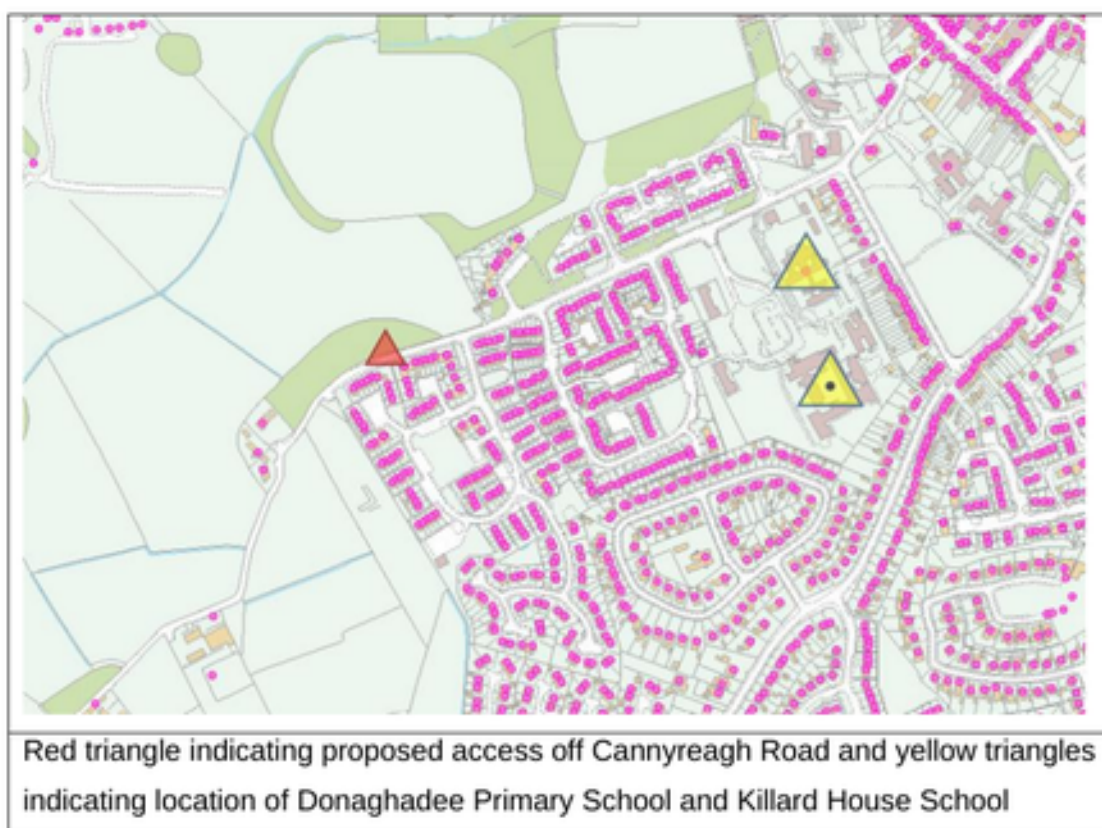
Rule 201

Do not reverse from a side road into a main road. When using a driveway, reverse in and drive out if you can.

Figure 1: The Highway Code

18. The proposed realignment of the Cannyreagh Road will not, in itself, result in any intensification of vehicular traffic. As previously stated, the wider site comprises land zoned for housing in the development plan and the need for a link road to connect the Cannyreagh Road to the Donaghadee Road is a Key Design Consideration in the Development Plan. The zoned housing land benefits from planning permission for 390 houses and construction of these dwellings is on-going.
19. The existing dwellings along Cannyreagh Road currently have frontage directly onto an existing road network which serves passing traffic. The proposed scheme prevents dwellings along this stretch of Cannyreagh Road having direct frontage onto the previously approved distributor road. Furthermore, it will prevent through traffic to the front of existing properties (2 Elmsfied Walk - 2 Cannyreagh Road)
20. DFI Roads has advised that this section of the Cannyreagh Road, is not a local distributor road but a rural road. The first 130m of the road (in front of the terrace dwellings on Cannyreagh Road) is 7m wide and therefore only this

portion is suitable for on-street parking. I am satisfied that the main traffic route serving the new residential dwellings will be along the previously approved distributor road which will connect the existing Cannyreagh Road to the Newtownards Road. DFI Roads has reviewed the objectors concerns and has provided no objection to the proposed road layout in relation to roads safety. I am therefore satisfied that the application will not result in an unacceptable conflict between traffic movements at the proposed road junction or result in any other unacceptable adverse impact on roads safety.



21. An objector has stated that the road will most likely be used for school traffic due to the location of Donaghadee Primary School and Killard House School. This is not a new road but the realignment of a road to facilitate a safe access into an approved housing development. The objector expressed concern regarding a lack of traffic crossings and speed bumps, and the poor condition of existing footpaths. The objector further states that the Education Authority has cut funding for a school crossing. The maintenance of existing public roads and footpaths is a matter for DFI Roads. Provision of a school crossing outside of the application site is beyond the remit of this application. I am content that

DfI Roads has been consulted in their role as a statutory consultee on road safety and that it has offered no objections to the proposal.

22. Impact of the proposed road realignment on existing residential amenity has already been considered in detail in the main case officer report. The existing properties already front onto the Cannyreagh Road. Any potential impact from headlights is likely to be fleeting and not so significant to be a determining factor in the assessment of this application.

23. The Council's Environmental Department has reviewed the objection letters and continues to offer no objection to the proposed development in terms of noise. Environmental Health states that *'The approved access and the proposed access both will result in the same increase in numbers of vehicles onto the Cannyreagh Road, which is already impacted by transportation noise sources. Therefore, this Service is satisfied that, as there is no change to the number of vehicles that will be using the proposed access, onto the Cannyreagh Road, that there will be no overall perceptible change in noise levels at the closest receptors caused by the road realignment. The Design Manual for Roads and Bridges (DMRB) states that it takes a 25% increase in traffic flows in order to get a 1dB(A) increase in traffic noise levels. It is generally accepted that it takes an approximate 3dB(A) increase in noise levels to be perceptible to the average person.'*

24. Third party representation has pointed to a potential alternative point of access for the zoned lands west of No.33 Cannyreagh Road at the edge of the settlement limit. The Council is required to determine the application as submitted. As already stated, it is considered that the proposed development will not result in any unacceptable adverse impact on road safety and residential amenity.

25. The loss of habitat resulting from the removal of 50m of native hedgerow has been raised. The proposed amended road layout involves less new hard surface than originally approved and allows the retention of most of the roadside Hawthorne hedge in comparison to the extant approval. The proposal

includes the planting of a new native species hedgerow along the edge of the proposed junction. The level of new planting is in excess of the 50m to be removed and therefore will provide additional compensatory habitat for wildlife. Four trees subject to a Tree Protection Order have been identified for removal; these trees were assessed in 2017 by Dr Philip Blackstock and deemed to be in poor condition. The recommendation for them to be felled was published by Dr Blackstock in the Tree Survey Report submitted with the 2016 Reserved Matters application. Any works to the remaining protected trees will be subject to approval from the Council's Tree Officer. The remaining trees and hedgerows, together with additional compensatory planting, will provide suitable habitats for all wildlife species.

Conclusion

17. The proposal has been assessed having regard to the development plan and all other material considerations including relevant planning policies, the views of bodies with road safety expertise and third party representations. On the basis of the information above I consider that the recommendation to approve the application should remain unchanged.

18. Having weighed all the material planning considerations it is recommended that this application proceed by way of an approval of planning permission subject to conditions as amended below.

Conditions

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

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

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

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 04C.

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

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

No development hereby permitted shall commence until the works necessary for the improvement of a public road have been completed in accordance with the details outlined in blue on Drawing No. 04C. The Council hereby attaches to the determination a requirement under Article 3(4)A of the above Order that such works shall be carried out in accordance with an agreement under Article 3(4)C.

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

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

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

5. All hard and soft landscape works shall be carried out in accordance with the approved Drawing No. 06 and the appropriate British Standard or other recognised Codes of Practice within the first planting season following completion of the development hereby approved unless otherwise agreed in writing by the Council). All hard and soft landscape works shall be permanently

retained in accordance with the approved details. Any existing or proposed trees or plants indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council.

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

6. During the first available planting season following completion of the development hereby approved, a native species hedge shall be planted in accordance with Drawing No. 06 and rear of the sight splays along the front boundary of the site. The hedge shall be allowed to grow to a minimum height of 1.2m and be permanently retained at a minimum height of 1.2m.

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

7. The erection of fencing for the protection of any protected tree shall be undertaken in accordance with Drawing No. 06, before any equipment, machinery or materials are brought on to the site for the purposes of the development for the access road hereby approved, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, or any other works carried out, or fires lit without the written consent of the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

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.


ITEM 4.3

Ards and North Down Borough Council

Application Ref	LA06/2021/0627/O
Proposal	Farm Dwelling and Garage
Location	Land adjacent to and approximately 17m east of 6a Ballykeigle Road, Comber
Committee Interest	<p>A local development application "called-in" to the Planning Committee by a member of that Committee – Cllr Morgan –</p> <p>I would like to call in this planning application as I would like the committee to review the evidence submitted to support policy CTY 10 that has been submitted with this application.</p> <p>The justification and amplification text of policy CTY 10 states that "New houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period. The test of policy is not whether a farm business number has been in existence for 6 years but that the farm business is currently active and has been established for at least 6 years. Throughout the headline policy text and justification text, the policy consistently refers to the farm, farm business or farm holding. Information in regard to the individual including his / her farm DARD business ID number are used to assess the first criterion of CTY 10 which is to establish if the farm business is currently active and has been established for at least 6 years.</p>
Validated	14/05/2021
Summary	<ul style="list-style-type: none"> The site comprises an agricultural field and is located on the south side of Ballykeigle Road to the east of No.6a, which is a single storey detached dwelling and domestic garage.

	<ul style="list-style-type: none">• The site is located in the countryside and is in general conformity with Ards and Down Area Plan 2015.• Policy CTY 10 of PPS 21 is the main policy consideration for this proposal. An applicant must demonstrate that an existing farming business is both established and active.• In terms of DAERA the applicant does not have a business ID Number and has not claimed payments in the last six years. Instead, the applicant has provided information to demonstrate that the farm has been active over the key six years period (2015-2021) including both Google Earth and Street View images over the course of the six-year period.• The applicant's agent also referred to a number of appeals listed in the Case Officer Report, which indicate that the lack of a farm ID number is not fatal to an application.• The agent also references planning application LA06/2017/1072/O (Site for dwelling on a farm – Honey farm), which did not have a business ID number and the applicant did not claim Single Farm Payment, however, the Planning Committee accepted the proposal on the information presented and granted planning permission.• The Planning Department considers the information provided demonstrates that the proposal complies with criterion (a) of policy CTY 10.• There is no evidence that development opportunities have been sold off in the last 10 years and therefore criterion (b) of policy CTY 10 is met.• In terms of criterion (c) the proposal is visually interlinked with the existing buildings. Policy CTY 10 refers to 'buildings' and does not specify 'agricultural buildings'.• The proposed site does not create a ribbon of development given the curve of the road and is screened by the existing dwelling and garage. The siting will be to the rear of the buildings and therefore will not be visible along the site frontage. The proposed siting complies with policies CTY 8, 13 and 14 of PPS 21.• The proposal complies with policies NH1, NH2 and NH5 of PPS 2 'Natural Heritage'.• The proposed dwelling will have no unacceptable adverse impacts on residential amenity due to the separation distances and therefore complies with the SPSS.• Sewage disposal will be by use of a septic tank with no adverse impact on neighbouring amenity.
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	<ul style="list-style-type: none"> • No objections or other representations have been received. • The remaining consultation responses offered no objection subject to condition including Dfl Roads. <p>Addendum to Case Officer Report</p> <ul style="list-style-type: none"> • The Addendum specifically relates to the proposed condition 11 which states that any dwelling approved shall have a ridge height of less than 6 metres above finished floor level. • The agent seeks this changed to any approved dwelling having a ridge height of less than 7 metres above finished floor level. • The agent submitted a topographical survey for the proposed site. • This shows the existing dwelling's ridge to be 62.26 above the datum point whereas the existing ground levels of the proposed site are 53.11 above the datum point. • This provides a difference of approximately 9.15m. It is therefore accepted that a proposed dwelling with a ridge height of up to 7m would be 2.15m lower than the existing adjacent garage and dwelling at No.6A. • Given the backdrop of mature trees and existing ground levels, a proposed dwelling with a ridge height of up to 7m would sit comfortably within the site without appearing prominent in the surrounding landscape or dominating the existing dwelling (No.6A). <p>The Planning Department accepts the proposed amendment to condition 11 so that it instead reads – “The dwelling hereby approved shall have a ridge height of less than 7 metres above finished floor level.”</p>
<p>Recommendation</p>	<p>Approval</p>
<p>Attachment</p>	<p>Item 4.3a – Case Officer Report Item 4.3b – Addendum to Case Officer Report</p>

087Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2021/0627/O	DEA: Comber	
Proposal:	Farm dwelling and garage		
Location:	Land adjacent to and approximately 17m east of 6a Ballykeigle Road Comber, BT23 5SD		
Applicant:	Mr and Mrs McMurray		
Date valid:	14/05/2021	EIA Screening Required:	No
Date last advertised:	2/6/2021	Date last neighbour notified:	27/5/2021
Letters of Support: 0		Letters of Objection: 0	Petitions: 0
Consultations – synopsis of responses:			
DFI Roads		No objection subj to condition	
DFI Rivers		No objection	
NIEA - WMU		No objection	
NIEA – Inland fisheries		No objection	
DAERA		No business ID No/not claimed payments in last 6 years	
NI Water		No objection	
NIE		Objection – headlines and equipment within proximity	
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Parking and Access • Impact on Residential Amenity • Visual impact • Impact on Biodiversity 			
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 Northern Ireland Public Register (planningsystemni.gov.uk)			

1. Site and Surrounding Area

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



2. Site Location Plan



3. Relevant Planning History

X/2013/0051/O To the rear of 6A Ballykeigle Road Comber Newtownards - Private dwelling and garage – Refused June 2013

4. Planning Assessment

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

- Ards & Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement & Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

Local Development Plan

The Ards and Down Area Plan 2015 sets out the land use proposals that will be used to guide development within the area. The site is within the countryside of as designated within the Ards and Down Area Plan 2015. The proposal is considered to be in conformity with the plan provided it complies with the relevant regional planning policies.

The Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) sets out the guiding principle relating to the grant/refusal of development which is contained within paragraph 3.8. This states that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS retains the policy provisions of PPS 2, PPS 3 and PPS21.

Principle of Development

CTY1 of Planning Policy Statement 21 'Sustainable Development in the Countryside' sets out the types of development which are considered to be acceptable in the countryside. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. More specifically, CTY1 makes provision for 'a dwelling on a farm in accordance with Policy CTY10'. CTY 10 is therefore the main policy consideration for this application.

The justification and amplification text of policy CTY 10 states that "New houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period."

The test of policy is not whether a farm business number has been in existence for 6 years but that the farm business is currently active and has been established for at least 6 years. Throughout the headline policy text and justification text, the policy consistently refers to the farm, farm business or farm holding. Information in regard to the individual including his / her farm DARD business ID number are used to assess the first criterion of CTY 10 which is to establish if the farm business is currently active and has been established for at least 6 years.

Paragraph 5.38 of the justification and amplification text to Policy CTY 10 states that 'new houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period.' The onus is on the applicant to demonstrate that the farm business is both active and established.

Recent Appeals have stated that a business ID number is required along with other evidence, see below:

2022/A0032

'Criterion (a) requires that the farm business is currently active and has been established for at least 6 years. Paragraph 5.38 of the Justification and Amplification section of the policy reiterates this, stating that new houses on farms will not be acceptable unless the existing farm business is both established and active. The applicant will therefore be required to provide the farm's DARD (now DAERA) business ID number along with other evidence to prove active farming over the required period.'

2021/A0133

'Paragraph 5.38 of the justification and amplification text to Policy CTY 10 states that 'new houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period'. I consider that the word 'established' means more than mere existence; it has the connotation of being set up and settled on a firm or permanent basis. Having regard to Policy CTY 10 of PPS 21 therefore, it is reasonable to interpret 'established' by reference to active farming over a period of at least six years.'

2021/A0023

'Paragraph 5.38 of the justification and amplification text to Policy CTY 10 states that 'new houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period'. It is indisputable that the appellant holds farm business ID 664716. However, as the farm business was only established in September 2019, this time period is less than the required 6 years. Additionally, the appellant has not provided any other evidence to prove active farming. For these reasons, the policy requirement is not met.'

As the business is not currently engaged with DAERA and does not have a business ID No (confirmed by DAERA), the applicant does not claim subsidies. The applicant initially submitted other evidence in support of the application to demonstrate that the business has been active over the past 6 years as follows:

2021

- FaneValley Stores – receipt for grass seed and Grazon Pro 1L – 27/3//2021 (name and address of applicant stated)
- Chambers Contracts – receipt for ground work clearing scrub land 10/3/2021 (name of applicant but no address)

2015

- Carryduff building supplies – receipt for fence posts - 20/2/2015 – (no name or address)

2014

- FaneValley Stores – receipt for fence posts – 21/6/2014 – (no name or address)

2012

- Murdock builders merchants – receipt for unknown 23/6/2012 (no name or address)
- Hugh Chambers –invoice – field work –23/8/2012 - (name of applicant but no address)
- FaneValley Stores – receipt for machinery sales – 11/8/2012 – (no name or address)
- Robert Walker- receipt – agent advised for paint for fence but only till receipt no reference to paint – (no name or address) – 4/6/2012
- Carryduff building supplies – receipt for unknown 20/4/2012 – (no name or address)
- Murdock builders merchants – receipt – unclear what in reference to - agent states for sand and cement – 23/4/2012 (no name or address)

2011

- Farm map 25/10/2011

2010

- Miskelly Brothers – receipt for stones – (name and address given) 24/2/2010
- J Murray Animal feeds – receipt for sheep gate, gate hanger and posts 22/2/2010 (no name or address)

2009

- RW Robertson – receipt for posts and wire – 25/2/2009 (no name or address)

2005

- Miskelly Brothers – receipt for stones – 10/8/2005 – (name and address given)

Miscellaneous

- Robert Walker- receipt – agent advised for paint for fence but only till receipt no reference to paint – (no name or address) – date not clear agent has stated - 4/6/2012
- Carryduff Building supplies – blank invoice
- Uhire – Receipt not clear - agents states for digger hire dated 22/2/2010 - (no name or address)

Photographic evidence was also submitted by the agent of the following:

- a tractor
- what appears to be abandoned farm machinery
- a partial aerial picture in a frame of the dwelling and rear garden area which the agent advises was taken on 22/7/2015 and shows various rows of crops
- photograph showing an area that the agent has advised is ready to plough out. Advised taken 8/1/2022
- Letters from third parties (6 addresses) stating they have received produce from the applicant over the past 10 years.

A significant proportion of the evidence listed above could not be given any weight in the assessment of the proposal as much of it was before the required 6 year period and also had no name or address to link it to the applicant's business. Furthermore, no weight can be given to the photographs of the machinery as there is no way to establish if they specifically relate to the land or for the applicant's business. In addition, no machinery was evident during the site inspection. Aerial images below from 2018 and 2021 do show a small area to the rear of the dwelling which appears to have been ploughed/planted out for some sort of produce which corresponds with the photos of the same area sent by the agent. It is possible that these images could be taken into account alongside other more substantial evidence.



2021



2018



2015 Google streetview image

The image above, shows a new field gate which would correspond with submitted receipts for gate and gate posts.

No evidence, other than third party letters, was initially submitted for the years 2020-2016, which would be within the required 6 years. In addition some evidence could not be attributed to the applicant or the address and the scale of some receipts could be argued to be for domestic use. Therefore, additional information was requested in support of the application. The agent submitted the following:

2022

- 15/1/22 Seedville USA – Onion seeds
- 22/1/22 B & Q - Field additive
- 31/3/22 Fane Valley – fence posts, paint
- 15/4/22 Alan Bowman Plant Hire - Fence work
- 2/4/22 Hillmount – seeds
- 25/6/22 James Osborne – Nugent topper

- 8/7/22 W Graham Agricultural Engineer – Topper blade
- 20/7/22 Robert Walker – fence paint

2023

- 15/4/23 Robert Walker – seeds and fertiliser
- 22/6/23 McParlands – Potato Blight Control
- 1/6/23 – Creative Gardens – seeds

Invoices for goods sold dated July 2016-October 2020

Google aerial images showing farm activity:

- March 2022
- September 2021
- April 2021
- Feb 2021
- April 2020
- June 2019
- April 2019
- May 2018
- July 2017
- Aug 2016
- April 2012
- Jan 2010

Google earth street view images showing farm activity:

- 2008 - Google Streetview image dated September 2008 demonstrating horse in field and agricultural water tank
- 2010 - Google Streetview image dated November 2010 demonstrating horse in field and agricultural water tank
- 2011 - Google Streetview image dated November 2011 demonstrating horse in field and agricultural water tank
- 2015 - Google Streetview image dated May 2015 demonstrating horse in field, upgraded field gate and ongoing maintenance to fencing being carried out
- 2023 - Google Streetview image dated March 2023 demonstrating horses and sheep in field, agricultural water tank, upgraded field gate and stock proof fencing
- around the field

The agent has referred to several appeal decisions which he considers to be comparable to the circumstances of the application. These are considered in turn as follows:

Appeals/Applications - referred to by agent

- **2019/A0087**
The appellant has a Farm business ID No. which by letter dated 6th March 2018 DEARA confirmed has been in existence for over six years... In support of his

farming activity the appellant provided me with sheep and goat movement along with bovine births and deaths records on an annual basis over the required period. This demonstrates agricultural activity, albeit low key at times, and the proposal meets the first requirements of Policy CTY 12.

The applicant in this case has a business ID number and supplied additional evidence of activity over the required period which was considered to be acceptable.

- **2017/A0010**

However, I accept that, if an appellant has no business ID number, this on its own would not be fatal to proving agricultural activity, if sufficient alternative evidence existed to demonstrate same. The appellant has never claimed farm subsidies and I recognise that this is because his holding does not reach the required threshold of 3 hectares to qualify as an active farmer under the farm payment rules....I consider that, based on the documentary and other evidence available to me, the appellant has, on the balance of probabilities, adequately demonstrated that the 0.24 hectare field has at the very least been maintained in good condition by him, or actively used for agricultural purposes, for at least 6 years.

Substantial evidence submitted in support of the application.

- **2017/A0231**

'..to be considered active for the purposes of the policy. In this case a farm business ID number has been provided and the Commission finds that there is ample evidence to demonstrate active farming over the requisite six-year period. It concludes therefore that Criterion (a) of PPS21 has been met.

This is similar to the above appeal in that they had a business ID number, and the amount of evidence provided was considered to be ample.

- **2021/A0005**

The DAERA Consultation response indicated that the farm business Id number identified had been in existence for more than 6 years and that the business had claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. 10. In the context of the low threshold set out by policy, the invoices submitted are sufficient to demonstrate the land is being maintained in good agricultural and environmental condition. As such, it has been demonstrated that there is an active and established farm business and the Council has failed to sustain its objection to the appeal development based upon Criterion (a) of Policy CTY 11.

Business ID not supplied and however sufficient evidence was provided. Subsidies had also been claimed within the six year period.

- **2021/A0087**

The commissioner stated that, 'Of the seventeen receipts provided, seven are dated before June 2016 which relates to the required six-year period. Therefore, the seven receipts outside of the required period can only be given limited weight. Of the remaining ten receipts, these relate to the period from October

2017 until July 2020 (two for 2017, three for 2018, three for 2019 and one for 2020), ie the six year period in question. The receipts demonstrate repair of a shed and installation of gates, flailing, hedge cutting, plant hire, and purchase of concrete. All receipts are issued to the owner farmer at his home address which is across the road from the appeal site.

The evidence submitted was for the required period of time and the receipts were in the name of the applicant and their address.

- **2021/A0166**

‘..in total 10 receipts were provided within the requisite time from 2016. Others are before the six year period. Although not specific to the farmland, some of these receipts were issued to 158 Staffordstown Road which is the original farmhouse... I conclude that the evidence presented demonstrates a level of agricultural activity associated with the farm business. Policy CTY 10 does not indicate how agricultural activity is to be demonstrated or the type of evidence to be considered and sets a low threshold in respect of demonstrating agricultural activity. Given this and taking into consideration the evidence presented in the form of receipts which demonstrate agricultural activities in this case, I am persuaded that the farm business is currently active and has been established for the requisite period of 6 years.

The evidence submitted was for the required period of time and the address of the farmhouse was included.

- **BALLYDORN - LA06/2017/1072/O - Site for dwelling on a farm – (Honey farm)**

A business ID number was provided, and the amount of evidence provided was considered to be sufficient to establish the active farming over the 6 years and is therefore comparable with this application.

On this current application, DAERA did not confirm the farm has been active for 6 years, no actual business ID has been provided. The applicant has an ownership number not a business ID number, they do not claim SFP. However, given the additional evidence submitted, coupled with the original evidence presented in support of the application, I am now satisfied that the evidence before me is sufficient to allow me to conclude that there is a farm business which has been active for at least 6 years. Accordingly, the proposal does justify a new dwelling on a farm in accordance with criterion (a) of Policy CTY 10. The proposal falls within one of the types of development that is acceptable in principle in the countryside under Policy CTY 1 of PPS 21.

The second test in CTY10 relates to the disposal of development opportunities in the last 10 years. I have carried out a planning history search and believe this criterion is satisfied. The P1C Form also indicates that no dwellings or development opportunities have been sold off during the last ten years.

In relation to the third test of CTY10, the new building must be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

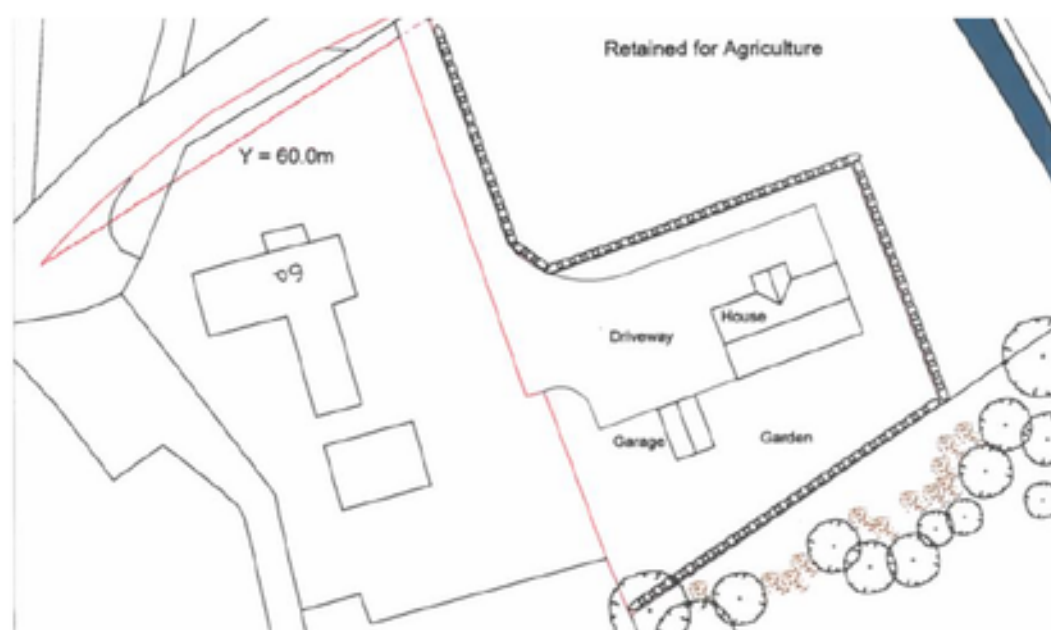
The proposed site is to the east of the existing buildings (dwelling and garage). There is no doubt that given the proximity of the site to the buildings, when viewed from surrounding vantage points, it will read as a being visually interlinked with those buildings. The main viewpoint is travelling southwest along Ballykeigle Road. I am satisfied that a dwelling on the site would be visually associated with the existing farm buildings. Access could be take via the existing agricultural access to the field.

Ribbon Development

Planning permission will be refused for a building which creates or adds to a ribbon of development. Ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways. For the purposes of this policy ribbon development is a line of buildings extending along a road, footpath or private lane generally without accompanying development of the land to the rear.

Policy CTY14 repeats this Policy CTY 8 test and states that a building, which creates or adds to a ribbon of development, can cause a detrimental change to, or further erode the rural character of an area. Policy CTY 8, however, adds that exceptionally, permission will be granted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage.

The existing dwellings adjacent to the site already form a ribbon of development along the Ballykeigle Road given their location. While it could be considered that an additional dwelling on the application site would extend this existing ribbon of development, it is considered that the proposed set back of the dwelling from the road will prevent views of the dwelling being read with the other development on approach from the south west. As demonstrated by the photographs below, approaching the site from the southwest, due to the curve in the road, the dwelling will be screened by the existing buildings and if positioned to the rear of the site, will not be visible until arriving at the site frontage, therefore from this approach there is no sustained view or impression of an extension to ribbon development.



On approach from the north east, the proposed dwelling would only be visually read with the adjacent dwelling at 6A rather than the remainder of the ribbon, again due to the set back and the curve in the road. Given this a ribbon of development would not be perceived from this approach. The existing roadside hedge will also help to screen a dwelling on the site. It is also recommended that any approval should be subject to a condition requiring submission of a detailed landscaping scheme for the north western and north eastern boundaries at reserved matters to provide additional screening and further mitigate against any potential perception of an extended ribbon of development.



Impact on Character of the area

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 and it can be visually integrated and is of appropriate design. Care must be taken to ensure that the proposed development is not a prominent feature in the landscape. If the site lacks suitable enclosure and/or relies upon the use of new landscaping for integration, then it is unlikely to be acceptable in planning terms. The development will be expected to blend into the landform making use of existing trees and other natural features to form a backdrop.



Policy CTY 14 relates to rural character and states that a building will be unacceptable where the building would result in suburban style build up when viewed with existing and approved buildings. While a dwelling on the site will add to the existing built development, given that it will be tightly clustered with the existing group of buildings and will be read as part of this group, it is not considered that it will create any unacceptable suburban form of build up. While a new dwelling will be open and visible when viewed from Ballykeigle Road, it will be viewed against the backdrop of the existing group of buildings.

The proposed site has a backdrop of trees and while it is not on a prominent site, it has two undefined boundaries and is very visually open to the road over a considerable distance approaching from the east see images below. Therefore, it is considered that additional planting will be required in order that the proposed dwelling would integrate into the surrounding landscape.

It is considered that a siting condition requiring the dwelling to be sited immediate adjacent to the existing buildings, a condition restricting the ridge height to single storey and a condition requiring a landscaping scheme will all satisfactorily mitigate against any unacceptable visual impact or prominence of the proposed development at this location.

Designated Sites and Natural Heritage

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

Hedgerows are considered to be a priority habitat due to their significant biodiversity value and as the hedgerow defining the site are to be retained there will be no significant impact to the priority habitat. A Biodiversity checklist was completed which demonstrates that the proposal is not likely to impact any designated sites, protected species or priority species or habitats. It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2.

Residential Amenity

The SPPS recognises there are a wide range of environment and amenity considerations which should be taken into account by planning authorities when managing development. The proposed dwelling will have no unacceptable adverse impacts on residential amenity due to the separation distances. The nearest third-party dwelling is No. 8c Ballykeigle Road and it is located approximately 59m away. There will be no impact caused to the residential amenity of any nearby residential property as a direct result of the proposed dwelling.

Sewage Disposal

Planning permission will only be granted for development relying upon a non-mains sewerage system where it can be demonstrated that this will not create or add to a pollution problem. Applicants will be required to submit information on the means of sewerage. The applicant has indicated that foul sewage will be treated by a septic tank. I do not consider there to be any risk to residential amenity, underground strata or watercourse.

5. Representations

No letters have been received.

6. Recommendation

Grant Planning Permission

7. Conditions

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission; or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

2. Except in so far as expressly conditioned below, approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

3. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1 prior to commencement of the development hereby permitted and shall be retained thereafter.

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

4. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway prior to commencement of development hereby permitted and such splays shall be retained and kept clear thereafter.

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

5. The curtilage of the proposed dwelling shall be restricted to the area coloured yellow on the approved drawing No. 02A.

Reason: To ensure that the development is satisfactorily integrated into the landscape.

6. A detailed structured scheme of landscaping for the site shall be submitted at Reserved Matters stage to include details of species, numbers, sizes, siting, and spacing of trees and hedge plants. The planting as shall be approved shall be implemented in full during the first available planting season after the occupation of the dwelling hereby approved. This should include landscape buffers along the north eastern and north western undefined boundaries of the site.

Reason: To ensure the maintenance of screening to the site.

7. During the first available planting season after the occupation of the dwelling hereby permitted, a native species hedge shall be planted in a double staggered row 200mm apart, at 450mm spacing, 500mm to the rear of the sight splays as indicated in green on the approved drawing No. 02A.

Reason: To ensure the amenity afforded by existing hedgerows is maintained.

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, 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. The existing natural screenings of this site as indicated in brown on the approved plan Drawing No.02A, shall be retained at a minimum height of 1.8m unless

removal is necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.

Reason: To ensure the development integrates into the surroundings and to ensure the maintenance of screening to the site.

10. 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 and shall be planted within the next available planting season.

Reason: To ensure the continuity of amenity afforded by existing planting.

11. The dwelling hereby approved shall have a ridge height of less than 6 metres above finished floor level.

Reason: To ensure that the development is not prominent in the landscape.

12. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

13. A plan of the site shall be submitted at Reserved Matters stage indicating existing and proposed ground levels and the proposed finished floor levels of the approved dwelling. The development shall be carried out in accordance with the approved plans.

Reason: To ensure the development takes account of the site's natural contours and to ensure that the development is not prominent in the landscape.

Case Officer Signature:		Date:	
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Addendum to Case Officer Report

Condition 11:

The dwelling hereby approved shall have a ridge height of less than 6 metres above finished floor level.

Reason: To ensure that the development is not prominent in the landscape.

The agent has requested that the height restriction of the proposed dwelling be increased from 6m, as per condition 11, to 7m. Supporting documentation was received in this regard.

In terms of the existing house heights in the area, Figure 1 below shows examples of various heights and house types that are located within close proximity of the site.



Figure 1 – House Types in area

The application site sits at a lower ground level than the existing dwelling at No.6A Ballykeigle Road, as can be seen in Figure 2 below. The submitted topographical survey for the proposed site and the lands at No.6a, illustrates that the existing dwelling has a ridge of 62.26 above the datum point. Whereas the existing ground levels of the proposed site are 53.11 above the datum point, which is a difference of approximately 9.15m. Therefore, with a 7m ridge height (sought by the Planning Agent), the proposed dwelling would be 2.15m lower than the existing garage and dwelling at No.6A.

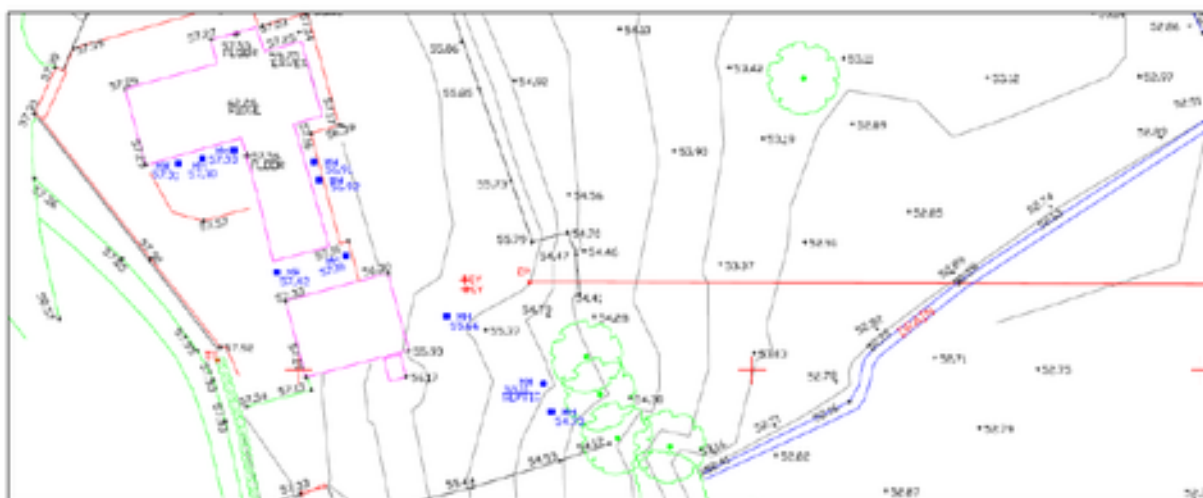


Figure 2 Existing site levels

It is therefore accepted that a dwelling with a proposed 7m ridge height, given the backdrop of mature trees and existing ground levels, would sit comfortably within the site without appearing prominent in the surrounding landscape or dominating the existing dwelling (No.6A).

The proposed dwelling would sit at a lower level than No.6A which would reduce its overall visual impact. Additional landscaping can also be utilised to further integrate the dwelling into the site without causing harm to the character of the area.

Amended Condition 11:

The dwelling hereby approved shall have a ridge height of less than 7 metres above finished floor level.

Reason: To ensure that the development is not prominent in the landscape.

Case Officer Recommendation: Approval

18/01/2024


ITEM 4.4

Ards and North Down Borough Council

Application Ref	LA06/2019/1295/F
Proposal	19 apartments (4 storey) with on-site parking and amenity space.
Location	Site of the former Bangor Leisure Centre Castle Park Avenue Bangor
Committee Interest	A local development application attracting six or more separate individual objections which are contrary to officers' recommendation.
Validated	07/02/2020
Summary	<ul style="list-style-type: none"> • The site is within the town centre as designated within the NDAAP 1984-1995 and draft BMAP 2015. The surrounding area is of mixed use with a hotel, police station, council and education buildings and car parking areas. • The erection of 14 No. Apartments with car parking was granted on the former Bangor Leisure Centre site on 7 September 2017 under LA06/2016/0279/F. Taking account of this and other residential uses within the town centre area, the principle of development on this site is considered acceptable. • The proposed design is considered to be of a high standard and quality - the 4th floor of the four-storey building is set back and finished in contrasting materials reducing its overall scale, appearance and dominance. • The proposed apartment building is set back from the road ensuring the undeveloped open space at the front of the site is retained. • The proposal will be sited on lower ground level than the adjacent Castle Park Avenue and Castle Park Road with roadside trees being retained to ensure continued screening. • The proposal complies with the policy criteria listed under policy QD1 of PPS 7.

	<ul style="list-style-type: none">• HED is content that the proposal does not harm the setting or character of the adjacent listed buildings or historic park/garden or demesne meeting the requirements of the SPPS and PPS 6.• In terms of amenity space the proposal is acceptable with 10sq.m being exceeded per apartment (Creating Places) and there is no impact on the amenity of adjoining residential uses including the hotel (no windows on adjacent gable towards hotel).• The proposed apartment building has been designed with a walkway on each floor along the side elevation facing the hotel and school. The walkways will be screened by fixed louvre panels which will limit views out of and into the walkways to protect residential amenity and prevent overlooking into the hotel and school.• There is also sufficient separation distance between the proposal and the existing school with trees being retained along the shared boundaries to prevent overlooking.• The proposal includes 20 parking spaces for 19 apartments. DfI Roads consider this low. However, the site is designated within an Area of Parking Restraint (APR) within BMAP which identifies one space per one unit.• Although BMAP has been quashed the APR was assessed during the public enquiry of draft BMAP and it is considered that if and when draft BMAP is lawfully adopted this area of parking restraint will remain. On this basis the parking space provision for this site is acceptable.• It should also be noted that the site has a town centre location with ease of access to public transport (bus and rail) and the proposal includes a bicycle storage area. Therefore, considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic.• In terms of designated sites and natural heritage the proposal complies with PPS 2. There is a NIW sewerage capacity issue which is proposed to be dealt with by using a negative condition in any decision notice should the application be granted approval. DfI Rivers is content subject to condition on potential flood risk on the exceedance of the network.• In terms of potential contamination both DAERA and Environmental Health were consulted. No unacceptable risks to environmental receptors have been identified and no risks to human health, both subject to conditions.
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	<ul style="list-style-type: none"> • Eight letters of representation from six separate addresses have been submitted, all of which are fully considered within the Case Officer's Report.
<p>Recommendation</p>	<p>Approval</p>
<p>Attachment</p>	<p>Item 4.4a – Case Officer Report</p>

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2019/1295/F	DEA: Bangor Central	
Proposal:	19 apartments (4 storey) with on-site parking and amenity space.		
Location:	Site of the former Bangor Leisure Centre Castle Park Avenue, Bangor		
Applicant:	Chrifin Ltd		
Date valid:	07.02.2020	EIA Screening Required:	No
Date last advertised:	01.09.2022	Date last neighbour notified:	31.10.2022
Letters of Support: 0	Letters of Objection: 8 from 6 addresses	Petitions: 0	
Consultations – synopsis of responses:			
DfI Roads	Concerns re parking provision		
NI Water	Refusal as capacity issues at foul sewer		
NIEA Water Management Unit	Concerns impact on water environment if no capacity at foul sewer		
NIEA Regulation Unit	No objection subject to conditions		
NIEA Natural Environment Division	No objection		
Environmental Health	No objection subject to conditions relating to contamination and noise		
Historic Environment Division	No objection subject to conditions		
DfI Rivers	No objection subject to condition		
Summary of main issues considered:			
<ul style="list-style-type: none"> • Principle of development • Design and impact on character and appearance of the area • Impact on the setting of listed building • Impact on residential amenity • Access and parking • Sewage and Flooding 			

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

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

1. Site and Surrounding Area

The site is located at the former Bangor Leisure Centre site on a corner site with Castle Park Avenue and Castle Park Road, Bangor. The site has been vacant since the demolition of the old leisure centre and sits at a lower level than the road. Part of the site, which sits back from the road is previously developed land with some brickwork still remaining on site. Part of the site closest to the road contains green open space with trees and a pedestrian path.

The site is accessed by an existing access onto Castle Park Road. The western (front) and southern boundaries of the site consist of mature trees. To the north of the site, the rest of the old leisure centre site has been redeveloped by a Premier Inn Hotel. The adjoining boundary with the hotel is palisade fencing.

To the north-east of the site and sited at a lower level, is Bangor Central Integrated Primary School. Along this boundary is palisade fencing and a belt of mainly mature evergreen trees. To the south-east of the site is the school's car park area.

South of the site is Castle Park, an area of open space/park land and beyond that is Bangor Castle and its historic park, garden and demesne. Bangor Castle is a Listed Building.

The area is within the settlement limit and town centre of Bangor as designated in the North Down and Ards Area Plan 1984-1995 and draft Belfast Metropolitan Area Plan 2015. The area is mixed in character with a hotel, police station, council and education buildings within the immediate area.

2. Site Location Plan



3. Relevant Planning History

LA06/2016/0279/F - Former Leisure Centre site at Castle Park Avenue Bangor - Demolition of the vacant leisure centre and erection of 14 No. Apartments and associated car parking, access and ancillary works. Permission Granted 7th September 2017.



Approved site layout of 14 apartments

LA06/2016/0246/F - Former Leisure Centre site at Castle Park Avenue - Demolition of the vacant leisure centre and erection of a new 85-bedroom hotel and associated carparking, access and ancillary works. Permission Granted 4th May 2017.

W/2006/0856/O - The Leisure Centre, Castle Park Avenue, Bangor - Development of apartments, numbered in two and three bedroom formats. Permission Granted 18th December 2008.

The history of the site demonstrates that apartment development is acceptable on this site. The approved site layout for 14 apartments under LA06/2016/0279/F is similar to this proposal. Within the supporting statement it is detailed that the current proposal is a similar layout and footprint with only a net increase of 165m².

4. Planning Assessment

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

- North Down and Ards Area Plan 1984-1995
- Belfast Metropolitan Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2 - Natural Heritage
- Planning Policy Statement 3 - Access, Movement and Parking
- Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage
- Planning Policy Statement 7 - Quality Residential Environments
- Planning Policy Statement 12 - Housing in Settlements
- Planning Policy Statement 15 – Revised Planning and Flood Risk

Planning Guidance:

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

Principle of Development

The application site is located within the settlement limit of Bangor as designated in both the extant and draft Plan. Belfast Metropolitan Area Plan 2015 (BMAP) has been quashed as a result of a judgment in the Court of Appeal delivered on 18th May 2017. As a consequence of this, the North Down and Ards Area Plan 1984-1995 (NDAAP) is now the statutory development plan for the area. A further consequence of the judgment is that draft BMAP published in 2004, is a material consideration in the determination of this application. Pursuant to the Ministerial Statement of June 2012, which accompanied the release of the Planning Appeals Commission's Report on the 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.

Work on the adoption of BMAP has not been abandoned and the Chief Planner clarified in his update to Councils on 25 November 2019 that the draft BMAP remains an emerging plan and, as such, the draft plan, along with representations received to the draft plan and PAC Inquiry Reports, remain as material considerations to be weighed by the decision-maker.

Within the North Down and Ards Area Plan (NDAAP) 1984 – 1995 the site is located within the settlement limit of Bangor. Within Draft Belfast Metropolitan Area Plan (BMAP) 2015 the site is located within the settlement development limit of Bangor, Bangor Town Centre, an Area of Parking Restraint (BR 36) and Bangor Castle Historic Park, Garden and Demesne (BR 16).

At the time of the public inquiry for draft BMAP the site, while being included in the Town Centre was also designated as being open space. During the Public Inquiry an objection was received that argued that the Leisure Centre Building and its car park should be removed from the open space designation. The Department presented a revised plan at the hearing showing the Leisure Centre omitted from the area of open space with only the hard and soft landscaped area along the western frontage of the Leisure Centre site remaining in it. The PAC concurred with this approach and the Leisure Centre building and car park were removed from the area of open space. The plans indicate that there will be no development within the open space at the front of the site and is in conformity with this designation in draft BMAP.

Regional planning policies of relevance are set out in the SPPS and other retained policies, specifically PPS 7 – Quality Residential Environments, PPS 3 - Access, Movement and Parking and PPS 6 Planning, Archaeology and the Built Heritage.

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

As the site is within the settlement limit and town centre of Bangor where there are other residential uses and there is history on the site for apartment development, the principle of development on this site is considered acceptable.

Design, Visual Impact, and Impact on Character of the Area

Policy QD1 of PPS 7 seeks to achieve residential developments which promote quality and sustainability in their design and layout, and which respect the character, appearance, and residential amenity of the local area.

The proposal for 19 apartments within a four-storey building will not damage the quality of the local area. The site is within the settlement limit of Bangor and its town centre where similar developments are located.

The layout, scale and massing of the proposed building will respect the topography of the site and the character of the area. The proposed building will be four storeys with the fourth floor set back and finished in contrasting materials to reduce the overall scale, dominance and massing. The site is located adjacent to a similarly designed four storey hotel building and there is previous planning history on the site for a similar proposal of 14 apartments under LA06/2016/0279/F. Plans indicate that the proposed apartment building will be lower in height than the adjacent hotel.

The proposed apartment building will be set back from the road and the building line of the adjacent hotel building to ensure the existing area of open space at the front of the site will remain undeveloped and respected which will maintain the character of the surrounding area.



Proposed site layout

The apartment building will be finished in self-coloured render walls with brick detailing and a flat grey membrane roof which is in keeping with the character of the surrounding area.



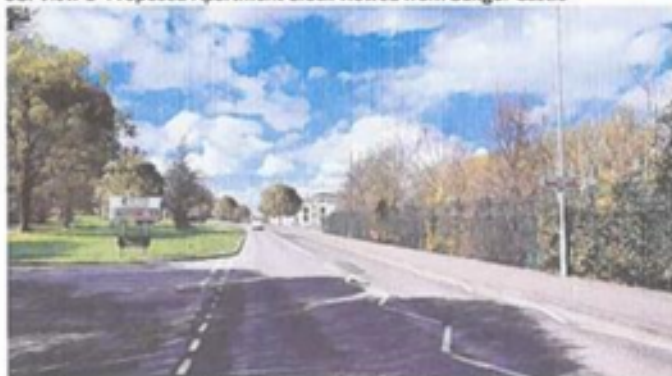
PROPOSED SOUTH ELEVATION (TOWARDS CASTLE)



PROPOSED WEST ELEVATION (TOWARDS PARK)



CGI View 1- Proposed Apartment Block viewed from Bangor Castle



CGI View 2 on Approach from SW along Castle Park Road



CGI VIEW 3 on Approach from North Along Castle Park Ave

The mature trees along the Castle Park Avenue and Castle Park Road boundaries will be retained which will aid integration of the apartment building. The apartment building will also be set at a lower level than the adjacent roads, set-back from the front elevation of the adjacent hotel and be lower in height than the adjacent hotel to ensure it integrates with the surrounding area and is not a dominant feature along the street scene.

New planting, trees and hedging will be added throughout the site to soften the visual impact. The car parking area will be located to the rear of the site with hedging along the boundaries to help screen it from public viewpoints. The bin storage will be located under a communal amenity area with planting to screen it from public viewpoints and protect the visual amenity of the surrounding area.

The proposal is therefore considered to comply with parts (a) and (g) of Policy QD1 of PPS 7 and all relevant guidance.

Impact on listed building

The application site is within close proximity to Bangor Castle – City Hall (Grade A) and Bangor Castle Stable Yard – Visitors Centre (Grade B+) which are of special architectural and historic importance and protected by Section 80 of the Planning Act (NI) 2011.

Historic Environment Division (HED), Historic Buildings was consulted and commented that 'it has considered the impacts of the proposal on the building and on the basis of the information provided, advise that we are content with the proposal, as presented, with conditions. These comments are made in relation to the requirements of the Strategic Planning Policy Statement for Northern Ireland (SPPS) paragraph 6.12 (setting) and of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (PPS6) Policy BH11 (Development affecting the Setting of a Listed Building).

HED considers the increased bulk at the western end of the scheme (compared to the previous approval) would elongate the west facing bulk of the hotel and apartment scheme. However, sympathetic materials, planting of more trees, the setback nature along with a contrasting material for the top floor, and natural gradient of the site shall help limit any impact. Quality materials are proposed which shall be sympathetic in the setting of the listed buildings.

An alternate material and setback of the top floor reduces dominance to a more domestic scale more appropriate for the demesne facing towards the rear of the castle. HED would wish to see natural stone, gravel and timber hard-landscaping products in any landscaping scheme going forward.'

Conditions will be added to any approval to ensure the materials are in keeping with the plans proposed and a detailed landscaping plan showing all hard landscaping materials is submitted and agreed with the Council prior to commencement of developed to ensure the long-term protection of the character of the setting of the Grade A and B+ Listed Bangor Castle and the Stable Yard buildings.

It is therefore considered that the proposal satisfies paragraph 6.12 of the SPPS and Policy BH11 of PPS 6 as the design, scale, massing and materials are appropriate to the adjacent listed buildings and the proposal will have no adverse impact on the setting of the listed buildings.

Impact on Archaeology

HED Historic Monuments (HM) was consulted due to the adjacent historic park, garden and demesne. It commented that 'archaeological works have previously been undertaken here in respect of LA06/2019/0532/DC. Consequently HED (HM) advises that this proposal is satisfactory to SPPS and PPS 6 archaeological planning policies.'

It is therefore considered that the proposal complies with part (b) of Policy QD1 of PPS 7 and the relevant parts of PPS 6 and the SPPS.

Amenity Space

Sufficient amenity space will be provided in a courtyard and green areas surrounding the site and some apartments will have balcony areas which exceeds the 10 sqm per apartment as set out in Creating Places. The site is also accessible to castle gardens and parkland adjacent to the site.

Sufficient bin storage will be provided in a covered area.

The proposal is therefore considered to comply with part (c) of Policy QD1 of PPS 7 and all relevant guidance.

Impact on Residential Amenity

The proposal will have no adverse impact on adjacent properties and will cause no significant overlooking or overshadowing. The proposed apartment building is adjacent to a hotel and primary school. There are no residential properties nearby.

The proposed apartment building will be built adjacent to the hotel and set back from its front elevation. There are no windows on the gable adjacent to the hotel and therefore no opposing windows.

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



Exemplars of screening panels- similar concept suggested for walkways to rear....coloured RAL7016

It is also considered that the school is a sufficient separation distance to the north-east of the site with no windows proposed on the gable elevation facing the school and mature band of trees will be retained along the adjoining boundary to prevent overlooking. Also, the area of the school immediately adjacent to the proposed apartment development is the playground area void of buildings therefore there shall be no adverse loss of light or overshadowing.

Due to the location of the site adjacent to busy roads, a hotel and school there is a potential of noise to future residents of the apartments. A Noise Impact Assessment was submitted, and Environmental Health was consulted.

Environmental Health is content with the mitigation measures provided and conditions will be added to any approval to ensure that specific glazing, ventilation and wall and ceiling materials are included to provide noise attenuation in the proposed apartments.

It is therefore considered that the proposal complies with part (h) of Policy QD 1 of PPS 7 and all relevant guidance.

Access, Roads Safety and Car Parking

The proposal will use an existing access onto Castle Park Road, which is not a

protected route. DfI Roads were consulted and offers no objections to the access as it is existing and will remain unaltered.

DfI Roads highlighted that the parking provision was low. The proposal is providing 20 spaces for the 19 apartments when Parking Standards sets out that parking provision should be on the basis of 1.5 spaces per apartment and 30 spaces should be provided. However, the site is designated within an Area of Parking Restraint within BMAP which refers to 1 space per residential unit. Although BMAP has been quashed, the area of parking restraint designation was considered during the public inquiry into draft BMAP and it is considered that if and when BMAP is lawfully adopted this area of parking restraint will remain. The parking provision is therefore considered as acceptable for this site.

The site is within the town centre and accessible to public transport, buses and trains at the nearby station and bicycle storage will also be provided within the site which will provide other modes of transport than the private car.

It is therefore considered that the proposal will not prejudice road safety or significantly inconvenience the flow of traffic. The proposal complies with Policies AMP 2, AMP 3 and AMP 7 of PPS 3, part (f) of Policy QD1 of PPS 7 and all relevant guidance.

Security from Crime

The layout has been designed to deter crime and promote safety as the site will be screened by landscaping and fencing and car parking will be to the rear of the building and screened from public views. It is therefore considered that the proposal complies with part (i) of Policy QD1 of PPS 7 and all relevant guidance.

Local Neighbourhood Facilities

As the proposal is only for 19 apartments there is no need to provide local neighbourhood facilities as part of the development. The site is within the town centre of Bangor with access to shops and services. It is therefore considered that the proposal complies with part (d) of Policy QD1 of PPS 7 and all relevant guidance.

Designated Sites and Natural Heritage

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

As the proposed development is located on previously developed land within the settlement limit, there are no buildings or watercourses on site and existing planting along the adjoining boundary will be retained, it is considered that the proposal is not likely to adversely impact protected or priority species or habitats.

It is therefore considered that the proposal complies with Policies NH1, NH2 and NH5 of PPS 2.

Sewage Issues

NI Water was consulted and indicated potential network capacity issues at the foul sewer and the recommendation that the applicant submits an application to NI Water for a Wastewater Impact Assessment to see if an alternative drainage or treatment solution can be agreed.

The applicant has indicated on the submitted P1 form that surface water and foul sewage will be disposed of via public mains.

NI Water has advised that a high-level assessment has indicated potential network capacity issues. This establishes significant risks of detrimental effect to the environment and detrimental impact on existing properties. For this reason, NI Water is recommending connections to the public sewerage system are curtailed. The applicant is advised to consult directly with NI Water (InfrastructurePlanning@niwater.com) to ascertain whether any necessary alternative drainage /treatment solutions can be agreed.

I am satisfied that the above capacity issues can be dealt with by attaching a negative condition stipulating that no development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority. The condition will also require that evidence of this consent shall be submitted to the Council prior to the commencement of any development.

The applicant will be able to liaise with the relevant authorities outside of the planning process to finalise the details of the proposed solution. If the applicant is unable to deliver the required solution, then he/she will be unable to implement the permission. If a private treatment plant solution is proposed as an alternative to resolve the issue, a separate planning application for this would be required.

Flooding

Under Policy FLD1 - Development in Fluvial and coastal Flood Plains - the Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

Policy FLD2 relates to protection of flood defence and drainage infrastructure – there are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. The site may be affected by undesignated watercourses of which we have no record, in the event of an undesignated watercourse being discovered, Policy FLD 2 will apply.

Under Policy FLD3 - Development and Surface Water – DfI Rivers has reviewed the Drainage Assessment Addendum by Sheehy Consulting, dated September 2022, and comments that 'the DA has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100 year event could be contained in the online attenuation system, when discharging at existing green field runoff rate, and therefore there will be no exceedance flows during this event. Further assessment of the drainage network will be made by NIW prior to adoption. However, in order ensure compliance with PPS 15, DfI Rivers requests that the potential flood risk from exceedance of the network, in the 1 in 100 year event, is managed by way of a condition.'

A condition will be added to any approval that the applicant shall submit a Drainage Assessment for agreement with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event in order to safeguard against surface water flood risk.

Policy FLD4 - Artificial Modification of watercourses and Policy FLD5 - Development in Proximity to Reservoirs – are not applicable to this site.

It is therefore considered that the proposal will comply with PPS 15 and will not cause flooding to the site or elsewhere.

Contamination

Due to the site being previously developed land a Generic Quantitative Risk Assessment (GQRA) was submitted by Pentland Macdonald Ltd in support of the application and the Regulation Unit in DAERA and Environmental Health within the Council were consulted.

Regulation Unit commented that 'the GQRA is informed by intrusive site data and no unacceptable risks to environmental receptors have been identified. Regulation Unit (RU) Land and Groundwater Team have no objections to the development subject to conditions.'

Environmental Health commented that 'Pentland MacDonald have concluded that 'the site would not pose any unacceptable risks to human health' and 'that no further consideration of contaminated land is required at this site'. Therefore, in view of the above, the Environmental Health Department would request that conditions are attached to any planning permission, if subsequently granted.'

Conditions will be added to any approval that if any contamination, not previously considered is encountered on site the development shall cease and this shall be considered under best practice Land Contamination: Risk Management (LCRM) guidance and agreed with the council in writing to ensure protection of environmental receptors and human health to ensure the site is suitable for use.

5. Representations

Eight letters of objection were received from six separate addresses. The main issues of concern are:

- Massing of a four storey block in such a prominent position will have a detrimental affect on the surrounding parkland and streetscape.
- Design will not complement the existing adjacent hotel, will look like a poor extension to the hotel.
- Prefer design of previous approval
- Materials will have a detrimental visual impact
- Potential for walkways to be used for storage, hanging clothes which would have detrimental visual impact.

It is considered in the report that the design and materials of the proposed building

are in keeping with the character of the surrounding area and Historic Environment Division is content that the design and materials will not affect the setting of the adjacent listed building. Louvre panels will be added to the walkways of the proposed building to screen the walkways from public views and the walkways are located on the rear of the building away from the public roads to prevent any unacceptable adverse impacts on the visual amenity of the area.

- The effect of increased traffic on Castle Park Road during construction and afterwards will create huge disruption on an already very busy road which serves four schools.

It is considered that any disruption to traffic during the construction phase will be temporary. In relation to road safety DfI Roads was consulted and offers no objections.

- Overlooks the Central Integrated Primary School.

The proposal will have no unacceptable adverse impacts of overlooking on the adjacent school building as there are no windows proposed on the elevation closest to the school and there are mature trees along the adjoining boundary.

- Proposal to create wildflower areas in the landscaping is admirable but no doubt will be scrapped.

The landscaping plan will be conditioned to ensure it is implemented as approved.

- Puzzling why this development is being planned when so many properties are vacant in Bangor.

This is not a relevant material planning consideration as the site is within the settlement limit where residential development is encouraged and there are many factors outside of the control of planning that contribute to vacant properties.

- Request for larger CGI drawings to review properly.

It is considered that sufficient plans have been provided to scale which demonstrate the scale and massing of the proposed building. CGI drawings are only included for illustrative purposes.

- Due to close proximity to hotel and school would like clarification on construction method. Severe disturbance and nuisance during construction period.
- Construction should be during school holidays

Environmental Health was consulted in relation to construction and noise and commented that the short to medium term additional noise and dust due to the construction phase of the development may be significant in terms of disturbance to neighbouring premises/occupants and this Department notes a number of objectors have referred to this issue. Whilst it is accepted that noise (and dust) can be a feature of any construction, the developer will be expected to take all reasonable steps to

minimise disturbance. Working hours relating to noisy work should be discussed in liaison with the Environmental Health Department and the local community. This will ensure that any noise/ dust are controlled to ensure there is no adverse impact on the amenity of adjacent properties.

- Additional information should be provided on bin lorries and potential noise nuisance to hotel. Area will also attract birds and a pigeon net should be included.

A Noise Impact Assessment was submitted in support of the proposal and Environmental Health was consulted. It did not raise any concerns regarding noise from the bins and is content with the proposal subject to conditions which will be added to any approval. DfI Roads was also consulted and offered no concerns in relation to the bins and impact of the collection on road safety. The bin storage area is under a covered landscape area therefore it is not considered necessary to include netting.

- Opaque windows facing school should be conditioned.

There are no windows on the elevation directly closest to the school. Any bathroom windows will be conditioned to have opaque glazing.

- Legend on landscaping plan showing size, species of planting and suggested planting for visual amenity.
- Suggestions of what landscaping should be included to improve visual amenity.

Given the proximity of the site to listed buildings which are of special architectural and historic importance, HED Historic Buildings has considered the impacts of the development including the proposed hard and soft landscaping and has provided no objection subject to a negative condition that will require the subsequent agreement of the final hard and soft landscaping scheme. This plan must detail the car park finish, site delineation and the proposed locations and species of proposed trees. The details must be agreed in writing with the Council in consultation with HED Historic Buildings prior to any works commencing on site. This condition will ensure the agreement and implementation of a high standard of hard and soft landscaping in consultation with HED.

- Impact on the safety of access to the school

The proposed site uses a separate entrance to the school. DfI Roads was consulted in relation to road safety and offers no objections.

- Former leisure centre car park is likely location for a new school building.

There are no current planning applications on the car park area and therefore this is not a material consideration in the determination of this application.

- School is keen to engage with the developers of the site.

The Council would encourage the school to discuss the proposal with the developers.

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. All hard and soft landscape works shall be carried out in accordance with Drawing No. 09A, and the Landscape Management Plan by McIlwaine Landscape Architects dated 27 June 2022. All new planting as indicated on the stamped approved drawing and within the Landscape Management Plan shall be undertaken during the first available planting season after the occupation of the first apartment hereby approved and permanently retained thereafter.

Reason: In the interest of visual amenity.

3. Prior to the commencement of any development on site a final hard and soft landscaping scheme shall be submitted to and approved in writing by the Council in consultation with HED: Historic Buildings. The scheme shall include details of all new walls, fences, other boundary treatments and finished ground levels; details of the hard surface treatment of open parts of the site including details of the car park finish; details of all trees to be retained, a planting specification to include species, size, position and method of planting of all new trees and shrubs; and a programme of implementation. The works shall be implemented in accordance with the approved details during the first available planting season following occupation of any part of the development hereby approved (unless otherwise agreed in writing by the Council). All hard and soft landscape areas and works shall be permanently retained in accordance with the approved details. Any existing or proposed trees or plants indicated on the approved plans which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size, details of which shall have first been submitted to and approved in writing by the Council.

Reason: To ensure the long-term protection of the character of the setting of the Grade A and B+ Listed Bangor Castle and the Stable Yard buildings and in the interests of the character and appearance of the area.

4. The existing trees as indicated on Drawing No. 03A and 09A, except the one tree that is indicated for removal, shall be retained. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place, or any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written consent of the Council. Any arboricultural work or tree surgery approved shall be carried out in accordance with the relevant British Standard 3998: 2010.

Reason: To ensure the continuity of amenity afforded by the existing trees.

5. Fencing shall be erected for the protection of any retained tree in accordance with BS5837:2012 before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, or any other works carried out, or fires lit without the written consent of the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

6. The long-term management and maintenance of the communal landscaped areas as indicated on Drawing No. 02A, shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, must be submitted to and agreed in writing by the Council prior to the occupation of any apartment hereby approved.

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

7. No apartment hereby approved shall be occupied on site until the communal landscape areas as indicated on Drawing No. 02A have been laid out in accordance with the approved details. The communal landscape areas shall be permanently retained and shall not thereafter be used for any purpose other than as communal space.

Reason: To ensure amenity space is available concurrently with the development of the site.

8. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 and evidence of this is submitted to the Council.

Reason: To ensure an appropriate method of sewerage disposal is identified and agreed to prevent pollution to the aquatic environment.

9. Prior to occupation of any apartment hereby approved, the windows coloured yellow on the approved plans Drawing Nos. 04B, 05B and 06B shall be fitted with opaque glazing and this glazing shall be permanently retained thereafter.

Reason: To protect amenity.

10. If during the development works, new contamination and risks are encountered which have not previously been identified, works shall cease, and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be submitted to and agreed by the Council in writing and subsequently implemented to its satisfaction.

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

11. After completing all remediation works under Condition 10 and prior to occupation of the development, a verification report shall be submitted to and agreed by the Council in writing. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. The verification report shall present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

12. All glazing to the western façade of the proposed residential apartments shall provide a minimum sound reduction index of 34dB RTra/ 40 dB Rw. This glazing shall be installed prior to the occupation of any apartment hereby approved and shall be permanently retained thereafter.

Reason: To protect residential amenity.

13. Walls capable of providing a sound reduction index of at least 54dB RW shall be installed within the western façade. These walls shall be installed prior to the occupation of any apartment hereby approved and shall be permanently retained thereafter.

Reason: To protect residential amenity.

14. Ceilings to the apartments in the western façade shall be upgraded by the addition of an extra layer of plasterboard with staggered joints to provide a sound reduction index of at least 49 dB RW. These ceilings shall be installed prior to the occupation of any apartment hereby approved and shall be permanently retained thereafter.

Reason: To protect residential amenity.

15. All glazing to the north, east & south facades of the proposed residential

apartments shall comply with the sound reduction performances as specified in Table 8 Page 13 of the Noise Impact Assessment, Castle Park Road, Bangor, prepared by Irwin Carr Consultants, referenced Rp0012019156 (Castle Park Road) and dated 22 August 2019. This glazing shall be installed prior to the occupation of any apartment hereby approved and shall be permanently retained thereafter.

Reason: To protect residential amenity.

16. An acoustic ventilation system capable of achieving a sound reduction index of at least 30dB RW shall be provided to all facades. The system shall comply with the ventilation rates as specified in Technical Booklet K and contained in Table 7 Page 12 of the Noise Impact Assessment, Castle Park Road, Bangor, prepared by Irwin Carr Consultants, referenced Rp0012019156 and dated 22 August 2019. This ventilation shall be installed prior to the occupation of any apartment hereby approved and shall be permanently retained thereafter.

Reason: To protect residential amenity.

17. Prior to the commencement of any development hereby approved, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to the Council for approval in writing which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event. Drainage for the development shall be implemented as approved.

Reason: In order to safeguard against surface water flood risk.

18. Materials shall be as shown on approved plan Drawing No. 06B and as follows:
- a) Walls: Smooth painted render, 'Marziale' brick and dark grey 'Cedral' vertical boarding
 - b) Windows and doors: Dark Grey Polyester Powder Coated Aluminium frames
 - c) Balustrades: Dark Grey metal.

Reason: To ensure the long-term protection of the character of the setting of the Grade A and B+ Listed Bangor Castle and the Stable Yard buildings.

19. The development hereby approved shall not be occupied until the parking and turning areas have been provided in accordance with the approved plan Drawing No. 03A. Such areas shall not be used for any purpose other than the parking and turning of vehicles and shall remain free of obstruction for such use at all times.

Reason: To ensure adequate car parking within the site.

20. The fixed louvre panels on the north elevation as indicated on Drawing No. 06B shall be installed prior to occupation of any apartment hereby approved and shall be permanently retained thereafter.

Reason: In the interests of residential and visual amenity.

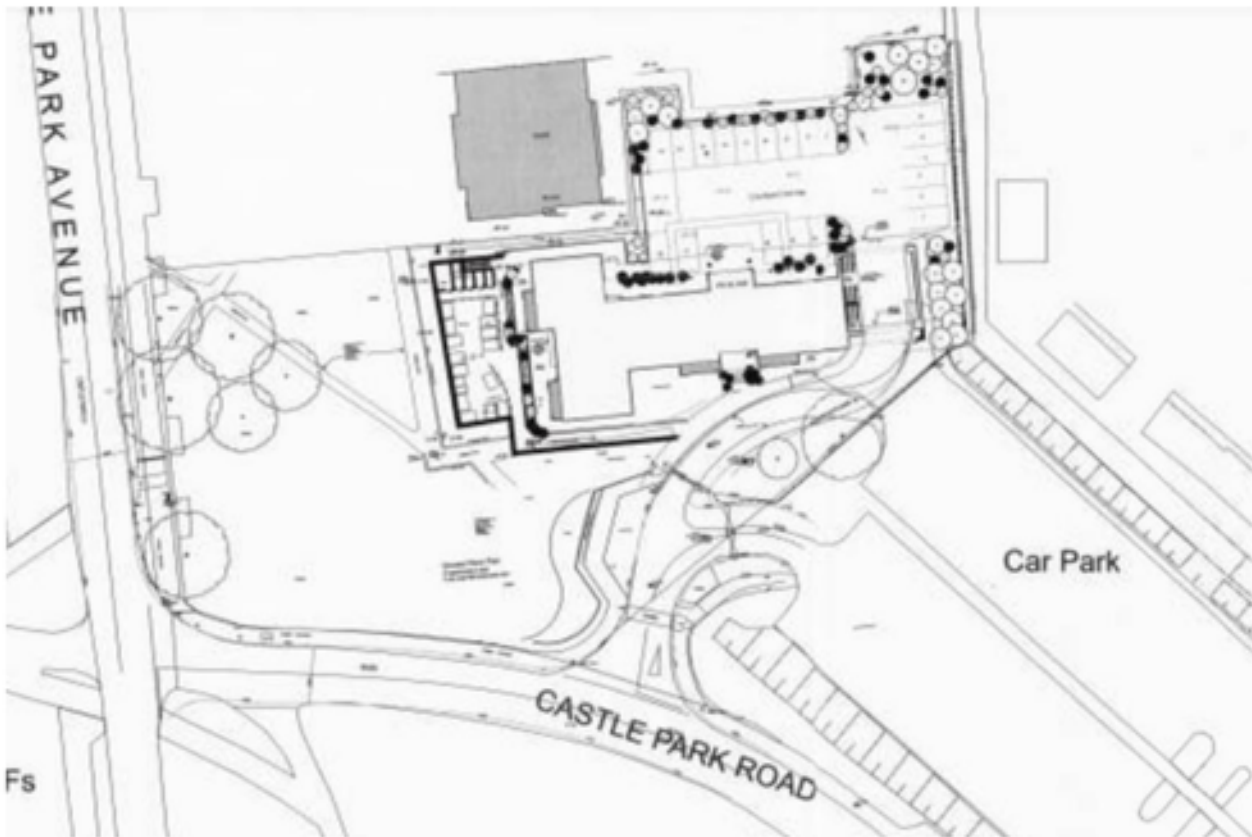
Informatives:

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

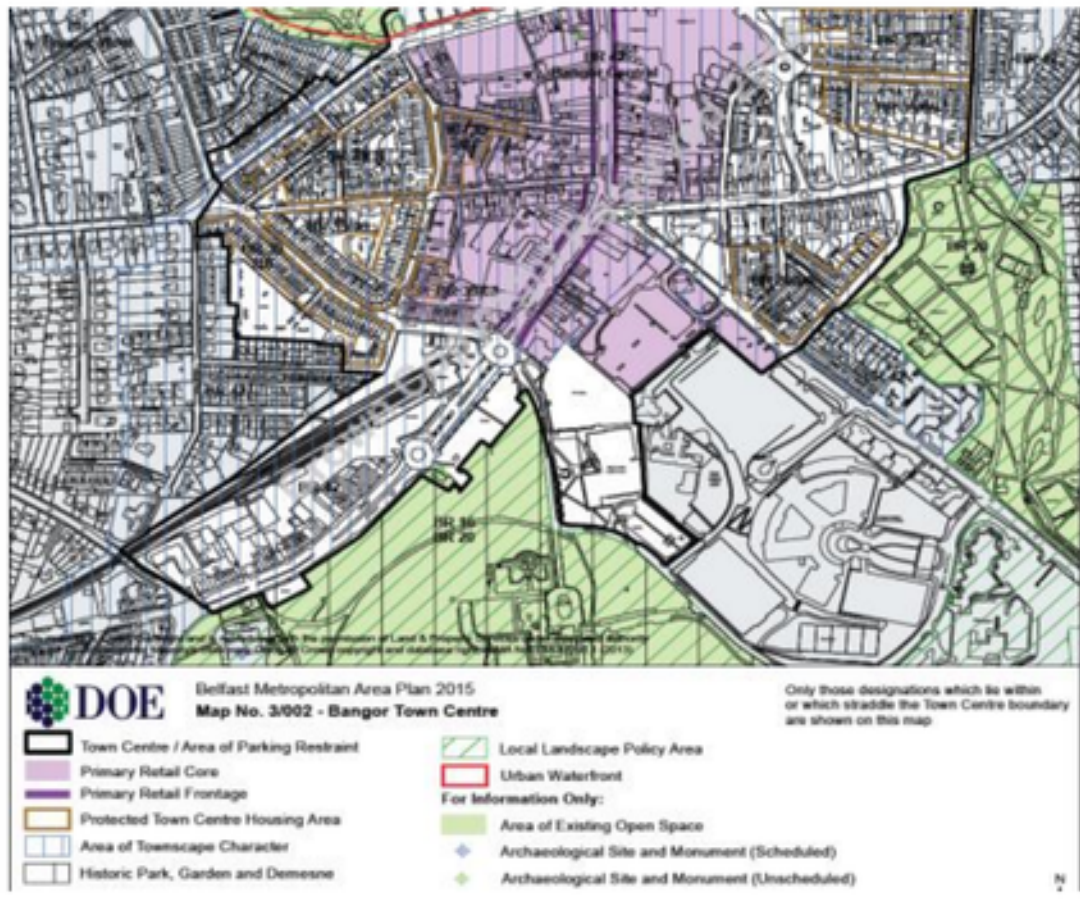
Aerial Image of Site



Site Layout



Extract from draft BMAP showing site within Town Centre and as Whiteland with no further zonings



Proposed Elevations





Photos of Site

View of site from Castle Park Road



View of site from Castle Park Avenue



ITEM 4.5

Ards and North Down Borough Council

Application Ref	LA06/2021/0118/F
Proposal	Housing development of 98 units, detached garages (site nos. 175 to 272 inclusive), extension to footpath on Shore Road and playpark
Location	West of Nos. 39 and 80 St Andrews Avenue, Ballyhalbert, immediately West of 45 Longfield Way, and North of Nos. 72 and 84 Longfield Way, Ballyhalbert
Committee Interest	An application in the major category of development – approved by Planning Committee at its meeting of 07 November 2023, but further amendments received to include extension to footpath on Shore Road and installation of a playpark.
Validated	03/03/2021
Summary	<ul style="list-style-type: none"> • This is an Addendum to Case Officer Report previously approved by Planning Committee on 7 November 2023. • This relates to amendments submitted before the Decision Notice was issued showing an extension to footpath along Shore Road and installation of a playpark. • The amendments were re-advertised in the local press on 11 January 2024 and seven letters of objection were subsequently received. • Whilst the provision of play facilities is not a policy requirement to developments under 100 residential units or less than 5 Hectares in area as per PPS 8 'Open Space, Sport and Outdoor Recreation', the amended plans show a new playpark within a central area of open space which will be well overlooked by the proposed dwellings. • A wide range of play equipment is to be provided along with safety surfacing. A 1.2m high fence and pedestrian gate will enclose the park in interests of child safety. • The existing footpath will be extended along the existing verge to the driveways of 94 and 96D Shore Road.

	<ul style="list-style-type: none"> • The original planning permission (granted on 5 October 2000) did include a condition requiring a pedestrian link to the High Street prior to the occupation of any dwelling however given that the passage of time of non-compliance this condition would be immune from enforcement action (dwellings have been in occupation for more than five years). • The proposal presently broadly corresponds with the Change of House Type (COHT) application previously approved in 2012 but introduces a playpark within a proposed area of open space. • This will help reduce the pedestrian travel from the development to the existing playpark in the centre of Ballyhalbert. • DfI Roads has no objections to the proposal subject to conditions. • Other issues raised in objections have been fully assessed within the Addendum report.
<p>Recommendation</p>	<p>Approval</p>
<p>Attachment</p>	<p>Item 4.5a – Case Officer Report</p>

Addendum to LA06/2021/0118/F

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

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

Addendum

1. The application for the above proposal was presented to the Planning Committee as Item 4.2 on 7th November 2023. The motion to grant permission, subject to conditions, was carried by the Committee.
2. Following the motion and resolution to grant planning permission by the Committee, and prior to the issue of the decision, the Planning Department contacted the planning agent to request that the proposed extension to the existing footpath should be detailed in the proposal description and that the red line boundary of the site should be extended to include the proposal in its entirety. The Applicant was also advised of concerns expressed by the Planning Committee regarding the lack of playpark provision in this part of the village. In response to the concerns raised, the Applicant agreed to provide a playpark within the site to ensure the layout includes adequate provision for children's play.
3. Neighbours have been notified of the amended proposal and the amended description was advertised in the local papers on 11th January 2024.

4. Seven objections have since been received and detailed consideration of the matters raised therein is provided below.

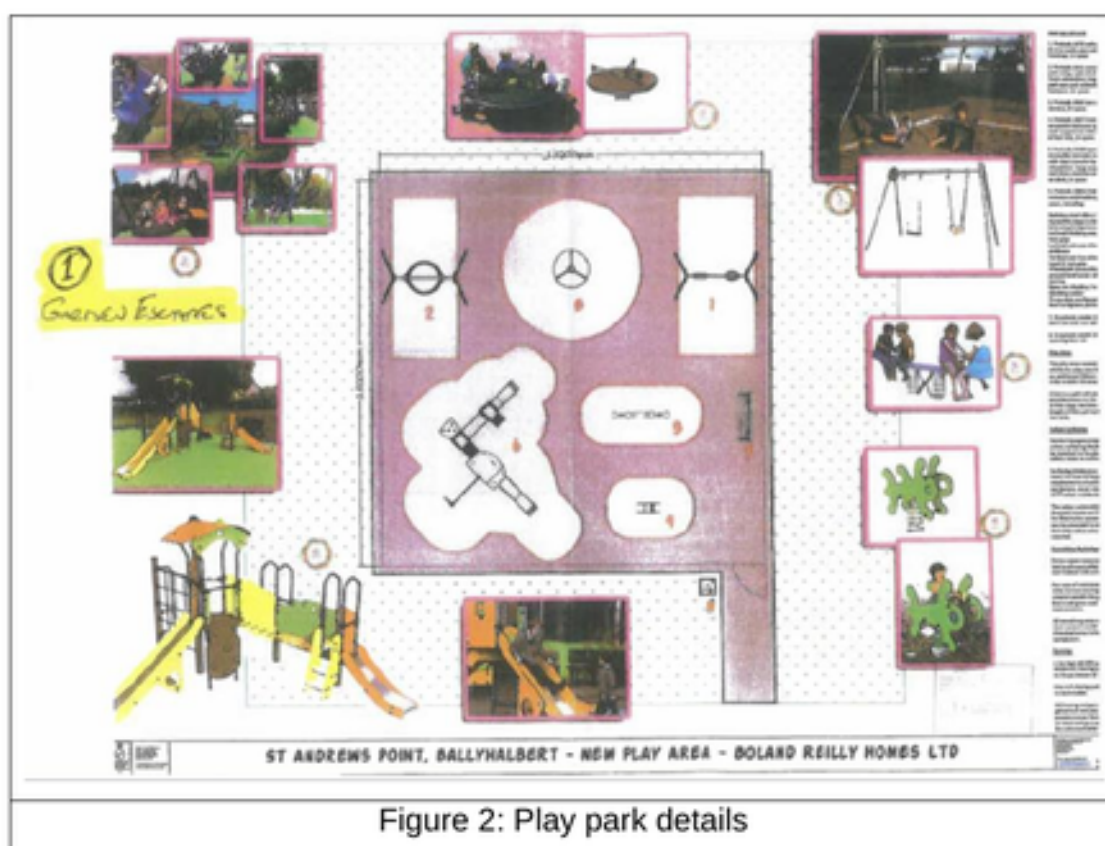
Playpark

5. The provision of play facilities as part of larger residential developments was not a policy requirement at the time of the approval of the original outline planning permission for the wider site (approved 5 October 2000). PPS 8 Open Space, Sport and Outdoor Recreation, which came into operation in February 2004, introduced a policy that requires the provision of an equipped children's play area as an integral part of developments of 100 residential units or more, or for development sites of 5 hectares or more.



6. The amended plans show the location of the proposed park within a central area of open space which will be well overlooked by the proposed dwellings. This central location will promote user accessibility and safety. The details below show a wide range of playground equipment will be provided including a climbing frame (comprising 2 slides, balancing bridge, a climbing ramp/wall,

and climbing net), standard swing and a pod swing, a seesaw, springer, and rotating equipment. Safety surfacing will be installed as per safety standards and a 1.2m fence and single gate will enclose the play park in the interests of child safety.



Road Safety on Shore Road

7. Concerns have been raised with regards to pedestrian safety when leaving the St. Andrews development and walking towards the amenities within Ballyhalbert.
8. The existing footpath will be extended along the existing verge to the driveways of 94 and 96D Shore Road. Whilst I note that a footpath does not exist on the south-eastern side of No. 94 Shore Road, this was also the case at the time of the original planning permission for the wider site. The Key Design Considerations (KDC) for the wider Housing Policy Area do not include a requirement for the provision of a pedestrian link from the site to amenities within the settlement. The original planning permission did include a condition

which required provision of a pedestrian link to High Street (extending south from the entrance to the caravan park) prior to the occupation of any dwelling. That has not been provided and given the passage of time non-compliance with this condition would now be immune from enforcement action.

9. The proposal presently under consideration broadly corresponds with the Change of House Type (COHT) application previously approved in 2012 but introduces a playpark within a proposed area of open space. It is considered that provision of this playpark would go some way towards reducing the need for pedestrian travel from the development to the existing playpark within the centre of Ballyhalbert. DFI Roads provided no objection to the current application in terms of roads safety subject to the provision of the proposed footpath extension.



Figure 3: Footpath extension on Shore Road proposed on grass verge

Road Safety within the St. Andrews development

10. The objections raise concerns about the additional traffic movements within St. Andrews. As previously stated, DfI Roads was consulted on the proposal, and it offered no objections subject to conditions which will be included on the decision notice. It should be noted that the wider site is designated as a Housing Policy Area in the Ards and Down Area Plan 2015 and there is planning

history on the site for similar residential development dating back to 2000. Flat topped speed humps are indicated on the Private Streets Determination drawing which has been agreed with DfI Roads. The speed humps will aid the regulation of speed within the development and there will also be footpaths for pedestrians to use within the development. Areas of open space and an equipped children's playpark will be provided as an integral part of the scheme. This will provide a safe opportunity for children's play for the wider development.

Impact on the existing sewage system

11. The objectors are concerned that the existing sewerage system and drainage system will not be able to cope with the additional housing and have highlighted that there is currently a smell emanating from it. I contacted the Environmental Health Department to check if the Council has received any complaints from local residents in relation to odour. Environmental Health advised that no complaints have been received in relation to the existing pumping station within the development. Moreover, NI Water has confirmed to the Council that this pumping station has been adopted and is maintained by NI Water. NI Water was consulted on the current proposal, and it did not highlight that the development is affected by any capacity issues associated with existing NI Water sewerage infrastructure. NI Water does not object to the proposal. Any approval of the current application will be subject to a negative condition to ensure prior agreement of the method of sewage disposal with the relevant authority prior to the development commencing on site. Such a condition will ensure that appropriate arrangements for sewerage disposal are agreed in advance of development taking place and will prevent any harm arising.

Other concerns raised

12. Other concerns raised include – low water pressure, power cuts in St. Andrews, slow broadband speeds, inadequate bus routes, more doctors, chemists, dentists and shops required, the unacceptable state of local roads. Maintenance of adopted roads within the area is the responsibility of DfI Roads. Any on-going issues associated with existing utilities within the wider

area are matters for the relevant suppliers. The application site forms part of a wider area of land that was deemed suitable for housing through the Development Plan. The site also has a long planning history for similar residential development. Therefore, the principal of residential development on this site is acceptable and determining weight cannot be given to these matters.

Conclusion

17. The proposal has been assessed having regard to the development plan and all other material considerations including relevant planning policies, the views of bodies with road safety and utility responsibilities and third party representations. On the basis of the information above I consider that the opinion to approve the application should remain unchanged.

18. Having weighed all the material planning considerations it is recommended that this application proceed by way of an approval of planning permission subject to conditions as amended below.

Conditions

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

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

2. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 and evidence of this is submitted to the Council.

Reason: To ensure an appropriate method of sewerage disposal is identified and agreed to prevent pollution to the aquatic environment.

3. Prior to the construction of the drainage network, a final drainage assessment, compliant with FLD 3 and Annex D of PPS 15, shall be submitted to and agreed

in writing with the Council. It shall demonstrate the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161 of the Water and Sewerage Services (Northern Ireland) Order 2006, in a 1 in 100 year event. The approved details shall be fully implemented to the satisfaction of the Council.

Reason: In order to safeguard against surface water flood risk to the development and manage and mitigate any increase in surface water flood risk from the development to elsewhere.

4. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Council. The CEMP shall include the following:
 - a) The information presented in the Outline CEMP by Lisbane Consultants dated May 2022 and the further information highlighted by DAERA's Water Management Unit and Natural Environment Division in response dated 18/01/2023
 - b) Construction methodology and timings of works;
 - c) 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;
 - d) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
 - e) Water Quality Monitoring Plan;
 - f) Environmental Emergency Plan;
 - g) References to current GPP/PPGs and relevant good practice documentation;
 - h) Direct reference to the Control of Pollution (Oil Storage) Regulations (Northern Ireland) 2010 and supporting mitigation measures in regards to compliance with the Oil Storage Regulations;
 - i) In-depth details on the mitigation measures for silt and spoil treatment, cement/concrete/grout, oil/fuel storage and any other potentially polluting discharge generated from the proposed works, including the proposed methods of containment and final disposal.

Reason: To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the Environmental Statement and to prevent likely significant effects on the Outer Ards Area of Special Scientific Interest (ASSI), Special Protection Area (SPA) and Ramsar site.

5. 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 Nos. 57E and 58A.

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

6. The dwellings hereby approved shall not be occupied until that part of the service road which provides access to each has been constructed to base course; the final wearing course shall be applied on the completion of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

7. No dwelling shall be occupied until provision has been made within its curtilage for the parking of private cars at the rate of 2 spaces per dwelling. All parking areas shall be permanently retained thereafter and shall be used for no other purpose.

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

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

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

9. No dwelling hereby approved shall be occupied until the extension to the footpath on Shore Road has been provided in accordance with Drawing No. 58.

Reason: In the interests of pedestrian safety.

10. All hard and soft landscape works shall be carried out in accordance with the approved plan Drawing No. 56B and the appropriate British Standard or other recognised Codes of Practice. Prior to the occupation of any dwelling details of the proposed phased implementation of hard and soft landscaping works (including timings for implementation) must be submitted to and agreed in

writing by the Council. The hard and soft landscaping works shall be fully implemented in accordance with the timings contained in the approved phasing plan.

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

11. The existing planting along the northern and western boundaries as indicated on Drawing No. 56B shall be retained and augmented with a new hedge in accordance with the approved plans and in accordance with the timings of the phasing plan to be agreed under condition 10. The hedge shall be allowed to grow to a minimum height of 1.5m and permanently retained thereafter at a minimum height of 1.5m.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape and to protect Northern Ireland priority habitats.

12. No more than 25 of the dwellings hereby approved shall be occupied on site until the communal open space as indicated on Drawing No. 56B has been provided in accordance with the details shown on the plan. The open space areas shall be permanently retained and shall not be used for any purpose other than as open space.

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

13. No more than 25 of the dwellings hereby approved shall be occupied on site until the playpark has been provided in accordance with Drawing No. 02E. The playpark shall be permanently retained thereafter, and the area shall not be used for any other purpose.

Reason: To ensure the provision and retention of play facilities within the site.

14. A 1.2m fence shall be erected around the perimeter of the playpark in accordance with the specification provided on Drawing No. 62 prior to the operation of the playpark and shall be permanently retained thereafter.

Reason: In the interests of safety.

15. Prior to the occupation of any dwelling hereby approved, a final Landscape and Playpark Maintenance and Management Plan shall be submitted to and agreed in writing with the Council. The Landscape and Playpark Maintenance and Management Plan shall be implemented in the first planting season following

provision of the approved open space and playpark and shall be permanently carried out thereafter.

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

16. The long-term management and maintenance of the open space and playpark, as indicated on Drawing No. 56B, shall be undertaken by a management company commissioned by the developer. Details of the arrangements to be put in place to establish the management company and details of the alternative measures which will take effect in the event that the management arrangements break down, shall be submitted to and agreed in writing with the Council prior to the occupation of any dwelling hereby approved.

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

17. If any retained planting is removed, uprooted or destroyed or dies, another tree or trees shall be planted in the same location and those trees shall be of such size and species as previously existed, unless agreed otherwise agreed in writing by the Council and shall be planted within the next available planting season.

Reason: To ensure the continuity of amenity afforded by existing planting.

18. 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.

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.

ITEM 4.6

Ards and North Down Borough Council

Application Ref	LA06/2023/1910/F
Proposal	Proposed two storey extension to existing Pavilion to include a balcony and associated alterations as well as other works including a paladin fence and disabled parking (Renewal of approval LA06/2017/1256/F)
Location	Cloughey Pavilion Main Road Cloughey.
Committee Interest	An application relating to land in which the Council has an interest.
Validated	13 June 2023
Summary	<ul style="list-style-type: none"> • This current application is for the renewal of planning permission previously granted under LA06/2017/1256/F. • The principle of the development has already been considered and deemed acceptable in line with the policies during the processing of the above original planning application. There has been no change in the development plan or policy context since the original approval. • No consultations to statutory bodies were issued or deemed necessary given that no material considerations or circumstances surrounding the site and its context have changed since the original permission was granted. The consultation responses received under LA06/2017/1256/F therefore continue to apply. • There were no objections from consultees subject to conditions as outlined in the case officer report. • This site is located outside the settlement limits of Cloughey in the countryside. • The proposal complies with policies CTY 1, 13 and 14 of PPS 21. The proposed development can be visually integrated into the surrounding landscape, is of appropriate design and does not cause a detrimental change to, or further erode the rural character of the area. • The proposal meets the requirements of PPS 8 Policy OS3 [Outdoor Recreation in the Countryside] as the development is a high standard of design and is

	<p>sympathetic to the surrounding environment in terms of siting, layout and landscape treatment.</p> <ul style="list-style-type: none"> • The proposed extension to the existing pavilion has no detrimental impact to the existing beach to the southeast. The site is located adjacent to (but not within) the Outer Ards ASSI, Outer Ards Ramsar site and Outer Ards Special Protected Area (SPA). • The site is within a LLPA as designated in ADAP 2015. The proposed development respects the surrounding character and appearance and does not contradict any policy requirements for the LLPA. • The SPPS references the Regional Development Strategy (RDS) outlining that coastal areas need to be protected from coastal squeeze, to safeguard against loss of distinctive habitats, and to help adaptation to climate change, and states the landscape setting of features should also be conserved. The proposed development to extend the existing building, erect fencing and provide disabled parking does not have an adverse impact on the surrounding coastal area, does not alter existing access arrangement (including to the beach) and does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain. • No representations have been received in respect of this application.
<p>Recommendation</p>	<p>Grant Planning Permission</p>
<p>Attachment</p>	<p>Case Officer Report – Item 4.6a</p>

Development Management Case Officer Report		 Ards and North Down Borough Council	
Reference:	LA06/2023/1910/F	DEA: Ards Peninsula	
Proposal:	Proposed two storey extension to existing Pavilion to include a balcony and associated alterations as well as other works including a paladin fence and disabled parking (Renewal of approval LA06/2017/1256/F)		
Location:	Cloughey Pavilion, Main Road, Cloughey		
Applicant:	Cloughey District Community Association		
Date valid:	13/06/2023	EIA Screening Required:	No
Date last advertised:	29/06/2023	Date last neighbour notified:	N/A
Letters of Support: 0		Letters of Objection: 0	Petitions: 0
Consultations – synopsis of responses:			
Original consultation responses as per the previous approval - LA06/2017/1256/F			
NIEA: Marine and Fisheries Division	No objection.		
NIEA: Natural Environment Division	No objection, recommended Habitats Regulations Assessment be undertaken.		
Shared Environmental Services	Conducted Habitats Regulation Assessment and is content subject to two conditions.		
DfI Roads	No objection.		
Environmental Health	No objection with one condition.		
NI Water	No objections		

Summary of main issues considered:

- Principle of development
- Parking, traffic and Access
- Impact on Residential Amenity
- Visual impact, design and impact on character of area
- Impact on Biodiversity and Designated Sites

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 [Northern Ireland Public Register \(planningssystemni.gov.uk\)](https://planningssystemni.gov.uk)

1. Site and Surrounding Area

The site is located at 17a Main Road, Cloughey Pavilion, in a coastal location. The site encompasses a single storey dual pitched roofed property, an access lane and a small area of green space to the north. The existing building is finished in cream render, white uPVC fenestration detail and rainwater goods and black/grey roof tiles. The building is currently used for community/sports activities. The site lies within an enclosed area which contains the bowling green and three tennis courts. These sports facilities, including the pavilion, are only accessible via the steel gated security entrance.

The northern, eastern and southern boundaries are defined by 3m steel mesh security fencing and close board fencing. The western boundary is undefined as the site forms part of a larger sports complex. The topography of the site is level with undulating sands to the east of the site. The surrounding area is predominantly residential to the northwest/northeast with properties assuming a variety of styles and scales. The Warren and Cloughey Beach are located southeast of the site.



Figure 1 – View of site from access road

2. Site Location Plan



Figure 2 - Site Location Plan



Figure 3 – Aerial view of site

3. Relevant Planning History

Planning reference: LA06/2017/1256/F

Location: 17a Main Road, Cloughey, BT22 1JA.

Proposal: Proposed two storey extension to existing Pavilion to include a balcony and associated alterations as well as other works including a paladin fence and disabled parking

Decision: permission granted 5/09/2018

Planning reference:LA06/2015/0102/F

Location: 17a Main Road, Cloughey, BT22 1JA.

Proposal: Extension to existing tennis courts including 8m high flood lighting columns.

Decision: permission granted 11/08/2015

Planning reference: X/2012/0365/F

Location: 17a Main Road, Cloughey, BT22 1JA.

Proposal: Extension to existing tennis courts including 8m high flood lighting columns and 10 x 6m single storey timber building.

Decision: permission granted 17/04/2013

Planning reference: X/2000/1188/F

Location: 17a Main Road, Cloughey, BT22 1JA.

Proposal: Single storey pavilion, bowling green, path and associated site works

Decision: permission granted 27/03/2001

4. Planning Assessment

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

- Ards and Down Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 21: Sustainable Development in the Countryside

- Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside
- Parking Standards

Principle of Development and Compliance with the Development Plan

Section 6(4) of the Planning Act 2011 states that determination under this Act must be made in accordance with the plan, unless material considerations dictate otherwise. The application site is located in the countryside, immediately south of and outwith Cloughey settlement limit. The proposal is considered to be in conformity with the plan provided it complies with the relevant regional rural planning policies. According to Ards

and Down Area Plan 2015, the site is located within a Local Landscape Policy Area and an Area of Constraint on Mineral Developments. The site is located immediately adjacent to the Outer Ards Area of Special Scientific Interest, Outer Ards Ramsar site, North Channel Special Area of Conservation, and the Outer Ards Special Protected Area. Local Landscape Policy Areas (LLPAs) are considered to be of greatest amenity value, landscape quality or local significance and must therefore be protected from undesirable or damaging development. The potential impact of the development on the LLPA and its features will be considered below within the section assessing impact on the character of the area.

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.

As per PPS 21 Sustainable Development in the Countryside, Policy CTY1 – Development in the Countryside all proposals in the countryside must be sited and designed to integrate sympathetically with their surroundings. The development would fall within non-residential Development in the policy, therefore, it should be assessed as 'outdoor sport and recreational uses in accordance with PPS8: Open Space, Sport and Outdoor Recreation'.

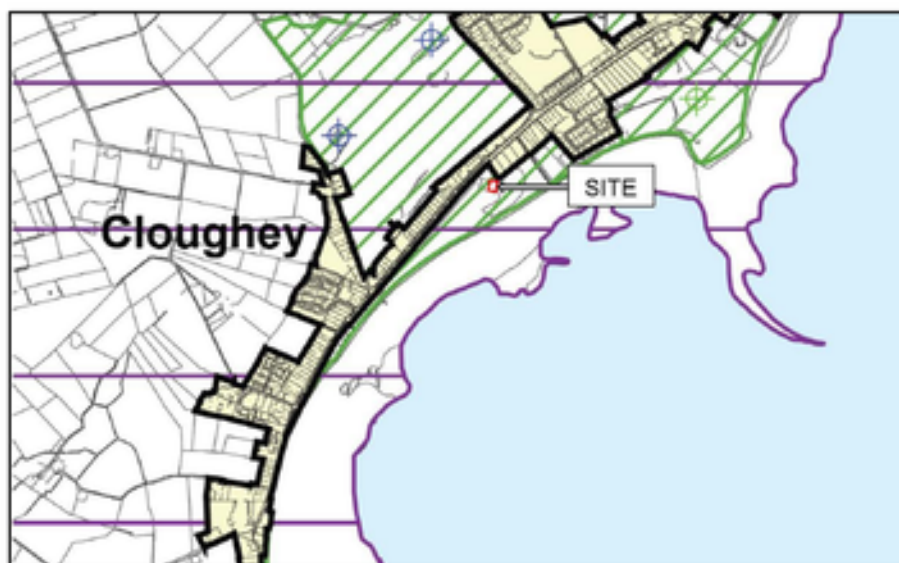


Figure 4 - Extract from the Ards and Down Area Plan 2015

PPS8 Policy OS3, Outdoor Recreation in the Countryside, states that proposals for outdoor recreational use in the countryside will be permitted where various criteria are met. As there is already an existing recreational use on the site, the principle of the use has been established and it is only the impact of the proposed extension that is under consideration. With regard to buildings, Policy OS3 advises that any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment. The visual impact of the proposal is considered below. As this current application is for the renewal of planning permission, the principle of the

development has already been considered and deemed acceptable under the above policies during the processing of the original planning application LA06/2017/1256/F. There has been no change in the development plan or policy context since this original approval. I am also content that there have been no changes in the material considerations applicable to the site and development that would result in any different or additional impact as a result of the development. The specific circumstances and features of the site and surrounding area remain the same and there have been no other planning permissions granted in the intervening period which would require consideration in terms of any potential cumulative impact.

As no material considerations or circumstances surrounding the site and its context have changed since the original permission was granted, it was not considered necessary to issue a fresh round of consultations to statutory bodies. Comments received on the original application will continue to be considered in the assessment of the current application.

Design, Visual Impact and Impact on Character of the Area

Policy OS3 - Outdoor Recreation in the Countryside of PPS8 - Open Space, Sport and Outdoor Recreation is relevant in this case, given that the proposed development is an extension to the existing established outdoor recreational use. The policy sets out the planning policies for the protection of open space, the provision of new areas of open space in association with residential development and the use of land for sport and outdoor recreation and advises on the treatment of these issues in development plans. It embodies the Government's commitment to sustainable development, to the promotion of a more active, and healthy lifestyle and to the conservation of biodiversity. As such, any buildings or structures should be of an appropriate scale to the local area and be sympathetic to the surrounding environment in terms of its siting, layout and landscape treatment.

As the site is located within the countryside, policy CTY 13: Integration and Design of Buildings in the Countryside is relevant. It 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.

Policy CTY14: Rural Character is also relevant, stating 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.

It is considered that the proposed development will not be a prominent feature in the landscape. Nor does the development result in a suburban build-up or a ribbon development given the location within the site. NED was originally consulted and had no objections to the proposal. There are no archaeology or built heritage issues. There will be no adverse impact on features of importance to nature conservation, archaeology or built heritage.

There are limited public views of the building as it is set back off the Main Road and given the surrounding boundary treatment. The proposed boundary hedge and landscaping are also considered acceptable and will not have an impact on the character and appearance of the countryside.

I am satisfied that the proposal will not have an adverse impact on visual amenity or the character of the area and it is absorbed into the landscape. I am satisfied that the

building is sympathetic to the surrounding environment and that the works are of an appropriate scale for the site and location. Overall, I am content that the proposal complies with the relevant criteria of Policies OS3, CTY13 and CTY14.

In relation to the location of the site in the landscape, the existing building is set-back approximately 85m from the public car park and 100m from Main Road at the back of the site, behind three enclosed tennis courts and a bowling green which are associated with Cloughey Pavilion. The site is located on relatively level land but the surrounding landscape, east of Main Road, is somewhat undulating in the sense that the sand dunes surround the site on three sides. These undulating sand dunes assist with integration and will largely remain untouched with only a small portion of overgrown land north of the site utilised for the extension. NIEA had no objection with regard to development on this small area in the original application and no concerns regarding any priority habitat or species were raised.



Figure 5 - View from Main Road

With regard to the position of the site and its relationship with surrounding buildings, those residential properties located northeast/northwest of the site on Main Road are more visible than the proposed extension would be as they sit closer to Main Road. The siting of the Cloughey Pavilion means that it reads as linked to this existing line of residential development, albeit further set-back from Main Road, rather than an isolated stand-alone building in the countryside. Developing the extension north of the site will reinforce this visual linkage without making the development significantly prominent. This is as developing the extension on the northern elevation would mean that the fully developed building would be not largely visible to those travelling south on Main Road until passing the site. The building is currently visible to those travelling north on Main Road however, the nature of the development proposed is not considered so substantial that it would make the building a dominant or incongruous feature in the landscape.



Figure 6 - View travelling north east along Main Road

Cloughey beach lies approximately 45m behind the site with sand dunes surrounding the site on three sides (north, east and south). A boardwalk from the car park travels through the dunes, past the southern boundary of the site, to the beach which is located east of the site. The sand dunes are covered with vegetation which assists with screening the site to those using the board walk. When on the beach views of Cloughey Pavilion are largely obscured by the sand dunes with only the roof visible.



Figure 7- View from beach

The proposal would see the retention of the existing building with its dual pitch roof and so would not alter the existing view in this regard. The extension would be developed on the northern elevation which means the extension would be set back further from the beach. The extension would employ a flat roof which would respect the existing height of the dual pitched roof by not projecting above the existing building height.



Figure 8- West elevation as existing

The proposed development will retain the existing single storey Pavilion as a multipurpose hall, minor hall, store and servery but would update the existing facilities by provision of a reception area, two changing rooms and an additional, disabled changing room, an externally accessible store, an internal store and two toilets on the ground floor and two meeting rooms on the first floor. This would see the existing building assume a U-shaped layout comprising of one and two storeys with the two storey extension respecting the existing ridge height through stepping down the flat roof by approximately 0.1m. The two storey flat roof extension would measure 15m wide, 12.2m deep and 7.2m high. Siting the extension on the northern side of the building represents the only feasible option for an extension of this scale as the boundary of the Area of Special Scientific Interest limits suitable land for this type of development.

Two balconies are proposed, one on the front elevation and another on the rear. The entrance would be glazed making it an obvious point of entry to the building. The external finishes employed on the existing Pavilion would remain unaltered. Finishes to the extension consist of cream rendered walls, clear glass balustrades, composite cladding silver roof, aluminum grey window frames and grey steel rainwater goods. The materials are contemporary and considered acceptable, with buildings in the area employing a mixture of traditional and contemporary materials.



Figure 9 - Proposed Front (West) Elevation



Figure 10 - Proposed Rear (East) Elevation



Figure 11 - Proposed Southern Elevation

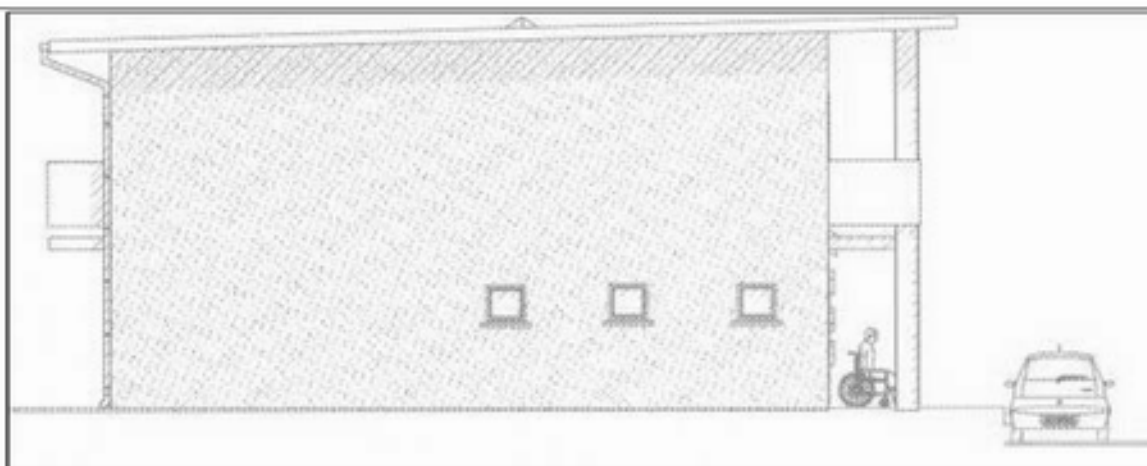


Figure 12 - Proposed Northern Elevation

The site is currently enclosed by 2.3m high paladin security fencing and close board fencing to the south. Whilst no natural boundaries define the curtilage, the site is surrounded by sand dunes/scrub on three sides which assist with integration. The proposed extension would be developed on the northern elevation of the building. At this location the extension would be sited behind the existing tennis courts. Given that the extension would respect the existing ridge height of approximately 7.2m, it is considered that views of the extension from the beach would be largely obscured by the existing sand dunes. In light of this, I am of the view that the site would provide a suitable degree of enclosure for the building to integrate into the landscape.

The two proposed disabled car parking spaces have been appropriately sited to ensure ease of movement. The proposed paladin fencing and gate would be erected in two locations. Paladin fencing would be erected adjacent to the bowling green to ensure the green would be secured at times when not in use by its members. However, while the bowling green would be secured at designated times, the agent has explained that part of the building would provide externally accessible toilets and changing facilities that would remain open to the public as per the Council's opening times.

Paladin fencing would also be erected to define the eastern boundary to the rear of the building. A gate would be located on this eastern boundary to allow access to the beach. The paladin fencing would match the existing fencing around the tennis courts in height (2.3m high), style and colour. I therefore consider that the proposed ancillary works would integrate with the surroundings.

In summary, the proposed development would benefit from the screening provided by existing undulating sand dunes and vegetation and would blend into the landform. The proposal would not create/add to a ribbon of development as it would be extending an existing building. The ancillary works proposed are considered minimal and would therefore have a negligible impact on rural character.

Impact on Designated Sites, Coastal Area and Natural Heritage Interests

As previously stated the site is located within a Local Landscape Policy Area as designated in the Ards and Down Area Plan 2015.

Proposal CY 03 Local Landscape Policy Areas

The following Local Landscape Policy Areas are designated in accordance with Policy CON 2 in Volume 1 of the Plan and as indicated on Map No. 2/010a, Cloughey Settlement Map, Map No. 2/010b and the relevant Ards Countryside Map.

Those features or combination of features that contribute to the environmental quality, integrity or character of these areas are listed below.

LLPA 4 Caravan Park and adjoining lands

- valuable area of local amenity importance comprising exposed headland at northern end of village forms an attractive vista from the main road;
- area of local nature conservation interest adjoining the declared Outer Ards ASSI;
- undeveloped headland area is free of permanent built development and is designated to protect this area of undeveloped coast from undesirable or damaging development; and
- attractive shoreline of local amenity importance including an expanse of sand dunes from where there are expansive views out to the sea.

Figure 13- Extract from the Ards and Down Area Plan 2015

The proposed development is on an area of existing development. I am content that there will not be any impact on the LLPA given the limited views, topography of the site and existing vegetation. It is my professional planning judgement that the proposed development will have no material impact on the character and appearance of the surrounding countryside and the LLPA.

As outlined above, the site is located adjacent to, but not within, the Outer Ards Area of Special Scientific Interest, Outer Ards Ramsar site and the Outer Ards Special Protected Area.

The SPPS references the Regional Development Strategy (RDS) by explaining that coastal areas need to be protected from coastal squeeze, to safeguard against loss of distinctive habitats, and to help adaptation to climate change, and accordingly states the landscape setting of features should also be conserved. The aim of the SPPS in relation to the coast is to protect the undeveloped coast from inappropriate development, consistent with the RDS.

Whilst the proposal is located on the 'undeveloped coast' it is an extension to an existing building, the extension to which, as detailed in the report above, is not considered to impact adversely on the surrounding coastal area.

The SPPS states that in considering development proposals within the developed or undeveloped coast attention must be paid to the retention of existing public accesses and coastal walkways. The proposal would not alter existing access arrangements, including access to the beach and satisfies policy in this regard. The SPPS continues to state that development will not be permitted in areas of the coast known to be at risk from flooding, coastal erosion, or land instability. The site does not suffer from flooding, coastal erosion, or land instability and is considered appropriate in this regard.

As already outlined above, given the application is for renewal of a previous planning permission, it was not considered necessary to issue a new round of consultations. Comments previously received from SES and NIEA regarding the potential impact on designated sites and other natural heritage interest will therefore be considered.

Shared Environmental Service (SES) previously advised that after considering the nature, scale, timing, duration and location of the project, it was concluded that the proposal would not have an adverse effect on site integrity of any European site, subject to conditions. Therefore, the potential impact of the proposal on each of the Special Protection Area, Special Area of Conservation and Ramsar has been assessed in accordance with the requirement of the Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

In light of the coastal location, NIEA: Marine and Fisheries Division was also previously consulted on the original application and offered no objections.

In relation to National Protected Species, planning permission will only be granted for a development proposal that is not likely to harm any other statutorily protected species and which can be adequately mitigated or compensated against. Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.

The NIEA Biodiversity checklist was applied to the original application to identify whether the proposal would negatively impact on biodiversity including protected species. An Ecological Statement was submitted with the previous application and considered by NIEA: Natural Environment Division (NIEA: NED), who advised that a Habitats Regulations Assessment should be undertaken on the Outer Ards SPA/Ramsar. This was subsequently carried out by SES on behalf of the Council and as outlined above SES was content that there would be no adverse effect on site integrity of any European site. This response was based on the implementation of two

mitigation conditions which will be attached to the renewal permission. NED raised no concerns regarding the potential impact on any protected species or priority habitat.

Access, Parking, Roads Safety

The vehicular and pedestrian access to the site will remain unchanged.

The proposal involves the development of two disabled parking spaces in front of the proposed building. An extended ramp would be developed to access the main entrance of the building.

In relation to this proposal, Policy AMP 1 seeks to ensure that access to existing buildings and their surroundings are improved as opportunities arise through alteration, extension and changes of use. The building currently does not have designated disabled parking spaces with car parking limited to three informal car parking spaces within the site. The provision of two disabled parking spaces is considered not only necessary to ensure good accessibility but also required so that those with impaired mobility have equality of access. In line with policy, a suitable access would be provided to main entrance through the development of a ramp. This satisfies policy in this regard.

Free public car parking is available on Main Road. This carpark offers 170 car spaces and those entering the site would need to first enter the car park as the access road to the site is taken from this car park. DFI Roads was originally consulted on the proposal and offered no objections.

Overall, the proposed access, movement and parking satisfies Policies AMP1 and AMP7 of PPS 3: Access, Movement and Parking, in relation to provision of adequate parking.

Residential amenity

The proposal would not result in an unacceptable impact upon the amenities of people living nearby. The extension would be located approximately 40m away from the nearest neighbour, No. 17 Main Road, and with the proposed balcony facing northwest direction (No. 17 is located to the northeast). Creating Places advises that for a balcony a separation distance of 30m should be observed. When the separation distance of 40m is considered alongside the fact that the balcony would not directly face the rear garden of No. 17 Main Road, then it is considered that the balcony would not overlook this neighbour. The extension is situated a suitable distance away from properties so to not overshadow or cause loss of light.

At the time of the original application, Environmental Health was content subject to a condition to limit the operation hours of the Sports Pavilion from 07:00 to 22:00.

Flooding and Drainage

The Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain. There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. No watercourses run through the site.

A drainage assessment is not required under Policy FLD 3 of PPS 15, as it does not exceed any of the required thresholds:

- Residential development comprising 10 dwelling units or more.

- A Development site in excess of 1 hectare.
- New hard-surfacing exceeding 1000m².

The original P1 application form stated that it is proposed to deal with drainage through the existing storm drain and foul sewage to be disposed of via the mains network.

Sewage disposal

NI Water has been consulted and has raised no objections advising that there is available capacity at the receiving Waste Water Treatment Works. The existing premises are connected to the mains.

5. Representations

No representations were received in regard to the application.

6. Recommendation

Grant Planning Permission

7. Conditions

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

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

2. There shall be no storage of fuel or spoil, or refuelling of machinery, or mixing and washing of concrete, within 10 metres of the boundary of the Outer Ards SPA, Outer Ards Ramsar Site or North Channel cSAC.

Reason: To protect the site selection features and conservation objectives of the Outer Ards Ramsar Site, Outer Ards Special Protection Area, North Channel Special Area of Conservation.

3. All construction activity shall be confined within the site boundary, and the boundary of the designated areas shall not be disturbed in any way.

Reason: To protect the integrity of the designated area and to avoid it being damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter.

4. The facility shall only be open between the hours of 07:00 hours and 22:00hrs.

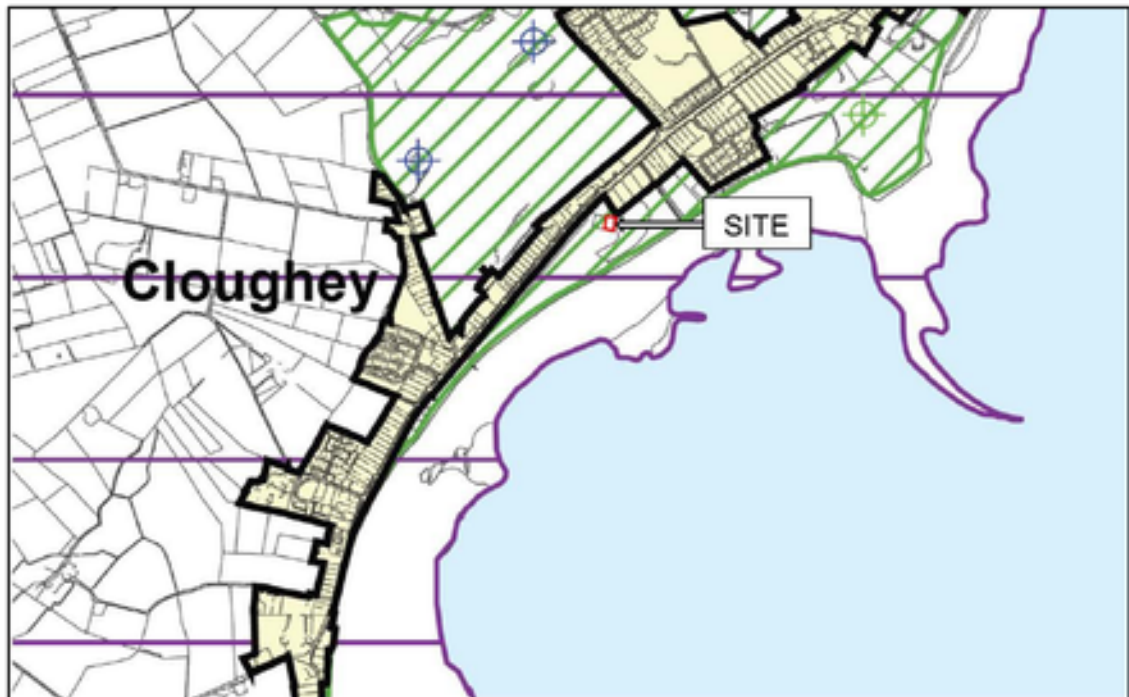
Reason: to protect the amenity of occupants of nearby residential properties

5. No development shall take place on site until the method of sewage disposal has been agreed in writing with Northern Ireland Water or a Consent to discharge has been granted under the terms of the Water (Northern Ireland) Order 1999 by the relevant authority. Evidence of this consent shall be submitted to the Council in writing prior to the commencement of any development.

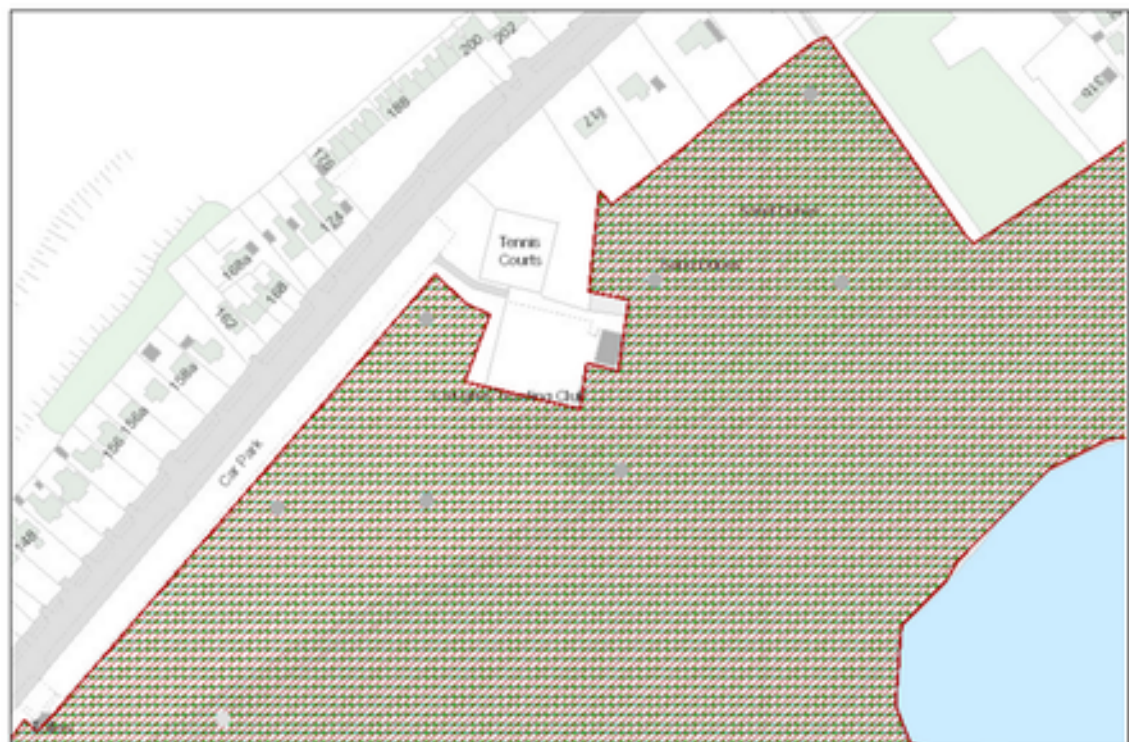
Reason: To ensure no adverse effect on the water environment.

Informative

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



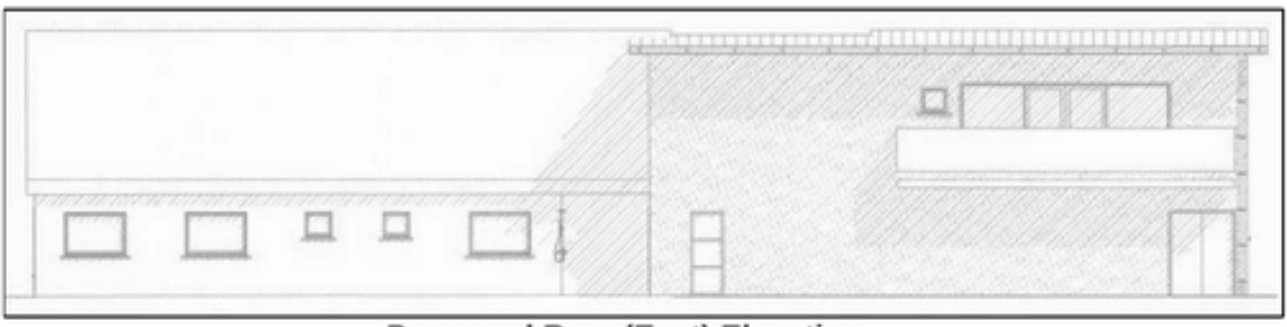
Site within the Ards and Down Area Plan 2015



Site in relation to Designated Sites



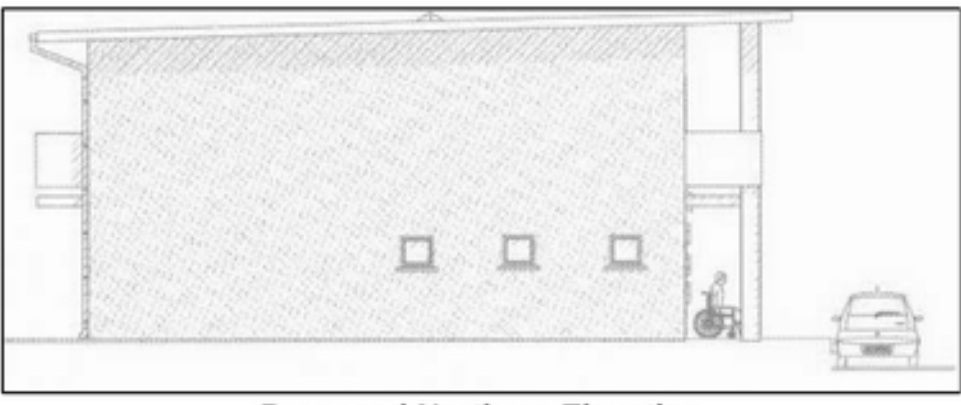
Proposed Front (West) Elevation



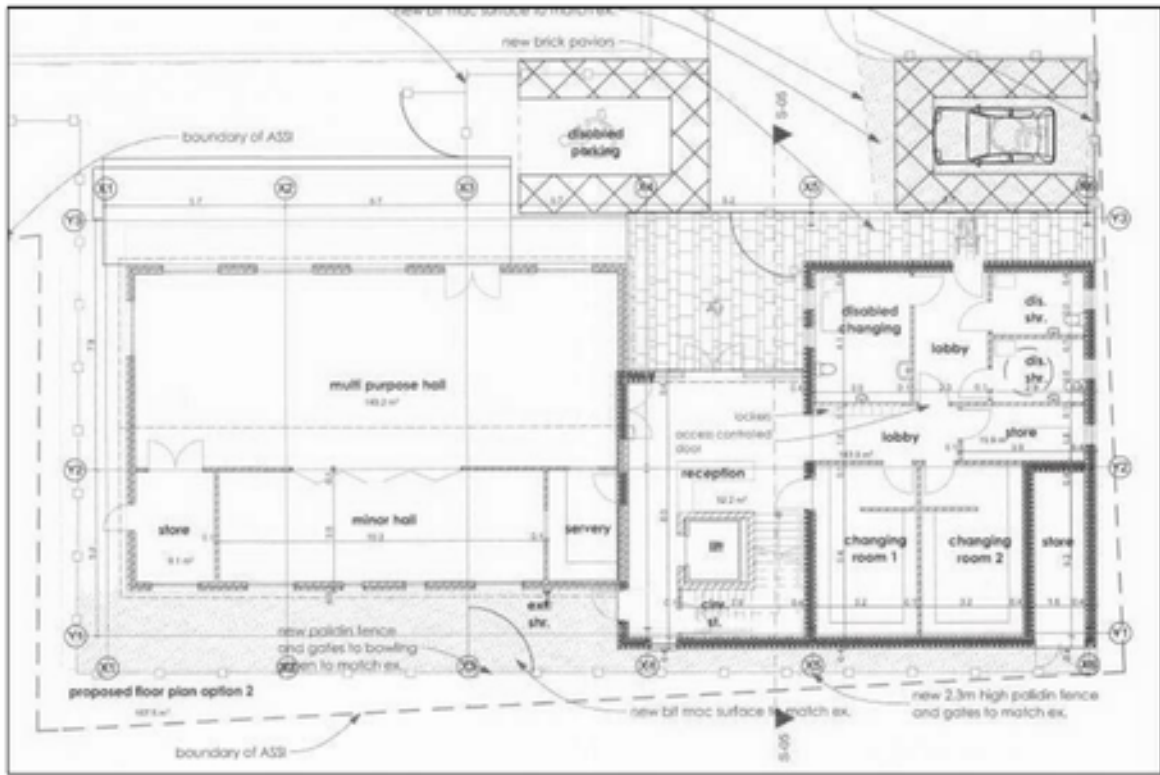
Proposed Rear (East) Elevation



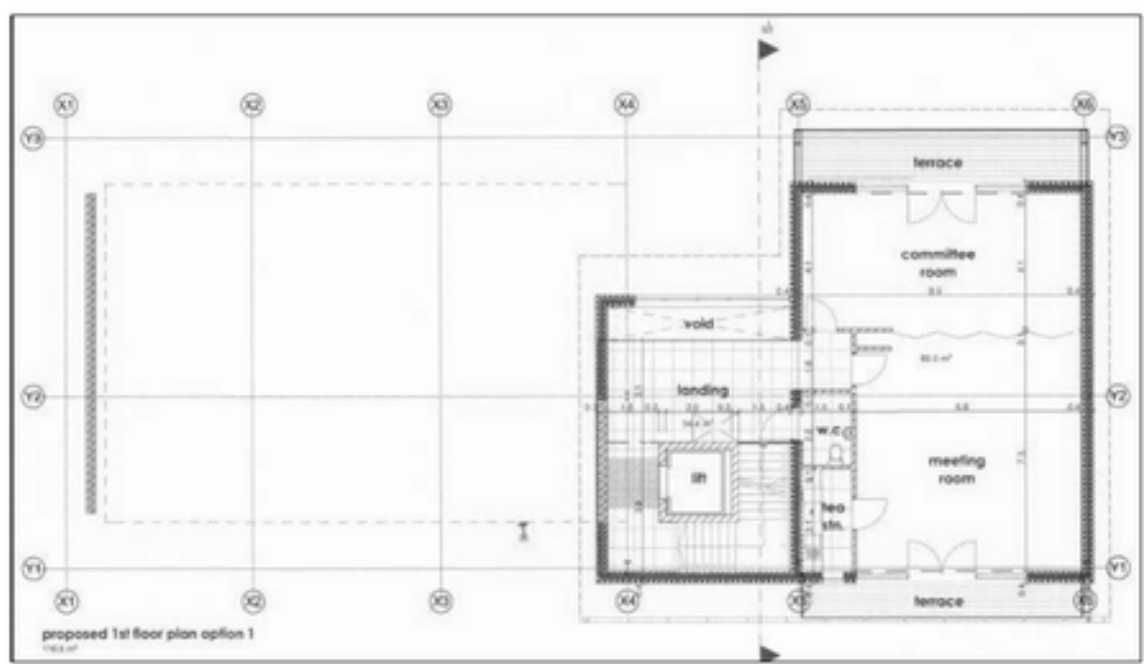
Proposed Southern Elevation



Proposed Northern Elevation



Proposed Ground Floor



Proposed First Floor



Front (west) Elevation of existing pavilion



Existing South elevation



Existing rear (east) elevation



View of pavilion from access road



View travelling north east along Main Road



View travelling south west along Main Road



View from beach



View from footpath to beach



View from footpath to beach

Unclassified

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ITEM 5

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Planning Committee
Date of Meeting	06 February 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	08 January 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	

Appeal Decisions

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

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

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

Not Applicable

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

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

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

While the inaccuracy in the relationship to 6a Ballyrawer Road is of less consequence, the confusing of east and west in relation to 7 Main Street is fatal. The published address fails to inform people living in the locality of the proposal and could prejudice their ability to follow the matter up by making representations if they wish. Failure to publish a proper notice defeats the purpose of publication and renders the Council's decision on the application invalid. Accordingly, it was found that there could be no valid appeal.

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

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

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

The above application had been called-in to Planning Committee and was heard on 18 January 2022 when Members were advised by DFI Roads that the protected route onto which the proposed development would access was a 'Category 2' meaning that it fell within Policy AMP 3 of PPS 3 – 'Other Dual Carriageways, Ring Roads, Through-Passes and ByPasses – All locations'. This was disputed by the

Not Applicable

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applicant's barrister as the road was not categorised as such on the DFI Roads website and that further to a decision by the Planning Appeals Commission in 2005, any ambiguity should be settled in favour of the applicant.

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

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

Further to legal advice, the Council liaised with the applicant prior to the hearing and subject to provision of a traffic island to enable left-turn in, left-turn out only, withdrew its reasons for refusal. Dfi Roads confirmed that while it no longer had any road safety concerns, it still had concerns regarding the principle of taking access from the Messines Road due to its Protected Route designation; however, DFI Roads is a consultee, whilst the Council is the statutory decision maker. The Commissioner upheld the appeal on the basis of the revised road arrangements.

New Appeals Lodged **CHECK FROM DATE OF LAST APPEALS LODGED**

3. (a) The following appeal was lodged on

PAC Ref	
Application ref	
Appellant	
Subject of Appeal	
Location	

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

RECOMMENDATION

It is recommended that Council notes the report and attachments.

Not Applicable



Finding

4th Floor
92 Ann Street
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Appeal Reference:	2022/A0204
Appeal by:	Cedarville Ltd.
Appeal against:	The refusal of full planning permission
Proposed Development:	Erection of 8 dwellings with associated car parking and landscaping
Location:	Lands to the West of 7 Main Street and South of 6a Ballyrawer Avenue, Carrowdore
Planning Authority:	Ards and North Down Borough Council
Application Reference:	LA06/2018/0996/F
Procedure:	Informal Hearing on 28 th November 2023
Decision by:	Commissioner Gareth Kerr, dated 29 th November 2023

Finding

1. There is no valid appeal.

Reasons

2. Section 41 of the Planning Act (Northern Ireland) 2011 (the Act) states that arrangements for giving notice of applications for planning permission may be provided in a development order. The detailed requirements for publicising and giving notice of applications for planning permission are set out in Article 8 (1) of the Planning (General Development Procedure) Order (Northern Ireland) 2015. This includes the advertisement of a planning application in the local press, serving notice on identified occupiers on neighbouring land and publication of applications on a local Council's website. Article 8 (1) (d) prohibits the Council from determining a planning application until 14 days after it has published notice of the application. Under Article 8 (2) (d), the notice to be given must include the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land.
3. The purpose of publicising a planning application is to inform people of the substance of what is proposed and to give them an opportunity, if they so desire, of following the matter up and making representations. Failure to publish a proper notice would defeat the purpose of publication and render any decision on the application invalid.
4. The validity of an appeal to the Commission against the refusal of planning permission under Section 58 of the Act is entirely dependent on there having been

a valid planning decision in the first place. If the Council's decision is not valid, then the Commission has no jurisdiction to consider an appeal against it.

5. The application form submitted to the Council described the location of the site as "Lands to the West of 7 Main Street and South of 6a Ballyrawer Avenue, Carrowdore". However, the site is in fact located to the east of 7 Main Street and to the south west of 6a Ballyrawer Avenue.
6. The parties were advised that the accuracy of the site address would be discussed at the hearing. Both the Council and appellant indicated in advance of the hearing that the description of the site location was incorrect and misleading and that the Council's decision was not therefore valid. The third party agreed that this was the case at the hearing.
7. The description of the site location relied upon by the Council was seriously misleading. It may have led interested members of the public to believe that the proposal related to land on the opposite side of Main Street and they may therefore have assumed that the proposal would not affect them and may not have followed the matter up. The misleading address could therefore have prejudiced their ability to comment on the proposal.
8. While the inaccuracy in the relationship to 6a Ballyrawer Road is of less consequence, the confusing of east and west in relation to 7 Main Street is fatal. The published address fails to inform people living in the locality of the proposal and could prejudice their ability to follow the matter up by making representations if they wish. Failure to publish a proper notice defeats the purpose of publication and renders the Council's decision on the application invalid. Accordingly, there can be no valid appeal.

COMMISSIONER GARETH KERR

List of Appearances

Planning Authority:-	Ms. Clare Rodgers Ms. Caroline Herron
Appellant:-	Mr. Stewart Beattie KC Mr. Matthew Corkey BL Mr. Gary Adair (Wilson Nesbitt Solicitors) Mr. Seamus Fay (RPS)
Third Party:-	Mr. Steven Oldham (Northstone Materials) Mr James Russell (Northstone Materials)

List of Documents

Planning Authority:-	A	Statement of Case Ards and North Down Borough Council
	B	Comments on Site Address Ards and North Down Borough Council
Appellant:-	C	Statement of Case RPS on behalf of Cedarville Ltd.
	D	Comments on Site Address Wilson Nesbitt Solicitors
Third Party:-	E	Statement of Case Northstone Materials



Appeal Decision

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Appeal Reference:	2022/A0193
Appeal by:	Ashton Fraser Investments
Appeal against:	The refusal of outline planning permission
Proposal:	Erection of 9 dwellings with access off Messines Road
Location:	Lands immediately north of 10-18 Cambourne View and 17 Cambourne Park, Newtownards
Planning Authority:	Ards and North Down Borough Council
Application Reference:	LA06/2020/1008/O
Procedure:	Hearing on 27 th October 2023
Decision by:	Commissioner B Stevenson, dated 27 th November 2023

Decision

1. The appeal is allowed and outline planning permission is granted, subject to the conditions set out below.

Preliminary Matters

2. At the hearing, the Council presented a drawing entitled 'Restricted Movement Junction' that the Appellant had provided. Both the Council and the Appellant requested that this drawing be admitted to the appeal. The 'Restricted Movement Junction' drawing shows a 'left-turn in, left-turn out' access arrangement. However, the stamped refused drawings show a right-hand turn arrangement, and the refusal notice refers to the provision of a right turning lane in the description of the proposal. The access point is broadly in the same position and the splays are generally the same to that previously proposed. The main difference is that a traffic island is now proposed to prevent right-turn in, right-turn out traffic movements.
3. Although the background papers indicate that the Department for Infrastructure (DfI) Roads requested on 16th June 2021 detailing for a right turn pocket to full design standards, they indicated at the hearing that they would prefer to see the provision of a 'left-turn in, left-turn out' access arrangement. This arrangement would replicate what has been provided elsewhere within the area. The Appellant appears to have produced the 'Restricted Movement Junction' drawing following negotiations with the Council after its decision and prior to the hearing. While it is unfortunate that this matter was not raised sooner, given that DfI Roads changed its preference on the type of access arrangement to be provided, and as this was raised late in the day, I accept that the Appellant could not have presented the

drawing before the Council, prior to the decision being appealed. Its submission is therefore a consequence of exceptional circumstances.

4. Neither party at the hearing expressed any concerns with the 'Restricted Movement Junction' drawing being considered and the Appellant confirmed that the signed Certificate of Ownership that accompanied the application and the appeal remains valid. The access arrangements appear to relate to lands associated with the public road and DfI Roads are aware of those changes given their presence at the hearing. If the reference to 'right turning lane provided' were to be deleted from the description, the proposal would be described the same as how it was originally described on the application form and on the public advertisement by the Council. Given this and that the appeal proposal would remain broadly the same, I am satisfied that there would be no prejudice to any third parties in deleting the reference to 'right turning lane provided' in the description of the appeal proposal and admitting the drawing. The drawing numbered 20058-MRA-001 Version D, hereafter referred to as PAC2, is therefore admissible and shall form part of the appeal consideration.
5. At the hearing, the Appellant proposed that drawing PAC2 could be considered together with the stamped drawings numbered 01, 03A, 07 and 08. The latter drawings (03A, 07 and 08) show the right-hand turn lane arrangement together with an indicative proposed site plan. Drawings 07 and 08 also indicate possible future development outside the appeal site. That development does not form part of this appeal decision. For those reasons and given that the proposed site layout is already shown on drawing 03A and to avoid ambiguity, I do not consider it necessary for my decision to incorporate Drawings 07 and 08. I will therefore base my decision on the drawing that is numbered 01, the drawing numbered PAC2 and drawing 03A excluding the right-hand turn lane arrangement.
6. The Council withdrew both its reasons for refusal at the hearing. Notwithstanding this, the representatives from DfI Roads confirmed that while they no longer had any road safety concerns, they still had concerns regarding the principle of taking access from the Messines Road due to its Protected Route (PR) designation. However, the Council and the Appellant argued that DfI Roads is a statutory consultee of the Council and as the Council withdrew its refusal reasons, it follows that the principle of taking access from the road does not fall to be considered in this appeal. Nevertheless, the DfI Roads representative indicated at the hearing that they did not represent the view of the Council.
7. Notwithstanding this, and in accordance with the Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended), the Council consulted with DfI Roads before making its determination. The Council is the statutory decision maker on this local development proposal. It is therefore under that umbrella that DfI Roads submitted their Statement of Case to the Commission. Given that the Council has now withdrawn its refusal reasons, I must therefore take the Council's final position. Accordingly, the principle of creating a new access onto a PR is no longer a factor in this appeal. The remaining issues are those matters that have been raised by the third parties at application stage.

Reasons

2022/A0193

8. The main issues in this appeal are whether the appeal proposal would:
 - prejudice road safety;
 - adversely impact on local wildlife; and
 - adversely impact on residential amenity.
9. Section 6(4) of the Planning Act (Northern Ireland) 2011 states that where in making any determination, regard is to be had to the Local Development Plan (LDP), the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Ards and Down Area Plan 2015 (ADAP) operates as the LDP for the area wherein the appeal site is located. The appeal site is within the settlement of Newtownards and is on unzoned land in the ADAP. Comber Road is east of the appeal site, and that road is identified as a PR in the LDP. The LDP directs the reader to regional planning policy in considering designated PRs.
10. The ADAP identifies a road proposal north of the appeal site. Policy TRAN1 of the ADAP is entitled 'Planning protection for road schemes' and it states that planning permission will not be granted for development that would prejudice the availability of land required for road schemes identified in the Plan. The A20 Southern Distributor Road scheme was constructed and opened in 2009. Part of the appeal site had been held aside by the former DRD Roads via a vesting order to reserve land for dualling the road. While the vesting order has not been acted upon, I am satisfied that the proposed dwellings could be sited back from the road and the lands in front kept free from development. If the appeal is to be allowed, conditions could be imposed restricting the siting of the proposed dwellings on the appeal site and keeping the lands in front free from development. For these reasons and in the evidential context, I am satisfied that the appeal proposal would not prejudice the availability of land required for road schemes and would accord with Policy TRAN1 of the ADAP.
11. A third party at application stage argued that the impact of vehicles entering and departing from the proposed development onto the Messines Road would lead to significant delays on that road and that this would lead to an increased number of traffic accidents. The representatives from DfI Roads informed me that the proposed left-in, left-out access arrangement for vehicles entering and exiting the development would be safe. Moreover, I am not aware of any recorded traffic accidents on this part of Messines Road. Given this and DfI Roads position, I am not persuaded that vehicles entering and exiting the development from the Messines Road would significantly inconvenience the flow of traffic on that road or prejudice road safety. The third party's concern in this regard is therefore not sustained.
12. The third parties raised other objections at application stage. One of them expressed concern that if the appeal proposal went ahead that there would be a loss of green open space for wildlife. The Council does not consider the land to be open space of public value and worthy of protection. I have no reason to disagree with this assessment. Moreover, the Appellant's appointed qualified ecologist completed a NI Biodiversity checklist. It indicates that the site contains ranked semi-improved grassland with large expanses of dense gorse scrub. The ecologist identified no badger activity or any features that could potentially support roosting bats on the appeal site. He also concluded that the site does not contain other habitats that could potentially support protected or priority species except for the existing scrub.

13. The NI biodiversity checklist, uncontested by the Council, further states that while proposals will result in the clearance of existing site vegetation given the presence of identical additional habitat to the immediate west covering an area of approximately 1.2 hectares, the removal of 0.7 hectares of scrub and ranked grassland habitat within the site would unlikely give rise to unsatisfactory negative impacts upon the existing biodiversity of the area. It concluded that no further ecological survey work is required, and if planning permission is to be granted, a native species hedgerow should be required to be planted to the rear of the visibility splays. I am satisfied that if the appeal proposal is to be allowed that a condition could be imposed requiring a native species hedgerow to be planted behind the visibility splays. In this evidential context, I am not persuaded that the proposal would adversely affect biodiversity and that the land should be retained for open space for wildlife. The third parties' objections in this regard are not sustained.
14. A third party contends that the appeal proposal would cause over-looking into their property. I observed on my site visit that the ground levels between the appeal site and the neighbouring residential development at Cambourne are relatively similar. Moreover, if the appeal is to be allowed, I am satisfied that adequate separation distances could be achieved between the rear of the proposed dwellings and the neighbouring residential properties that back onto the southern boundary of the appeal site. Given these factors, I find that the appeal proposal would not result in any unacceptable adverse overlooking into neighbouring properties. The third party's concern in this regard is not upheld.
15. A third party expresses concern that if the appeal proposal is to be allowed that there would be significant air pollution from dust and fumes from machinery, damage to houses in Cambourne view from ground vibrations and noise pollution during the construction phase of the proposed development. These issues were unsubstantiated. The Council's Environmental Health Office (EHO) had no objections to the proposal at the construction or operational phase. Given that the construction works would be temporary and the evidential context, the third party's concern in this regard is not upheld. As the Council's reasons for refusal have been withdrawn and the third parties' concerns would not warrant the withholding of planning permission, the appeal shall succeed.
16. In the interests of road safety, conditions shall be imposed that require the access and egress arrangement and visibility splays to be in general conformity with that shown on the drawing numbered PAC2. To accord with Policy TRAN1 of the ADAP and in the interests of amenity, no development shall take place within the hatched area on the drawing numbered PAC3 and a siting condition to that effect shall be imposed. Given that the previous access arrangement is shown on that drawing and all parties involved in the appeal wish to see the now proposed left-in, left-out arrangement shown on the drawing numbered PAC2, the condition shall state that that access arrangement on the drawing numbered PAC3 shall not be imposed. Details of existing and proposed levels within the site shall be required at Reserved Matters stage. For visual amenity purposes and to maintain a high standard of landscaping throughout the development, a detailed landscaping scheme and open space management and maintenance plan shall be required.
17. A traffic management plan and anti-dazzle screening would also be necessary in the interests of road safety. To ensure future occupants of the proposed dwellings are

not adversely affected by transportation noise, planning conditions shall be imposed that (i) relate to the glazing and ventilation systems of the proposed residential units; (ii) the need to incorporate an enhanced ceiling construction into each residential unit; and (iii) the erection and maintenance of garden timber panelling acoustic barriers. In relation to the Council's proposed conditions (Nos. 6 and 7) that relate to the Private Street (Northern Ireland) Order 1980 as amended, they are not considered necessary given that this is a statutory requirement that DfI Roads can insist upon before detailed plans are approved.

Conditions: -

- (1) Except as expressly provided for by Conditions 2, 3, 4, 5, 6, 11 and 12, the following reserved matters shall be as approved by the planning authority – the design and external appearance of the dwellings and the means of access thereto.
- (2) At reserved matters, the developer shall submit to the planning authority for approval in writing the detailed design of the access and egress arrangements for the development proposal in general conformity with the access and egress arrangement shown on the drawing numbered PAC2. It shall comprise a left turn in and left turn out arrangement together with the installation of a traffic island on Messines Road (A20) to prevent right turn access into and out of the development. The detailed design to be submitted hereunder must ensure that the existing width of the carriageway known as Messines Road (A20) is maintained within the detailed design to be approved. Prior to the commencement of development, the developer must construct, complete and retain in perpetuity this approved access and egress arrangement.
- (3) Prior to the commencement of development, visibility splays of 4.5 metres by 120 metres shall be laid out in both directions at the point of access on the Messines Road that is in general conformity with the access and egress arrangement shown on the drawing numbered PAC2. The splays shall be permanently retained thereafter.
- (4) The proposed layout, submitted as part of the Reserved Matters, shall be in broad conformity with the drawing numbered PAC3 subject to showing the proposed access arrangement on the drawing numbered PAC2.
- (5) No dwellings or their curtilages shall be sited within the area hatched on the drawing numbered PAC3.
- (6) Any application for approval of reserved matters shall incorporate plans and sections indicating existing and proposed ground levels and proposed finished floor levels, all in relation to a known datum point.
- (7) No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme providing for the planting of new native species hedging behind the visibility splays and landscaping to the open space area. This shall be allowed to grow on to a minimum height of 1 metre and permanently retained thereafter at no less than that height. The scheme of planting as finally approved shall be carried out during the first planting season

- after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.
- (8) The open space shall be managed by an appointed management company and shall be maintained in accordance with the scheme to be submitted and agreed in writing with the planning authority prior to the occupation of the first dwelling hereby approved. The open space shall be permanently retained thereafter.
 - (9) The development hereby permitted shall not be commenced until a detailed programme of works, and any required/associated traffic management, including haulage routes, has been provided to and agreed in writing by the planning authority. The works shall be carried out in accordance with the approved details.
 - (10) Prior to the occupation of any dwelling hereby permitted, anti-dazzle screening shall be provided along the full frontage of the site along Messines Road. Full details shall be submitted to and agreed in writing through the Reserved Matters application. The works shall be completed in accordance with the approved plans prior to the operation of the new access and retained in perpetuity.
 - (11) The glazing and ventilation systems of the proposed residential units shall comply with the sound reduction performances as specified in Table 2 of point 4.6.2 and Figure A of the Inward Sound Level Impact Assessment prepared by Lester Acoustics referenced MRL/1487/L01 and dated 28th June 2021. The glazing and ventilation systems shall be installed prior to the occupation of each dwelling hereby approved and to be retained to operate in perpetuity.
 - (12) An enhanced ceiling construction shall be incorporated into each residential unit as specified in Section 4.3.9 of the Inward Sound Level Impact Assessment, prepared by Lester Acoustics reference MRL/1487/L01 and dated 28th June 2021. The ceilings of all dwellings shall consist of 2 layers of 15mm thick dense plasterboard (nominal surface weight of at least 12.5kg/m² per sheet) attached to the supporting framework by means of resilient rail/bar including at least 75mm thick acoustically absorbent material (nominal density of 10-45 kg/m³) with a minimum 100mm void between the plasterboard and the roof structure. The enhanced ceiling construction shall be installed prior to occupation and retained in perpetuity.
 - (13) Garden boundary acoustic barriers shall be erected prior to the occupation of each dwelling unit and maintained as detailed in 4.6.3 and Figure K of the Inward Sound Level Impact Assessment prepared by Lester Acoustics referenced MRL/1487/L01 and dated 28th June 2021. The barriers shall be constructed timber panelling (fully ship lapped or overlapped design with no gaps), have a minimum self-weight of 8kg/m² and shall be permanently retained thereafter. The height specified shall be relative to the highest garden level. Full details shall be provided at reserved matters stage.
 - (14) Application for approval of the reserved matters shall be made to the planning authority before the expiration of three years from the date of this decision.

- (15) The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

This decision relates to: -

- Site Location Plan numbered 01 and date stamped received by the Council on 28th October 2020;
- Restricted Movement Junction drawing numbered PAC2; and
- Proposed Site Plan numbered PAC3 except for the access arrangement and date stamped received by the Council on 8th September 2021.

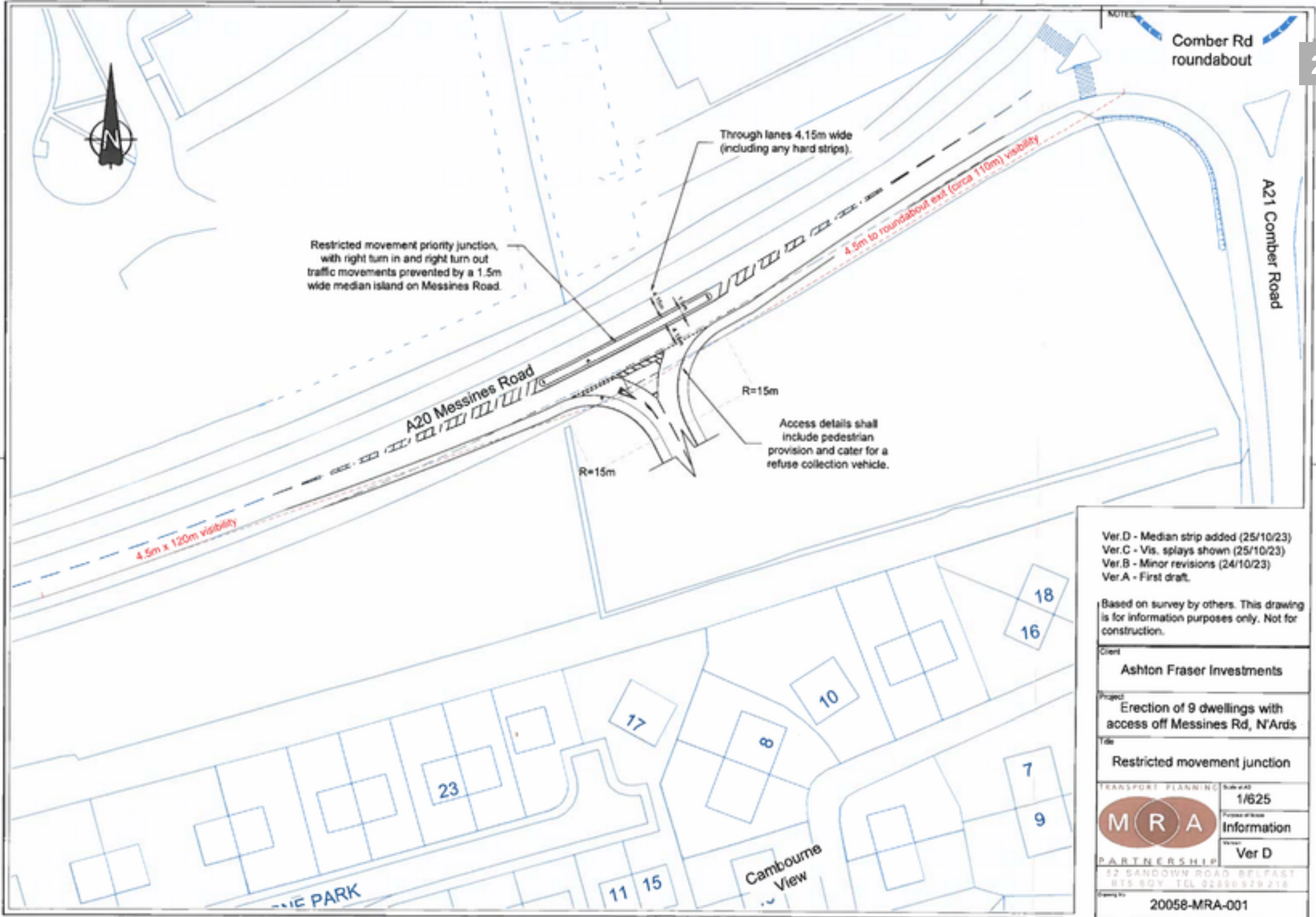
COMMISSIONER B STEVENSON

List of Appearances

Planning Authority:-	Mr Chris Blair, Ards and North Down Borough Council Ms Caroline Herron, Ards and North Down Borough Council Mr William Orbinson KC, The Bar Library Mr Grant McBurney, Carson McDowell Ms Orla Kelly, Carson McDowell Mr Aluysius Loughran, Department for Infrastructure Roads Mr Conor Loughery, Amey Consulting
Appellant: -	Mr Leslie Hughes, Ashton Fraser Investments Mr Stewart Beattie KC, The Bar Library Ms Jennifer Mawhinney, MBA Planning Mr Richard Agus, MRA Partnership Mr Bill McAlister, Architect
Observer: -	Ms Grace McVeigh, MBA Planning

List of Documents

Planning Authority: -	"A1" Statement of Case Ards and North Down Borough Council
	"A2" Statement of Case Department for Infrastructure
Appellant: -	"B1" Statement of Case MBA Planning
	"B2" Statement of Case MRA Partnership



Ver.D - Median strip added (25/10/23)
 Ver.C - Vis. splays shown (25/10/23)
 Ver.B - Minor revisions (24/10/23)
 Ver.A - First draft.

Based on survey by others. This drawing is for information purposes only. Not for construction.

Client
Ashton Fraser Investments

Project
 Erection of 9 dwellings with access off Messines Rd, N'Ards

Title
Restricted movement junction

TRANSPORT PLANNING	Scale of A3
MRA	1/625
Partnership	Project website Information
32 SANDOWN ROAD BELFAST BT5 6DY TEL 02830 979212	Version Ver D
Drawing No	20058-MRA-001

PAC 2

**PROPOSED RESIDENTIAL DEVELOPMENT
 LANDS ADJACENT TO 18 CAMBOURNE VIEW,
 NEWTOWNARDS
 9 UNITS O/A - PROPOSED SITE PLAN
 SK/02 - scale 1:500@A3 rev - F**

LAD6/2020/1008-

Drawing
 Number... ~~XXXX~~

Ards and North Down Borough Council



- 4.5 to TANGENT sightline to RHS
- 4.5X120m sightline to LHS

A20 BYPASS

COMBER ROAD



Ards and North Down Borough Council
 08 SEP 2021

18
 FOR INFORMATION PURPOSES ONLY

PAC3

Choose a Report Classification

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ITEM 6

Ards and North Down Borough Council

Report Classification	Choose a Report Classification
Exemption Reason	Choose an item.
Council/Committee	Planning Committee
Date of Meeting	06 February 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Planning
Date of Report	10 January 2024
File Reference	
Legislation	
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	Further information on NIW fence at Seacourt Wastewater Pumping Station
Attachments	Appendix 1 - Letter to NIW Appendix 2 - Open letter from NIW

Background

Members will be familiar with the background to this matter, but for ease of reference the following information is provided.

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

That application was refused planning permission on 20 July 2022 for reasons relating to its detrimental visual impact on, and demonstrable harm to, the coastal environment/North Down coastal path. NIW subsequently appealed the refusal to

Choose an item.

the Planning Appeals Commission; however, prior to the appeal being heard, NIW submitted two separate applications seeking a Certificate of Lawfulness for both the existing development, and in respect of proposed increase in height of the development.

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

It was determined that the development fell within the permitted development rights afforded to NIW as a statutory undertaken under The Planning (General Permitted Development) Order (Northern Ireland) 2015 ("the GPDO"), and the Certificates were issued on 13 June 2023. Those determinations were not challenged by way of application for judicial review on a point of law. The appeal was withdrawn further to determination of the Certificates of Lawfulness.

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

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

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

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

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

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

- (a) the interest was acquired by them on or after 1st October 1973; or
- (b) it was held by them immediately before that date but the circumstances at that date were such that the land did not fall to be treated as operational land had this Order applied to it,

that land shall not be treated as operational land unless there is in force with respect to the land a planning permission granted on an application made in that behalf under Part 3 of the 2011 Act for its development and that development, if carried out, would involve the use of the land for the purpose of the carrying on of the undertaking;

Further to the issuance of the Certificates of Lawfulness, the Council was approached informally by a member of the public raising a complaint concerning the

Choose an item.

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

The Council took legal advice from its planning lawyers and the attached letter at Appendix 1 was issued to NIW's lawyers. NIW responded via its solicitors setting out its responses to the questions posed by the Council, which was received shortly before Christmas 2023, and marked legally privileged. That response was reviewed by the Council's planning lawyers who subsequently confirmed that NIW did have the requisite interest in the land as 'operational land' prior to 01 October 1973, and as such was entitled to rely on Part 14, Class H (h).

NIW has not waived legal privilege but has provided an open letter, as attached at Appendix 2.

RECOMMENDATION

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

Our Ref: COR 2023-157a

Your Ref:



**Ards and
North Down**
Borough Council

Planning Department
2 Church Street
Newtownards
BT23 4AP

Mr Graham Truesdale
Senior Property Lawyer
Northern Ireland Water

Via Email Only: graham.truesdale@niwater.com

16 November 2023

Dear Sir

Ref: LA06/2023/1498/CLEUD
Existing Use - Metal fence and gate surrounding existing pumping station
Seacourt WwPS, Lands 20 North of 1 Seacourt Lane, Bangor

As you are aware, the Council granted a certificate of existing lawful development for the development ("CLEUD") as described above.

The Council is in receipt of a complaint from a member of the public alleging that the land the subject of the CLEUD (and CLOPUD for increase in fence height) does not qualify as operational land within the meaning of the Planning (General Permitted Development) Northern Ireland (Order) 2015 ("2015 Order").

That complaint is premised upon information they have obtained directly from NIW via a Freedom of Information request pertaining to a land transfer of part of the site the subject of the CLEUD in or around 2016. In addition, information was subsequently obtained from the Lands Service Unit of this Council with regards to this transfer.

At the time of the CLEUD application NIW confirmed through its planning agent that it acquired the land on 1st October 1973.

The point being made by the complainant is that the conveyance from 2016 of part of the application site is long after the 1973 date relied upon by NIW, and thus the site does not fall within the definition of operational land for the purposes of the 2015 Order.

As part of the submission made, the complainant has disclosed correspondence from NIW which appears to seek to explain that, while the original title to the land was a square area aboveground which appears to correlate with aged photos of an aboveground structure, the actual underground workings extended beyond this surface area extent. Within the aged photographs held by Council, a dry-stone wall encased the land on three sides. That drystone wall is in situ today and frames the fence in question.

Our Ref: COR 2023-157a

Your Ref:



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The correspondence disclosed from NIW to the complainant explains that the land acquired in 2016 was due to a plan to extend and upgrade capacity. While the Council has no record of a planning application for these works, it appears that those works were undertaken and the erection of the fence is the outworking of the completion of those works. Those works appear to have been confined to within the footprint of the land encased on three sides by the drystone wall. The Council is aware that NIW has other permitted development rights under the 2015 Order which, as a statutory undertaker, it can rely upon, including improvement rights.

Further, the Council is also in possession of a deed of agreement from 1981 between the Council (North Down Borough Council as it then was) and the Department of the Environment (a predecessor to NIW) which sought to formalise the outworkings of the transfers that occurred on 1st October 1973. This deed has a plan appended to it which appears to demark an area known at that time as the Seacourt Pumping Station and for which the Department is confirmed as having rights to carry on the undertaking, and own the assets within, even though the land at that time appeared to be in the ownership of the then Council. That area correlates in size with application site (and drystone wall area) as opposed to the previous small square in the ownership of NIW prior to the 2016 transfer.

The 1981 deed and the data contained therein is based upon the date of 1st October 1973 which appears to have been a rationalising of local government and departmental functions. What is apparent is that it is premised upon the sewage undertaking having been carried on prior to 1st October 1973 at the application site, and the deed formalises arrangements for the continuing and future use of the application site, albeit some eight years following the actual rationalisation.

The Council is aware that the defined term of "operational land" is premised upon the concept of an 'interest being held for that purpose'.

Consequently, I write on behalf of the Council to seek the view of NIW on the complaint received, before it concludes its investigations, and to seek confirmation that the upgrade works were carried in accordance with NIW's permitted development rights. The above is the outworking of its preliminary investigations and the facts before it.

I look forward to hearing from you and would be obliged to hear from you within two weeks of the date of this letter.

Yours sincerely (unsigned)

GE Kerr MRTPI
Head of Planning (acting)

Date | 17 January 2024
 Our ref | 05518175
 Your ref | COR 2023-157a

By Email

Ards and North Down Borough Council
 Planning Department
 2 Church Street
 Newtownards
 BT23 4AP

Northern Ireland Water - Seacourt WWPS, Bangor

Dear Sirs

We are instructed to represent Northern Ireland Water (**NI Water**) in relation to the above matter and to the Council's letter dated 16 November 2023. We have reviewed the materials.

The 1981 Deed referenced in the Council's letter, confirms that NI Water's predecessor water and sewerage undertaker at the time, being the former Bangor Borough Council, had an interest in the relevant lands for sewerage purposes before 1st October 1973.

The Deed between the Department of the Environment for Northern Ireland and the Former Bangor Borough Council records, *inter alia*,:

"...AND WHEREAS the functions relating to open space and recreation were transferred at 1st October 1973 to the North Down Borough Council (hereinafter referred to as "the Council") and the functions relating to sewerage transferred at the same date to the Department of the Environment (hereinafter referred to as "the Department").

....it is agreed between the Council and the Department that the property transferred at 1st October 1973 to the Council subject to the right of the Department to use the property as it was used immediately prior to that date for sewerage purposes.

AND it is further agreed that at 1st October 1973 all assets and liabilities relating to the holding and use of the property for sewerage purposes transferred and attached to the Department and that all other assets and liabilities relating to the property transferred and attached to the Council."

[Emphasis added]

We concur with the Council's summary in its letter that:

"The 1981 deed and the data contained therein is based upon the date of 1st October 1973 which appears to have been a rationalising of local government and departmental functions. What is apparent is that it is premised upon the sewerage undertaking having been carried on prior to 1st October 1973 at the application

A&L Goodbody

site, and the deed formalises arrangements for the continuing and future use of the application site, albeit some eight years following the actual rationalisation."

We agree that the delineated property on the map accompanying the Deed "*correlates in size with the application site*".

Accordingly, the Deed confirms that the relevant water and sewerage undertaker held an interest in those lands for water and sewerage purposes since before 1st October 1973. For completeness, we confirm that the physical infrastructure was originally installed in the 1950's.

For clarification, we confirm that any works carried out were within existing footprint.

We can further confirm by way of clarification that the purchase referred to in 2016 was the agreement to the acquisition of the freehold of 58.66 sq m. of the lands the subject of the 1981 Deed with the then newly formed Ards and North Down Borough Council. This does not affect the interests held by NI Water (through its predecessor water and sewerage undertaker(s)) as recorded in the 1981 Deed. The statements in the CLEUD application are accurate.

If you require any further information, please do not hesitate to contact Martha Campbell at macampbell@algoodbody.com

Yours faithfully

A&L Goodbody Northern Ireland LLP

M-72754456-1

Unclassified

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ITEM 7

Ards and North Down Borough Council

Report Classification	Unclassified
Exemption Reason	Choose an item.
Council/Committee	Planning Committee
Date of Meeting	06 February 2024
Responsible Director	Director of Prosperity
Responsible Head of Service	Head of Finance
Date of Report	12 January 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 - December 2023
Attachments	

The Planning Service's Budgetary Control Report covers the 9-month period 1 April to 31 December 2023. The net cost of the Service is showing an overspend of £28k (2.4%) – 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
Report 2	Payroll Expenditure	£174k favourable	2
Report 3	Goods & Services Expenditure	£4k adverse	2
Report 4	Income	£197k adverse	2

Choose an item.

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Explanation of Variance

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

Type	Variance £'000	Comment
Payroll	(174)	Vacant posts during the year include Manager's post and Administration posts.
Goods & Services	4	There are a small number of goods & services overspends and underspends which basically offset each other.
Income	197	Mainly Planning application fees. No major applications received. General slowdown in applications in NI this year.

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

RECOMMENDATION

It is recommended that the Council notes this report.